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Contents

Federal Register

Vol. 89, No. 130

Monday, July 8, 2024

Administrative Conference of the United States

NOTICES

Nonlawyer Assistance and Representation, 55913–55914

Bureau of Consumer Financial Protection

RULES

Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders, 56028–56156

Bureau of Safety and Environmental Enforcement

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Pipelines and Pipeline Rights-of-Way, 55982–55984
 Pollution Prevention and Control, 55981–55982
 Relief or Reduction in Royalty Rates, 55981
 Safety and Environmental Management Systems, 55978–55980
 Well Control and Production Safety Training, 55980

Centers for Medicare & Medicaid Services

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55948–55950
 Agency Information Collection Activities; Proposals, Submissions, and Approvals; Correction, 55948

Coast Guard

RULES

Safety Zone:
 Lake Erie and Cuyahoga River, Cleveland, OH, 55886–55888
 Special Local Regulation:
 Southern California Annual Marine Events for the Los Angeles Long Beach Captain of the Port Zone, 55885–55886

Commerce Department

See Foreign-Trade Zones Board
 See International Trade Administration
 See National Institute of Standards and Technology
 See National Oceanic and Atmospheric Administration
 See Patent and Trademark Office

Corporation for National and Community Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 AmeriCorps Program Life Cycle Evaluation—Puerto Rico Bundled Evaluation, 55932–55933

Defense Department

NOTICES

Categorical Exclusion:
 Adoption of Electric Vehicle Charging Stations under the National Environmental Policy Act, 55933–55934

Drug Enforcement Administration

NOTICES

Importer, Manufacturer or Bulk Manufacturer of Controlled Substances; Application, Registration, etc.:
 Arizona Department of Corrections, 55986

Curia Missouri Inc., 55985

S and B Pharma LLC DBA Norac Pharma, 55985–55986

Employment and Training Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Claims and Payment Activities, 55987–55988

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Hearings, Meetings, Proceedings, etc.:
 Environmental Management Advisory Board, 55935
 Environmental Management Site-Specific Advisory Board, Northern New Mexico, 55934–55935
 Environmental Management Site-Specific Advisory Board, Savannah River Site, 55936–55937
 Secretary of Energy Advisory Board, 55935–55936
 Request for Information:
 Advanced Technology Vehicles Manufacturing Loan Program; Reopening of Comment Period, 55934

Environmental Protection Agency

RULES

Air Quality State Implementation Plans; Approvals and Promulgations:
 Connecticut; Source Monitoring, Record Keeping and Reporting, 55888–55891
 Massachusetts; Regional Haze State Implementation Plan for the Second Implementation Period, 55891–55895

PROPOSED RULES

Air Quality State Implementation Plans; Approvals and Promulgations:
 1997 Fine Particulate Matter Nonattainment Area Requirements; San Joaquin Valley, CA, 55896–55901
 California; Attainment Date Extension for the San Joaquin Valley, CA 1997 Annual PM2.5 Fine Particulate Matter Nonattainment Area, 55901–55911

NOTICES

Access by EPA Contractors to Information Claimed as Proprietary Business Information Submitted under the National Contingency Plan, 55942–55943
 Environmental Assessments; Availability, etc.:
 Water Quality and Finding of No Significant Impact; Deepwater Horizon Natural Resource Damage Assessment Florida Trustee Implementation Group Final Restoration Plan 3, 55941–55942

Federal Aviation Administration

NOTICES

Airport Property:
 Seattle-Tacoma International Airport, Seattle, WA, 56001

Federal Communications Commission

PROPOSED RULES

Radio Broadcasting Services:
 Huntley, MT, 55911–55912

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55943–55947

Federal Election Commission**NOTICES**

Meetings; Sunshine Act, 55947

Federal Emergency Management Agency**NOTICES**

Disaster or Emergency Declaration and Related Determination:

Arkansas, 55961–55962

Arkansas; Amendment No. 1, 55960

Arkansas; Amendment No. 2, 55954–55955

Burns Paiute Tribe; Amendment No. 1, 55953

Hawaii; Amendment No. 9, 55957

Idaho, 55960–55961

Iowa, 55956–55957, 55960

Iowa; Amendment No. 2, 55953

Maine, 55961

Nebraska, 55954

New Mexico; Amendment No. 1, 55962

New Mexico; Amendment No. 2, 55959

Oklahoma; Amendment No. 12, 55957

Oregon; Amendment No. 2, 55956

Texas; Amendment No. 10, 55955–55956

Texas; Amendment No. 11, 55953–55954

Texas; Amendment No. 12, 55959

Texas; Amendment No. 7, 55955

Texas; Amendment No. 8, 55957–55958

Texas; Amendment No. 9, 55959

West Virginia, 55952–55953, 55955

Hearings, Meetings, Proceedings, etc.:

Technical Mapping Advisory Council, 55958–55959

Federal Energy Regulatory Commission**NOTICES**

Application:

Consolidated Hydro New York, LLC, 55940–55941

Combined Filings, 55937–55940

Deployment of eTariff Sandbox, 55938

Institution of Section 206 Proceeding and Refund Effective

Date:

Mammoth North LLC, 55941

Federal Highway Administration**NOTICES**

Final Federal Agency Actions:

Proposed Highway Projects in Texas, 56001–56004

Federal Maritime Commission**NOTICES**

Performance Review Board Members, 55947–55948

Federal Reserve System**NOTICES**

Change in Bank Control:

Acquisitions of Shares of a Bank or Bank Holding Company, 55948

Fish and Wildlife Service**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Hunting and Wildlife Conservation Council, 55966–55967

Foreign Assets Control Office**NOTICES**

Sanctions Actions, 56021–56023

Foreign-Trade Zones Board**NOTICES**

Application for Expansion of Subzone:

Consolidated Diesel Company, Foreign-Trade Zone 214, Whitakers, NC, 55914

Production Activity Not Authorized:

Trina Solar US Manufacturing Module 1, LLC, Foreign-Trade Zone 39, Wilmer, TX, 55914

Geological Survey**NOTICES**

Requests for Nominations:

National Geospatial Advisory Committee, 55967–55968

Health and Human Services Department

See Centers for Medicare & Medicaid Services

See Health Resources and Services Administration

See National Institutes of Health

NOTICES

Hearings, Meetings, Proceedings, etc.:

Secretary's Advisory Committee on Human Research Protections, 55951

Health Resources and Services Administration**NOTICES**

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

State Maternal Health Innovation Maternal Health Annual Report, 55950–55951

Homeland Security Department

See Coast Guard

See Federal Emergency Management Agency

NOTICES

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

Safety Act Collection of Qualitative Feedback, 55963–55964

Statewide Communication Interoperability Plan Template and Progress Report, 55962–55963

Housing and Urban Development Department**NOTICES**

Public Interest, General Applicability Tribal Consultation

Waiver of Build America, Buy America Provisions:

Tribal Recipients of Federal Financial Assistance, 55964–55966

Indian Affairs Bureau**NOTICES**

Environmental Impact Statements; Availability, etc.:

Koi Nation of Northern California's Proposed Shiloh Resort and Casino Project, Sonoma County, CA, 55968–55969

Nisqually Indian Tribe's Proposed Fee-to-Trust and Casino Project, City of Lacey, Thurston County, WA, 55975–55976

Land Acquisition:

Redding Rancheria, CA, Strawberry Fields Site, Shasta County, CA, 55974–55975

Timbisha Shoshone Tribe, County Land Parcel, Kern County, CA, 55973–55974

Proclaiming Certain Lands as Reservation for Kootenai Tribe of Idaho, 55969–55973

Interior Department

See Bureau of Safety and Environmental Enforcement

See Fish and Wildlife Service

See Geological Survey
 See Indian Affairs Bureau
 See Land Management Bureau
 See Ocean Energy Management Bureau

International Trade Administration

NOTICES

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
 Raw Honey from Argentina, 55915–55917
 Approved Trade Mission, 55917–55920

International Trade Commission

NOTICES

Investigations; Determinations, Modifications, and Rulings, etc.:
 Disposable Aluminum Containers, Pans, Trays, and Lids from China, 55984

Joint Board for Enrollment of Actuaries

NOTICES

Hearings, Meetings, Proceedings, etc.:
 Advisory Committee, 55984–55985

Justice Department

See Drug Enforcement Administration

NOTICES

Proposed Consent Decree:
 Clean Air Act, 55986–55987

Labor Department

See Employment and Training Administration

Land Management Bureau

NOTICES

Proposed Withdrawal Revocation; Proposed Restoration of Public Lands; Proposed Transfer into Trust; Nevada, 55976–55977
 Segregation of Public Land:
 Samantha Solar Project, White Pine County, NV, 55976

Maritime Administration

NOTICES

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel:
 Abracadabra (Sail), 56019–56020
 Andiamo (Motor), 56018–56019
 Corossal (Motor), 56014–56015
 Cuatro Alpha (Motor), 56008–56009
 Jezerka (Motor), 56016–56017
 Magic Moment (Motor), 56005–56006
 Nalo Kai (Motor), 56007–56008
 No Name (Motor), 56021
 Pegasus IX (Motor), 56017–56018
 Preciosa (Motor), 56015–56016
 Sealab (Sail), 56012–56013
 Seredipity (Motor), 56004–56005
 Star Sapphire (Motor), 56010–56011
 Stella Mare (Sail), 56009–56010
 Tranquilo (Sail), 56006–56007
 Twe11ve (Motor), 56011–56012
 Victory (Sail), 56020
 Wise Kraken (Motor), 56013–56014

Morris K. and Stewart L. Udall Foundation

NOTICES

Meetings; Sunshine Act, 55988

National Institute of Standards and Technology

NOTICES

Environmental Assessments; Availability, etc.:
 Modernization and Expansion of Existing Semiconductor Fabrication Facilities under the Creating Helpful Incentives to Produce Semiconductors Incentives Program, 55920–55921

National Institutes of Health

NOTICES

Hearings, Meetings, Proceedings, etc.:
 Center for Scientific Review, 55952
 National Institute of Neurological Disorders and Stroke, 55952
 National Institute on Drug Abuse, 55951

National Oceanic and Atmospheric Administration

NOTICES

Hearings, Meetings, Proceedings, etc.:
 Mid-Atlantic Fishery Management Council, 55921–55922
 South Atlantic Fishery Management Council, 55921
 Identification of Nations or Entities Engaged in Illegal, Unreported, or Unregulated Fishing, Bycatch of Protected Living Marine Resources, or Fishing Activities that Target or Incidentally Catch Sharks, 55922–55924
 Taking or Importing of Marine Mammals:
 Marine Geophysical Survey of the Chain Transform Fault in the Equatorial Atlantic Ocean, 56158–56188

National Science Foundation

NOTICES

Meetings; Sunshine Act, 55988

Nuclear Regulatory Commission

RULES

Required Assessment of U.S. Department of Energy Laboratories by Licensees, Applicants, and Suppliers to Verify the Effective Implementation of Their Quality Assurance Programs, 55885

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55989–55990
 Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Licensing Requirements for Land Disposal of Radioactive Waste, 55988–55989
 Licenses; Exemptions, Applications, Amendments, etc.:
 Perma-Fix Northwest Richland, Inc., 55991–55992
 Meetings; Sunshine Act, 55991

Ocean Energy Management Bureau

NOTICES

Joint Record of Decision:
 Proposed Atlantic Shores Offshore Wind South Project, 55977–55978

Patent and Trademark Office

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Applications for Trademark Registration, 55931–55932
 Fastener Quality Act Insignia Recordal Process, 55926–55927
 Patent Reexaminations, Supplemental Examinations, and Post Patent Submissions, 55927–55930
 Third-Party Submissions and Protests, 55924–55926
 Trademark Submissions Regarding Correspondence and Regarding Attorney Representation, 55930–55931

Presidential Documents**PROCLAMATIONS**

Special Observances:

60th Anniversary of the Civil Rights Act (Proc. 10781),
55883–55884**Securities and Exchange Commission****NOTICES**

Meetings; Sunshine Act, 55993

Self-Regulatory Organizations; Proposed Rule Changes:
Public Company Accounting Oversight Board, 55993**Small Business Administration****NOTICES**Agency Information Collection Activities; Proposals,
Submissions, and Approvals; Correction, 55994

Disaster Declaration:

Arkansas, 55993–55994

Florida, 55994

State Department**NOTICES**

Culturally Significant Objects Imported for Exhibition:

Lumen: The Art and Science of Light, 55994–55995

Hearings, Meetings, Proceedings, etc.:

United States-Republic of Korea Environmental Affairs
Council and Environmental Cooperation
Commission, 55995**Surface Transportation Board****NOTICES**

Exemption:

Construction and Operation; Green Eagle Railroad, Line
of Railroad In Maverick County, TX, 55995–56000**Tennessee Valley Authority****NOTICES**

Hearings, Meetings, Proceedings, etc.:

Regional Energy Resource Council, 56000–56001

Transportation Department*See* Federal Aviation Administration*See* Federal Highway Administration*See* Maritime Administration**Treasury Department***See* Foreign Assets Control Office**Veterans Affairs Department****NOTICES**

Agency Information Collection Activities; Proposals,

Submissions, and Approvals:

Authorization and Consent to Release Information to VA,
General Release for Medical Provider Information to
VA, 56024

Certification of School Attendance or Termination, 56025

Employment Questionnaire, 56024

Information Regarding Apportionment of Beneficiary's
Award, 56023Request for Employment Information in Connection with
Claim for Disability Benefits, 56024–56025

Statement of Marital Relationship, 56025–56026

Supplement to Veterans Affairs Forms (for Philippine
Claims), 56023

Separate Parts In This Issue**Part II**

Bureau of Consumer Financial Protection, 56028–56156

Part IIICommerce Department, National Oceanic and Atmospheric
Administration, 56158–56188

Reader AidsConsult the Reader Aids section at the end of this issue for
phone numbers, online resources, finding aids, and notice
of recently enacted public laws.To subscribe to the Federal Register Table of Contents
electronic mailing list, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your e-mail
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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Proclamations:**

10781 55883

10 CFR

Ch. I 55885

12 CFR

1092 56028

33 CFR

100 55885

165 55886

40 CFR

52 (2 documents) 55888,
55891

Proposed Rules:

52 (2 documents) 55896,
55901

47 CFR**Proposed Rules:**

73 55911

Presidential Documents

Title 3—

Proclamation 10781 of July 1, 2024

The President

60th Anniversary of the Civil Rights Act

By the President of the United States of America

A Proclamation

Sixty years ago, President Lyndon B. Johnson signed into law one of the most significant pieces of civil rights legislation in history—the Civil Rights Act of 1964. It prohibited discrimination on the basis of race, color, religion, sex, or national origin. That day, our Nation moved closer to our North Star, the founding ideal of America: We are all created equal and deserve to be treated equally throughout our lives. We have never fully lived up to that idea, but we have never walked away from it either. On this anniversary, we promise we will not walk away from it now.

On July 2, 1964, when President Johnson signed the Civil Rights Act, a crowd gathered behind him. Among them were some of the Black leaders and activists who had led the movement that made it possible: Dr. Martin Luther King, Jr., A. Philip Randolph, Dr. Dorothy Height, and others, who had fought, protested, and prayed for this moment. It was the work of changemakers like them—from the countless protests, sit-ins, and marches they organized to the many speeches and sermons they gave—and the courageous activism and participation of everyday Americans that brought the bill to President Johnson's desk. It was an answer to President John F. Kennedy's call for national action to guarantee the equal treatment of every American regardless of race. Change only rippled out from there: The Civil Rights Act of 1964 also helped set the foundation for other critical legislation like the Voting Rights Act of 1965.

The legacies of those activists and extraordinary Americans have had a profound impact on me and others of my generation. It inspired me to become a public defender and then a county councilman, working to change our State's politics to embrace the cause of civil rights. Their efforts made us fundamentally better as Americans, opening the doors of opportunity wider and bringing our Nation closer to its promise of liberty, equality, and justice for all.

Despite this critical step forward, securing our civil rights remains the unfinished fight of our time. Our country is still facing attacks to some of our most fundamental civil liberties and rights, including the right to vote and have that vote counted and the right to live free from the threat of violence, hate, and discrimination. That is why my Administration is remaining vigilant—fighting actively to protect the rights of every American. I signed the Electoral Count Reform Act to protect the will of the people and the peaceful transfer of power. I appointed Justice Ketanji Brown Jackson, the first Black woman to be on the Supreme Court, and have appointed more Black women to the Federal appellate court than every other President in history.

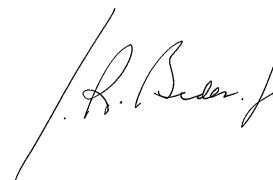
We are also working to reverse the shameful legacy of segregation in our country and creating new opportunities for every American to thrive. My Administration is investing more money than ever in Black families and Black communities. We are reconnecting historic business districts and neighborhoods cut off by old highways, redlining, and decades of discrimination and disinvestment. We have invested over \$16 billion in Historically Black Colleges and Universities, which will help raise the next generation of

Black leaders. At the same time, we are creating good-paying jobs that people can raise a family on; making capital and loans for starting small businesses and buying homes more accessible; and making health insurance and prescription drugs more affordable. I also signed the boldest policing reform Executive Order in history. My Administration is changing our Nation's failed approach to marijuana, which disproportionately impacts communities of color. I have used executive clemency more than any recent President at this point in my Presidency in pursuit of justice and fairness. And I continue to call on the Congress to pass the John Lewis Voting Rights Advancement Act and the Freedom to Vote Act—it is the only way to fully secure the sacred right to vote.

On this anniversary, may we recommit to continuing the work that the Civil Rights Act began six decades ago—it is still the task of our time to build a democracy where every American is treated with dignity and has an equal opportunity to follow their dreams. We must continue to move forward together, stand with one another, and choose democracy over autocracy and beloved community over chaos. We must choose to be believers, dreamers, and doers.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim July 2, 2024, as the 60th Anniversary of the Civil Rights Act. I call upon all Americans to observe this day with programs, ceremonies, and activities that celebrate this accomplishment and advance civil rights in our time.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of July, in the year of our Lord two thousand twenty-four, and of the Independence of the United States of America the two hundred and forty-eighth.

A handwritten signature in dark ink, appearing to read "Joe Biden", with a long, sweeping horizontal line extending to the left.

Rules and Regulations

Federal Register

Vol. 89, No. 130

Monday, July 8, 2024

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

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NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

[NRC-2023-0058]

Required Assessment of U.S. Department of Energy Laboratories by Licensees, Applicants, and Suppliers To Verify the Effective Implementation of Their Quality Assurance Programs

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory Issue Summary; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Regulatory Issue Summary (RIS) 2024-02, "Required Assessment of U.S. Department of Energy Laboratories by Licensees, Applicants, and Suppliers to Verify the Effective Implementation of Their Quality Assurance Programs." RIS 2024-02 clarifies the agency's regulatory position regarding the required assessment of U.S. Department of Energy national laboratories by licensees, applicants, and vendors to verify the effective implementation of the laboratories' quality assurance programs.

DATES: RIS 2024-02 is available as of July 8, 2024.

ADDRESSES: Please refer to NRC-2023-0058 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2023-0058. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

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- *NRC's Public Website:* This RIS is also available on the NRC's public website at <https://www.nrc.gov/reading-rm/doc-collections/gen-comm/reg-issues> (select 2024, scroll to Document Number RIS-24-02, and select the date 06/05/2024).

FOR FURTHER INFORMATION CONTACT:

Phyllis Clark, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6447, email: Phyllis.Clark@nrc.gov.

SUPPLEMENTARY INFORMATION: The NRC published a notice of opportunity for public comment on this RIS in the **Federal Register** on October 6, 2023 (88 FR 69555). The agency did not receive any comments. RIS 2024-02, "Required Assessment of U.S. Department of Energy Laboratories by Licensees, Applicants, and Suppliers to Verify the Effective Implementation of Their Quality Assurance Programs" is available in ADAMS under Accession No. ML23342A179.

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

As noted in the **Federal Register** on May 8, 2018 (83 FR 20858), this document (like other draft and final

Regulatory Issue Summaries) is being published in the Rules section of the **Federal Register** to comply with publication requirements under chapter I of title 1 of the *Code of Federal Regulations*.

Dated: July 1, 2024.

For the Nuclear Regulatory Commission.

Lisa Regner,

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

[FR Doc. 2024-14796 Filed 7-5-24; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2024-0555]

Southern California Annual Marine Events for the Los Angeles Long Beach Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a special local regulation for the Catalina Ski Race on July 13, 2024, to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Los Angeles-Long Beach Captain of the Port Zone identifies the regulated area for this event in Long Beach, CA to Santa Catalina Island, CA. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulations in 33 CFR 100.1104 will be enforced for the location identified in Table 1 to § 100.1104, item number 17, from 5:30 a.m. through 12:30 p.m. on July 13, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email LCDR Kevin Kinsella, U.S. Coast Guard; telephone 310-521-3860, email D11-SMB-SectorLALB-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local

regulations in 33 CFR 100.1104 for the Catalina Ski Race regulated area in item number 17 of Table 1 to § 100.1104 from 5:30 a.m. to 12:30 p.m. on July 13, 2024. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Los Angeles-Long Beach Captain of the Port Zone, Table 1 to § 100.1104, item number 17, specifies the location of the regulated area for the Catalina Ski Race which encompasses portions of San Pedro Bay. During the enforcement periods, § 100.1104 requires operators of a vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via an Important Navigation Notice (INN) and a Broadcast Notice to Mariners (BNM).

Dated: June 28, 2024.

Stacey L. Crecy,

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

[FR Doc. 2024-14785 Filed 7-5-24; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0261]

RIN 1625-AA11

Safety Zones, Lake Erie and Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones for certain waters of Lake Erie and the Cuyahoga River. This action is necessary to provide for the safety of life on these navigable waters near Cleveland, Ohio during the 2024 Pan-American Masters Games (Aquatic Sporting Events) from July 13 through July 14, 2024. This action would prohibit persons and vessels from entering these safety zones unless authorized by the Captain of the Port Sector Eastern Great Lakes or a designated representative.

DATES: This rule is effective from July 13, 2024, through July 14, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0261 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, contact LT Jared Stevens with the U.S. Coast Guard Marine Safety Unit Cleveland's Waterways Management Division; via telephone at 216-937-0111, or by email at D09-SMB-MSUCLEVELAND-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Eastern Great Lakes
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On January 22, 2024, the Greater Cleveland Sports Commission notified the Coast Guard that it will be hosting the 2024 Pan-American Masters Games (Aquatic Sporting Events) from July 12 through July 15, 2024. Originally, the five (5) Aquatic Sporting Events were: Sailing, Triathlon (swim portion), Stand Up Paddleboard—Technical, Stand-Up Paddleboard—Distance, and Rowing. Since the original request, the event sponsor has limited the Aquatic Sporting Events to only Triathlon (swim portion) and Rowing. Details are found later in this document. These events are to take place in Lake Erie offshore adjacent to Edgewater Beach, and within the Cuyahoga River in Cleveland, Ohio. The Captain of the Port Sector Eastern Great Lakes has determined that safety zones covering certain navigable waters of Lake Erie, and the Cuyahoga River in Cleveland, Ohio, are needed to protect participants during the 2024 Pan-American Masters Games' Aquatic Events.

In response, on May 8, 2024, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones, Lake Erie and Cuyahoga River, Cleveland, OH (89 FR 38857). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to these aquatic events. During the comment period that ended June 7, 2024, we received one comment that was unrelated to the proposed rulemaking.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034, 70051; 70124, 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3. The Captain of the Port Sector Eastern Great Lakes has determined that safety zones covering certain navigable waters of Lake Erie, and the Cuyahoga River in Cleveland, Ohio, are needed to protect participants during the 2024 Pan-American Masters Games' Aquatic Events.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment that was unrelated to our NPRM published May 8, 2024. There are changes in the regulatory text of this rule from the proposed rule in the NPRM due to the reduction of the planned Aquatic Sporting Events from five (5) to two (2), and a reconfiguration of the Safety Zone for the July 13 Triathlon (swim) portion practice day. This rule establishes the following safety zones:

(1) *Triathlon (Practice Day):* The boundaries of the July 13, 2024 practice Triathlon (swim portion) safety zone form a rectangle of which the four corners of the polygon are located in the following positions: (1) 41°29'27.46" N, 081°44'22.51" W; (2) 41°29'31.98" N, 081°44'24.01" W, (3) 41°29'28.80" N, 081°44'33.01" W, (4) 41°29'17.72" N, 81°44'30.25" W. The COTP will enforce this safety zone from 9:30 a.m. to 2:00 p.m. on July 13, 2024.

(2) *Triathlon (Event Day):* The boundaries of the July 14 Triathlon (swim portion) safety zone form a rectangle of which the four corners of the polygon are located in the following positions: (1) 41°29'15.76" N, 081°44'46.34" W; (2) 41°29'27.96" N, 081°44'49.87" W, (3) 41°29'31.98" N, 081°44'24.01" W, (4) 41°29'27.46" N, 81°44'22.51" W. The COTP will enforce this safety zone from 5:30 a.m. to 9:30 a.m. on July 14, 2024.

(3) *Rowing:* The safety zone covers all navigable waters of the Cuyahoga River in Cleveland, Ohio between the following two boundaries, which are formed by lines extending perpendicular from bank to bank, centered on: (1) 41°29'35.09" N, 081°42'14.19" W (near Center Street Bridge), and (2) 41°29'23.64" N, 081°41'37.28" W (near Carnegie Avenue Bridge). The COTP will enforce the safety zone from 5:30 a.m. to 1:30 p.m. on July 14, 2024.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time of day of the regulated area. These safety zones will restrict navigation through the two (2) Aquatic Sports areas: (1) Triathlon for four and one-half (4.5) hours on one day, and four (4) hours on one day, and (2) Rowing for eight (8) hours on one day. For a total of 16.5 hours over the course of three days.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule

will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the following safety zones:

(1) *Triathlon*: safety zone lasting 4.5 hours that prohibits entry in, out, or through waters of Lake Erie adjacent to Edgewater Beach in Cleveland, Ohio on July 13, 2024, and then again for 4.0 hours on July 14, 2024.

(2) *Rowing*: safety zone lasting 8.0 hours that would prohibit entry in, out, or through the Cuyahoga River from the Center Street Bridge to the Carnegie Avenue Bridge on July 14, 2024.

It is categorically excluded from further review under paragraph L63a of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation
No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T09–0261 to read as follows:

§ 165.T09–0261 Safety Zones, Lake Erie and Cuyahoga River, Cleveland, OH.

(a) *Location and enforcement period.*
The following safety zones will be enforced from July 13, 2024, through

July 14, 2024, as described in paragraphs (a)(1) and (2) of this section within the Captain of the Port Zone Eastern Great Lakes (COTP) in the vicinity of Cleveland, Ohio.

Event	Location ¹	Enforcement dates and times ²
(1) (i) Triathlon (Practice Day).	All navigable waters of Lake Erie adjacent to Edgewater Beach in Cleveland, Ohio, within a rectangle of which the four corners of the polygon are located in the following positions: (1) 41°29'27.46" N, 081°44'22.51" W; (2) 41°29'31.98" N, 081°44'24.01" W, (3) 41°29'28.80" N, 081°44'33.01" W, (4) 41°29'17.72" N, 81°44'30.25" W.	July 13, from 9:30 a.m. to 2 p.m.
(ii) Triathlon (Event Day)	All navigable waters of Lake Erie adjacent to Edgewater Beach in Cleveland, Ohio, within a rectangle of which the four corners of the polygon are located in the following positions: (1) 41°29'15.76" N, 081°44'46.34" W; (2) 41°29'27.96" N, 081°44'49.87" W, (3) 41°29'31.98" N, 081°44'24.01" W, (4) 41°29'27.46" N, 81°44'22.51" W.	July 14 from 5:30 a.m. to 9:30 a.m.
(2) Rowing	All navigable waters of the Cuyahoga River in Cleveland, Ohio between the following two boundaries, which are formed by lines extending perpendicular from bank to bank, centered on: (1) 41°29'35.09" N, 081°42'14.19" W (near Center Street Bridge), and (2) 41°29'23.64" N, 081°41'37.28" W (near Carnegie Avenue Bridge).	July 14 from 5:30 a.m. to 1:30 p.m.

¹ All coordinates listed in paragraphs (a)(1) and (2) of this section reference Datum NAD 1983.

² The enforcement dates and times for each of the listed safety zones are subject to change. In the event of a change, the COTP will provide notice to the public by issuing a Broadcast Notice to Mariner and by updating the Local Notice to Mariners (if practicable).

(b) *Definitions.* As used in this section:

Official patrol vessel means any Coast Guard, State or local law enforcement and sponsor provided vessel designated or assigned by the Captain of the Port Sector Eastern Great Lakes, to patrol the event.

Participant means all persons and vessels attending the event.

Spectator means all persons and vessels not registered with the production company as participants or official patrol vessels.

(c) *Regulations.* (1) The Coast Guard may patrol the event areas under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign “PATCOM.”

(2) All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer; spectator vessels will be operated at a no-wake speed in a manner which will not endanger participants in the event or any other craft.

(4) No spectator shall anchor, block, loiter, or impede the through-transit of official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) The Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop

and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Any spectator vessel may anchor outside the regulated areas specified in this chapter, but may not anchor in, block, or loiter in a navigable channel.

(7) The Patrol Commander may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) The Patrol Commander will terminate enforcement of the special regulations at the conclusion of each individual event.

Dated: June 27, 2024.

M.I. Kuperman,

Captain, U.S. Coast Guard, Captain of the Port Eastern Great Lakes.

[FR Doc. 2024–14703 Filed 7–5–24; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2023–0377; FRL–11783–02–R1]

Air Plan Approval; Connecticut; Source Monitoring, Record Keeping and Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut.

This revision addresses source monitoring in Connecticut. The principal revision is replacement of Regulations of Connecticut State Agencies (RCSA) section 22a–174–4 (source monitoring, record keeping and reporting) with a new regulation section 22a–174–4a, also called “source monitoring, record keeping and reporting,” in the Connecticut SIP. This source monitoring SIP revision provides monitoring, recordkeeping and reporting requirements to ensure that certain sources comply with applicable emissions limitations. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on August 7, 2024.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2023–0377. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are

Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT:

Alison C. Simcox, Air Quality Branch (AQB), Air and Radiation Division (ARD) (Mail Code 5-MD), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109-3912, (617) 918-1684; simcox.alison@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Table of Contents

- I. Background and Purpose
- II. Response to Comments
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. Background and Purpose

On February 29, 2024 (89 FR 14792), EPA published a notice of proposed rulemaking (NPRM) for the State of Connecticut.

The NPRM proposed approval of RCSA Section 22a-174-4a “Source monitoring, record keeping and reporting,” except for section 22a-174-4a(g)(6), as well as modifications to sections 22a-174-20(a)(12), 22a-174-22e(m)(1), and 22a-174-22e(m)(4) into the Connecticut SIP. In addition, the NPRM proposed to replace RCSA section 22a-174-4 with RCSA section 22a-174-4a in the Connecticut SIP.

The formal SIP revision was submitted by Connecticut on November 17, 2022. On December 19, 2022, CT DEEP submitted a supplement to this SIP revision that withdrew portions of the submitted regulatory text that are currently not part of the Connecticut SIP (sections 22a-174-3d(f)(1)(B), 22a-174-38(j)(1), and 22a-2a-1(b)(3)). On February 27, 2023, the State submitted a letter withdrawing one additional provision (section 22a-174-4a(g)(6)) of the submitted regulatory text in section 22a-174-4a. This letter also provided additional information about CT DEEP’s implementation of “out-of-control” periods. Therefore, the complete SIP submittal included the November 17, 2022, submittal, as modified by the December 19, 2022, supplement and the February 27, 2023, letter.

CT DEEP’s source monitoring SIP submittal strengthens its source monitoring requirements and, thus, the State’s ability to detect violations of emission limits. Detailed rationale for EPA’s proposed action is explained in the NPRM and will not be restated here.

II. Response to Comments

EPA received two comments during the comment period. One comment supported the EPA’s proposed action. One comment discusses subjects outside the scope of this SIP action, does not explain (or provide a legal basis for) how the proposed action should differ in any way, and makes no specific mention of the proposed action. As such, the latter comment is not germane and does not require a further response to finalize the action as proposed.

III. Final Action

EPA is approving RCSA Section 22a-174-4a “Source monitoring, record keeping and reporting,” except for section 22a-174-4a(g)(6), as well as modifications to sections 22a-174-20(a)(12), 22a-174-22e(m)(1), and 22a-174-22e(m)(4) as a revision to the Connecticut SIP. In addition, we are replacing RCSA section 22a-174-4 with RCSA section 22a-174-4a in the Connecticut SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the RCSA Regulations, which address source monitoring in Connecticut, described in sections I. and III. of this preamble and as set forth in the amendments to 40 CFR part 52 below. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735,

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

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

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

industrial, governmental, and commercial operations or programs and policies.”

The Connecticut DEEP did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area.

Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 6, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule

or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 27, 2024.

David Cash,

Regional Administrator, EPA Region 1.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart H—Connecticut

- 2. Amend § 52.370 by adding paragraphs (c)(104)(i)(B)(4) and (c)(131) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(104) * * *

(i) * * *

(B) * * *

(4) Previously approved on July 16, 2014 in paragraph (c)(104)(B)(1) of this section and now deleted with replacement in paragraph (c)(131)(i)(A) of this section, as regulation 22a-174-4a.

* * * * *

(131) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on November 17, 2022, and supplemented on December 19, 2022 and February 27, 2023.

(i) *Incorporation by reference.* (A) Regulations of Connecticut State Agencies Section 22a-174-4a, entitled

“Source monitoring, record keeping, and reporting,” effective October 28, 2022.

(B) Regulations of Connecticut State Agencies Section 22a-174-20, entitled “Control of organic compound emissions,” specifically 22a-174-20(a)(12), amended by the State of Connecticut on October 28, 2022.

(C) Regulations of Connecticut State Agencies Section 22a-174-22e, entitled “Control of nitrogen oxides emissions from fuel-burning equipment at major stationary sources of nitrogen oxides,” specifically 22a-174-22e(m)(1) and (m)(4), amended by the State of Connecticut on October 28, 2022.

(ii) *Additional materials.* (A) Letter from the Connecticut Department of Energy and Environmental Protection dated November 17, 2022, submitting a revision to the Connecticut State Implementation Plan.

(B) Letter from the Connecticut Department of Energy and Environmental Protection dated December 19, 2022, supplementing a revision to the Connecticut State Implementation Plan.

(C) Letter from the Connecticut Department of Energy and Environmental Protection dated February 27, 2023, clarifying a revision to the Connecticut State Implementation Plan.

- 3. Amend § 52.385, in table 52.385, by:

■ a. Revising the second entry for “22a-174-4” before the entry for “22a-174-5”;

■ b. Adding an entry for “22a-174-4a” before the entry for “22a-174-5”;

■ c. Adding a sixth entry for “22a-174-20” before the entry for “22a-174-21”;

and

■ d. Adding a fourth entry for “22a-174-22e” before the entry for “22a-174-22f”.

The revision and additions read as follows:

§ 52.385 EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
* * *	* * *	* * *	* * *	* * *	* * *	* * *
22a-174-4	Source monitoring, record keeping, and reporting.	4/1/2004	7/16/2014	79 FR 41427	(c)(104)	Replaced by 22a-174-4a, see (c)(131).

TABLE 52.385—EPA-APPROVED REGULATIONS—Continued

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
22a–174–4a	Source monitoring, record keeping, and reporting.	10/28/2022	7/8/2024	[Insert Federal Register citation].	(c)(131)	Replaces 22a–174–4.
*	*	*	*	*	*	*
22a–174–20	Control of organic compound emissions.	10/28/2022	7/8/2024	[Insert Federal Register citation].	(c)(131)	Amends 22a–174–20(a)(12).
*	*	*	*	*	*	*
22a–174–22e	Control of nitrogen oxides emissions from fuel-burning equipment at major stationary sources of nitrogen oxides.	10/28/2022	7/8/2024	[Insert Federal Register citation].	(c)(131)	Amends 22a–174–2e(m)(1) and (m)(4).
*	*	*	*	*	*	*

[FR Doc. 2024–14620 Filed 7–5–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52****[EPA–R01–OAR–2023–0185; FRL–11616–02–R1]****Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Regional Haze State Implementation Plan for the Second Implementation Period****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the regional haze State Implementation Plan (SIP) revision submitted by Massachusetts on July 22, 2021, and supplemented on June 15, 2022, as satisfying applicable requirements under the Clean Air Act (CAA) and EPA's Regional Haze Rule for the program's second implementation period. Massachusetts' SIP submission addresses the requirement that states must periodically revise their long-term strategies for making reasonable progress towards the national goal of preventing any future, and remedying any existing, anthropogenic impairment of visibility, including regional haze, in mandatory Class I Federal areas. The SIP submission also addresses other applicable requirements for the second implementation period of the regional haze program. The EPA is taking this action pursuant to sections 110 and 169A of the Clean Air Act.

DATES: This rule is effective on August 7, 2024.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2023–0185. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Eric Rackauskas, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 5–MI), Boston, MA 02109–3912, tel. (617) 918–1628, email rackauskas.eric@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Table of Contents

I. Background and Purpose

II. Response to Comments

III. Final Action

IV. Incorporation by Reference

V. Statutory and Executive Order Reviews

I. Background and Purpose

On July 22, 2021, and supplemented on June 15, 2022, the Massachusetts Department of Environmental Protection (MassDEP) submitted a revision to its SIP to address regional haze for the second implementation period. MassDEP made this SIP submission to satisfy the requirements of the CAA's regional haze program pursuant to CAA sections 169A and 169B and 40 CFR 51.308.

On January 10, 2024, the EPA published a notice of proposed rulemaking (NPRM) in which the EPA proposed to approve Massachusetts' July 22, 2021 (as supplemented on June 15, 2022),¹ SIP submission as satisfying the regional haze requirements for the second implementation period contained in the CAA and 40 CFR 51.308. The EPA is now determining that the Massachusetts regional haze SIP submission for the second implementation period meets the applicable statutory and regulatory requirements and thus approves Massachusetts' submission into its SIP.

Other specific requirements of the Massachusetts submittal and the rationale for the EPA's proposed action are explained in the NPRM and will not be restated here.

¹ Massachusetts submitted a letter on May 3, 2024, to clarify the intent of their June 15, 2022 supplement regarding the incorporation of the Canal permit provisions into the SIP.

II. Response to Comments

In response to the NPRM, the EPA received a comment letter signed by the National Parks Conservation Association, Sierra Club, Appalachian Mountain Club, and the Coalition to Protect America's National Parks (collectively, the "Conservation Groups" or the "Groups") and is providing responses to the comments raised in the letter. The Conservation Groups state in their comment letter that they "do not oppose EPA's proposal to approve Massachusetts' [Regional Haze] SIP Revision," but rather "urge EPA to address the issues raised [in the comment letter] before finalizing" the approval. EPA also received a comment letter from the Mid-Atlantic/Northeast Visibility Union (MANEVU) in support of the proposed action. The specific comments may be viewed under Docket ID Number EPA-R01-OAR-2023-0185 on the <https://www.regulations.gov> website.

Comment: The Conservation Groups contend that MANEVU's visibility modeling and source selection method used an inappropriately high threshold. The Conservation Groups comment that the MANEVU threshold on which Massachusetts relied (3.0 Mm^{-1}) identified only two sources for a Four-Factor Analysis—Brayton Unit 4 and Canal Unit 1—and failed to select other significant sources, such as municipal waste combustors (MWCs), that have higher NO_x emissions. The Groups state that "Massachusetts should have used a lower threshold that captured a meaningful portion of in-state sources, such as a Q/d of 5 or lower, or an equivalent threshold." As the 3.0 Mm^{-1} threshold identified only two sources in the entire State for a four-factor analysis, the Groups claim that Massachusetts failed to conduct a rigorous and meaningful source selection process.

Response: As explained in the NPRM, the EPA does not necessarily agree that the 3.0 inverse megameters (Mm^{-1}) visibility impact is a reasonable threshold for source selection. The Regional Haze Rule recognizes that, due to the nature of regional haze visibility impairment, numerous and sometimes relatively small sources may need to be selected and evaluated for implementation of control measures to make reasonable progress.² As EPA has explained, while states have discretion to choose any source selection threshold that is reasonable, "[a] state that relies

on a visibility (or proxy for visibility impact) threshold to select sources for four-factor analysis should set the threshold at a level that captures a meaningful portion of the state's total contribution to visibility impairment to Class I areas." In this case, the 3.0 Mm^{-1} threshold used in MANEVU Ask 2 identified only two sources in Massachusetts (and only 22 across the entire MANEVU region), indicating that it may, in some cases, be unreasonably high. But these were not the only sources Massachusetts selected for analysis. As EPA noted in the NPRM, Massachusetts considered a large set of sources that burn fuel oil throughout much of the Commonwealth and considered the four statutory factors to develop sulfur in fuel regulations that control SO_2 emissions from them.³ Massachusetts also examined the emissions from, and the controls that apply to, its largest operating electric generating unit (EGU) and industrial/commercial/institutional boiler (ICI boiler) sources.⁴ In addition, Massachusetts examined emissions from peaking combustion turbines that have the potential to run on high electric demand days and identified existing stringent controls for such sources or equivalent alternative reductions achieved through retirements.⁵ Massachusetts also examined emissions from the municipal waste combustors (MWCs) identified by the National Park Service through the federal land manager (FLM) consultation process, and thus demonstrated that it relied upon previously EPA-approved NO_x emission limits for both large and small MWCs in its long-term strategy, and reasonably explained its decision not to conduct four factor analyses at this time for the four MWCs included in the National Park Service's final list.⁶

Furthermore, the Regional Haze Rule does not require states to consider controls for all sources, all source categories, or any or all sources in a particular source category. Rather, states have discretion to choose any source selection methodology or threshold that is reasonable, provided that the choices they make are reasonably explained.⁷ To this end, 40 CFR 51.308(f)(2)(i) requires that a state's SIP submission must include "a description of the criteria it used to determine which sources or groups of sources it evaluated." The technical basis for source selection must

also be appropriately documented, as required by 40 CFR 51.308(f)(2)(iii). In this instance, EPA proposed to find that Massachusetts had demonstrated that the sources of SO_2 and NO_x within the Commonwealth that would be expected to contribute to visibility impairment have small emissions of those pollutants, are subject to stringent SIP-approved emission control measures, or both. Massachusetts' information and explanation indicate that the State in fact examined a reasonable set of sources, including sources captured by the other MANEVU Asks and sources flagged by the FLMs, and reasonably concluded that additional four-factor analyses were not necessary because the outcome would be that no further emission reductions would be reasonable for this planning period.

Comment: Relying on EPA Regional Haze guidance documents and legislative history of the Clean Air Act, the Conservation Groups state that Massachusetts improperly exempts from four factor analysis sources that are "Effectively Controlled" under other CAA programs. The Groups assert that EPA cannot excuse Massachusetts' failure to conduct four-factor analyses for sources "just because they are subject to controls under the [National Ambient Air Quality Standards] NAAQS program." The comment states that "none of these existing measures are included in Massachusetts' long-term strategy or the SIP Revision's regulatory requirements, so neither Massachusetts nor EPA can rely on them to demonstrate that the State is making reasonable progress under the Regional Haze program." The comment further states: "Massachusetts relied on existing air permits to exempt sources from complete four-factor analyses and adopting additional controls," and "EPA cannot rely on control requirements or emission limits in state-issued permits that are not incorporated into the SIP Revision's long-term strategy or regulatory requirements to justify its proposed approval of Massachusetts' SIP Revision."

Response: EPA's approval of Massachusetts' regional haze SIP is based on Massachusetts' satisfaction of the applicable regulatory requirements for the second planning period in 40 CFR 51.308(f), (g), and (i). These requirements include that states must evaluate and determine the emission reduction measures necessary to make reasonable progress by considering the four statutory factors and that the measures that are necessary for reasonable progress must be in the SIP. Massachusetts' submission includes four-factor analyses in response to Asks

² See Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period, EPA Office of Air Quality Planning and Standards, at 4 (July 8, 2021) ("2021 Clarifications Memo").

³ 89 FR 1482, 1499 (January 10, 2024).

⁴ *Id.* at 1495, 1499.

⁵ *Id.* at 1496, 1499.

⁶ *Id.* at 1504; Massachusetts Regional Haze SIP Revision at 104–08.

⁷ See Clarifications Memo at sections 2 and 2.1.

2 (for NO_x and SO₂ emissions from Canal Unit 1) and 3 (for SO₂ emissions from sources across the Commonwealth). As EPA explained in the NPRM, in assessing its compliance with these Asks Massachusetts explicitly engaged with the statutory and regulatory requirement to determine measures necessary for reasonable progress based on the four factors.⁸ As a result, EPA proposed in the NPRM to find that Massachusetts' SIP submittal satisfies the requirement of 40 CFR 51.308(f)(2)(i) that a State determine the emission reduction measures that are necessary to make reasonable progress by considering the four factors.⁹ Further, Massachusetts requested that EPA approve the new permit conditions for Canal Unit 1 into the SIP. In addition, Massachusetts relied on several State air pollution control regulations already approved into the SIP, including 310 CMR 7.05(1), *Fuels All Districts, Sulfur Content of Fuels*, 310 CMR 7.08(2), *Incinerators, Municipal Waste Combustors*, and 310 CMR 7.19, *Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen (NO_x)*. Thus, EPA is appropriately finalizing its approval of Massachusetts' Regional Haze SIP revision based on EPA's determination that Massachusetts' SIP, including its long-term strategy, satisfy the requirements of 40 CFR 51.308(f)(2)(i), and additional four-factor analyses are not required.

Furthermore, contrary to commenters' arguments, Massachusetts' reliance on already effective controls in lieu of four-factor analyses for other sources in the Commonwealth is not inconsistent with the Clean Air Act legislative history or EPA Regional Haze Guidance. As the comment notes, EPA stated in the NPRM that Congress determined that "a visibility protection program is needed in addition to the [Clean Air Act]'s National Ambient Air Quality Standards [NAAQS] and Prevention of Significant Deterioration programs, as further emission reductions may be necessary to adequately protect visibility in Class I areas throughout the country."¹⁰ Contrary to commenters' arguments, however, this statement does not say that Congress determined that every State must analyze the four factors for *all* sources, or for sources that are already well controlled. Indeed, EPA recognized that reasonable progress analyses will vary from State to State.¹¹

Further, EPA specified that further emissions reductions "may be" necessary, which recognizes that additional reductions will not always be necessary, depending on the effectiveness of other existing programs. Accordingly, in both guidance documents, EPA recognized that a State may reasonably decide not to select sources that have recently installed effective controls.¹² As EPA put it in the 2021 Clarifications Memo, "The underlying rationale for the 'effective controls' flexibility is that if a source's emissions are already well controlled, it is unlikely that further cost-effective reductions are available." Thus, contrary to the claim in the comment, both guidance documents recognize that a State may reasonably decide not to select sources that have recently installed effective controls. In such a scenario, per the guidance, the State should explain why it is reasonable to assume that a full four-factor analysis would likely result in the conclusion that no further controls are necessary.¹³ Massachusetts did not decline to conduct four-factor analyses for certain sources "just because they are subject to controls under the NAAQS program," as commenters argue. Instead, Massachusetts evaluated these sources, including applicable facility permits and regulations, and demonstrated that the high level of control already required makes it reasonable to conclude that a full four-factor analysis would likely result in the conclusion that no further controls are necessary.

Comment: The Conservation Groups claim that the State should, and that the EPA must, consider the environmental justice implications of Massachusetts' SIP revision. The Groups cite EPA Regional Haze guidance and 1994 and 2023 Executive orders addressing environmental justice and use the EPA EJ Screen tool to identify communities near several municipal waste combustors that may have higher percentages of low-income populations and people of color than the rest of the State as a whole.

Response: The regional haze statutory provisions do not explicitly address considerations of environmental justice, and neither do the regulatory requirements of the second planning period in 40 CFR 51.308(f), (g), and (i). However, the lack of explicit direction does not preclude the State from addressing EJ in the State's SIP submission. As explained in "EPA Legal

Tools to Advance Environmental Justice"¹⁴ and EPA Regional Haze guidance,¹⁵ the CAA provides states with the discretion to consider environmental justice in developing rules and measures related to regional haze. While a State may consider environmental justice under the reasonable progress factors, neither the statute nor the regulation compels states or the EPA to conduct an environmental justice analysis in developing or evaluating a SIP submission.

In this instance, Massachusetts explained in its SIP submission that the "SIP revision includes measures that reduce air pollutant emissions and will not create any burdens on environmental justice populations."¹⁶ MassDEP noted that it "considers environmental justice in all of its programs as described in the Executive Office of Energy and Environmental Affairs' 2017 Environmental Justice Policy," which "directs [Massachusetts] agencies to engage in enhanced public participation for certain projects and to conduct enhanced analysis and review of impacts and mitigation for certain projects."¹⁷ MassDEP explained that while its Regional Haze SIP revision did not trigger the project criteria in the State policy, MassDEP nonetheless translated the Notice of Public Hearing and Comment into several languages and sent the notice to a broad array of stakeholders, including environmental justice advocacy organizations.¹⁸ In addition, MassDEP explained that "Massachusetts has and is continuing to take significant actions to reduce air pollution that affects environmental justice communities, including adopting California low and zero emissions standards for cars and trucks; providing grants for electric buses and rebates for purchase of electric cars and trucks, providing grants for electric vehicle charging stations and for diesel truck emissions controls and electrification; and implementing a net-zero climate goal that prioritizes reducing air pollution from fossil fuel combustion in over-burdened and environmental justice communities."¹⁹

The commenter also provided additional information from an EJ Screen analysis that the State did not consider as part of its regional haze

¹⁴ See EPA Legal Tools to Advance Environmental Justice, at 35–36 (May 2022), available at <https://www.epa.gov/ogc/epa-legal-tools-advance-environmental-justice>.

¹⁵ Clarifications Memo at 16.

¹⁶ Massachusetts Regional Haze SIP Submission, App. 43 at page 8.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

⁸ 89 FR at 1498–99.

⁹ *Id.* at 1500.

¹⁰ 89 FR at 1485 (citing H.R. Rep. No. 95–294 at 205).

¹¹ *Id.* at 1484–85.

¹² 2019 Guidance at 22–25; 2021 Clarifications Memo at 5.

¹³ 2019 Guidance at 23; 2021 Clarifications Memo at 5.

decision making. The EPA acknowledges the EJ Screen information provided as part of the comment, which identifies certain demographic and environmental information regarding areas across Massachusetts. The focus of the SIP at issue here, the regional haze SIP for Massachusetts, is SO₂ and NO_x emissions and their impacts on visibility impairment at the 156 mandatory federal Class I areas. This action addresses Massachusetts' choices to reduce these emissions at several EGUs and other sources of air pollution across the State. As discussed in the NPRM and in this notice of final rulemaking, EPA has evaluated Massachusetts' SIP submission against the statutory and regulatory regional haze requirements and determined that it satisfies those minimum requirements. The CAA and applicable implementing regulations neither prohibit nor require an evaluation of environmental justice with a SIP. With respect to the EPA's adherence with the Executive orders, see section V below.

Comment: MANEVU commented to support the EPA's proposal to approve Massachusetts' regional haze State implementation plan (SIP). MANEVU also stated that it supports the EPA's thorough approach in reviewing Massachusetts' SIP, including its response to each MANEVU Ask. MANEVU also noted that it "expects EPA will review other states' responses to the MANEVU Ask in a similar manner, including states outside the MANEVU region, particularly those found by MANEVU technical analysis to be reasonably anticipated to contribute to visibility impairment at one or more of MANEVU's Class I areas."

Response: The EPA acknowledges the comment.

III. Final Action

The EPA is approving the "Massachusetts Regional Haze State Implementation Plan Revision for the Second Planning Period (2018–2028)", submitted July 22, 2021, and "Regional Haze SIP Revision for Massachusetts—Supplement" source specific requirements for Canal Generating Station, submitted May 26, 2022, as collectively satisfying the regional haze requirements for the second implementation period contained in 40 CFR 51.308(f), (g), and (i).

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference "Regional

Haze SIP Revision for Massachusetts—Supplement" source specific requirements for Canal Generating Station (Permit number 21–AQ02F–011–APP), submitted June 15, 2022 (and clarified on May 3, 2024) to limit the sulfur content of fuel oil, described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.²⁰

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive

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

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
 - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

The Massachusetts Department of Environmental Protection did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no

²⁰ 62 FR 27968 (May 22, 1997).

information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by September 6, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 27, 2024.

David Cash,

Regional Administrator, EPA Region 1.

For the reasons stated in the preamble, EPA amends part 52 of

chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart W—Massachusetts

- 2. Amend § 52.1120 by:

■ a. In the table in paragraph (d), adding an entry for “Canal Generating Station” at the end of the table; and

■ b. In the table in paragraph (e), adding an entry for “Massachusetts Regional Haze State Implementation Plan Revision for the Second Planning Period (2018–2028)” at the end of the table.

The additions read as follows:

§ 52.1120 Identification of plan

* * * * *

(d) * * *

EPA APPROVED MASSACHUSETTS SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit number	State effective date	EPA approval date ²	Explanations
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Canal Generating Station.	21-AQ02F-011-APP	May 26, 2022	7/8/2024 [Insert Federal Register citation].	Regional Haze SIP Revision Supplement: fuel oil purchased for EU1 restricted to 0.3% sulfur content limit.

²To determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(e) * * *

MASSACHUSETTS NONREGULATORY

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date ³	Explanations
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Massachusetts Regional Haze State Implementation Plan Revision for the Second Planning Period (2018–2028).	Statewide	Submitted July 22, 2021.	7/8/2024 [Insert Federal Register citation].	

³To determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

Proposed Rules

Federal Register

Vol. 89, No. 130

Monday, July 8, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0301; FRL-12060-01-R9]

Clean Air Plans; 1997 Fine Particulate Matter Nonattainment Area Requirements; San Joaquin Valley, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or “Agency”) is proposing to approve through parallel processing a state implementation plan (SIP) revision submitted by the State of California to meet Clean Air Act (CAA or “Act”) requirements for the 1997 fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS or “standards”) in the San Joaquin Valley “Serious” nonattainment area. Specifically, the EPA proposes to approve through parallel processing the “Amendments to the 15 µg/m³ SIP Revision and Agricultural Equipment Incentive Measure for the 1997 PM_{2.5} Standard” (“15 µg/m³ Plan Amendments”), which revises the State’s aggregate tonnage commitment made for the purpose of attaining the 1997 annual PM_{2.5} NAAQS, amends an existing SIP measure related to certain state mobile source incentive funding programs, and demonstrates that those programs under the SIP-approved measure have achieved specified amounts of reductions in emissions of nitrogen oxides (NO_x) and PM_{2.5} in the San Joaquin Valley area in the year 2023. If finalized, the effect of this action would be to approve these amounts of emissions reductions for credit toward the emissions reduction commitment in the California SIP.

DATES: Comments must be received on or before August 7, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-

OAR-2024-0301, at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ashley Graham, Geographic Strategies and Modeling Section (AIR-2-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, phone: (415) 972-3877; email: graham.ashleyr@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. Background
- II. The State’s Submittal
 - A. Revision of the Aggregate Tonnage Commitment for the 15 µg/m³ SIP Revision
 - B. Revision to the State’s Valley Incentive Measure
- III. The EPA’s Evaluation of the State’s Submittal
 - A. Completeness Review of the 15 µg/m³ Plan Amendments
 - B. Review of the Revision to the Aggregate Tonnage Commitment for the 15 µg/m³ SIP Revision

- C. Review of the Revision to the State’s Valley Incentive Measure
- IV. Environmental Justice Considerations
- V. Summary of Proposed Actions and Request for Public Comment
- VI. Statutory and Executive Order Reviews

I. Background

On July 18, 1997, the EPA revised the NAAQS for particulate matter by establishing new NAAQS for particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (PM_{2.5}).¹ The EPA established primary and secondary annual and 24-hour standards for PM_{2.5}.² The EPA set the annual primary and secondary standards at 15.0 micrograms per cubic meter (µg/m³), based on a three-year average of annual mean PM_{2.5} concentrations, and set the 24-hour primary and secondary standards at 65 µg/m³, based on the three-year average of the 98th percentile of 24-hour PM_{2.5} concentrations at each monitoring site within an area.³ This proposed action pertains only to the 1997 annual PM_{2.5} NAAQS; therefore, we discuss only those NAAQS in the remainder of this document.

On January 15, 2013, the EPA revised the level of the primary annual PM_{2.5} NAAQS to 12.0 µg/m³,⁴ and on February 7, 2024, the EPA revised the level of the primary annual PM_{2.5} NAAQS once more to 9.0 µg/m³.⁵ Even though the EPA lowered the annual PM_{2.5} NAAQS, the 1997 primary annual PM_{2.5} NAAQS remains in effect in areas designated nonattainment for that NAAQS.⁶

The EPA established each of the PM_{2.5} NAAQS after considering substantial evidence from numerous health studies demonstrating that serious health effects are associated with exposures to PM_{2.5} concentrations above these levels. PM_{2.5} can be particles emitted by sources directly into the atmosphere as a solid or liquid particle (“primary PM_{2.5}” or

¹ 62 FR 38652.

² For a given air pollutant, “primary” NAAQS are those determined by the EPA as requisite to protect the public health, allowing an adequate margin of safety, and “secondary” standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. See CAA section 109(b).

³ 40 CFR 50.7.

⁴ 78 FR 3086.

⁵ 89 FR 16202.

⁶ 40 CFR 50.13(d).

“direct PM_{2.5}”) or can be particles that form in the atmosphere as a result of various chemical reactions from PM_{2.5} precursor emissions emitted by sources (“secondary PM_{2.5}”). The EPA has identified the precursors of PM_{2.5} to be oxides of nitrogen (“NO_x”), sulfur oxides (“SO_x”), volatile organic compounds (“VOC”), and ammonia.⁷

Following promulgation of a new or revised NAAQS, the EPA is required under CAA section 107(d) to designate areas throughout the nation as attainment, nonattainment, or unclassifiable for the NAAQS. Effective April 5, 2005, the EPA established the initial air quality designations for the 1997 annual PM_{2.5} NAAQS, using air quality monitoring data for the three-year periods of 2001–2003 and 2002–2004.⁸ The EPA designated the San Joaquin Valley as nonattainment for the 1997 annual PM_{2.5} NAAQS (15.0 µg/m³).⁹

On June 2, 2014, the EPA classified the San Joaquin Valley as a “Moderate” nonattainment area for the 1997 annual PM_{2.5} NAAQS.¹⁰ Effective May 7, 2015, the EPA reclassified the San Joaquin Valley as a “Serious” nonattainment area for the 1997 annual PM_{2.5} NAAQS based on our determination that the State could not practicably attain these NAAQS in the San Joaquin Valley nonattainment area by the latest statutory Moderate area attainment date, *i.e.*, April 5, 2015.¹¹ Upon reclassification as a Serious area, the State became subject to the requirement of CAA section 188(c)(2) to attain the 1997 annual PM_{2.5} NAAQS as expeditiously as practicable but no later than ten years after designation, *i.e.*, by no later than December 31, 2015.

On November 23, 2016, the EPA determined that the San Joaquin Valley had failed to attain the 1997 annual PM_{2.5} NAAQS by the December 31, 2015 Serious area attainment date.¹² This determination triggered a requirement for California to submit a new SIP submission for the 1997 annual PM_{2.5} NAAQS for the San Joaquin Valley that satisfied the requirements of CAA section 189(d). The statutory deadline for this additional SIP submission was December 31, 2016.

On December 6, 2018, the EPA determined that California had failed to submit a complete section 189(d) attainment plan for the 1997 annual

PM_{2.5} NAAQS, among other required SIP submissions for the San Joaquin Valley, by the statutory deadlines.¹³ This finding, which became effective on January 7, 2019, triggered the requirement for a new SIP submission addressing the identified failure to submit deficiencies.¹⁴

On May 10, 2019, the California Air Resources Board (CARB) submitted the “2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards,” adopted by the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) on November 15, 2018, and by CARB on January 24, 2019 (“2018 PM_{2.5} Plan”).¹⁵ The 2018 PM_{2.5} Plan addressed the Serious area nonattainment plan and CAA section 189(d) requirements for the 1997 annual PM_{2.5} NAAQS, in addition to other requirements for the 1997 24-hour, 2006, and 2012 PM_{2.5} NAAQS. CARB clarified in its submittal letter that the 2018 PM_{2.5} Plan superseded past submissions to the EPA that the agency had not yet acted on for the 1997 annual PM_{2.5} NAAQS.¹⁶

On July 22, 2021, the EPA proposed to partially approve and partially disapprove portions of the 2018 PM_{2.5} Plan that addressed attainment of the 1997 annual PM_{2.5} NAAQS in the San Joaquin Valley nonattainment area.¹⁷ The EPA proposed to approve the 2013 base year emissions inventories and disapprove the attainment demonstration and related elements because certified air quality data were available that established that the San Joaquin Valley area did not attain the 1997 annual PM_{2.5} NAAQS by December 31, 2020, as projected in the 2018 PM_{2.5} Plan. On November 26, 2021, the EPA finalized the partial approval and partial disapproval of the 2018 PM_{2.5} Plan for the 1997 annual PM_{2.5} NAAQS as proposed.¹⁸

As a result of the November 26, 2021 disapprovals, California was required to develop and submit a revised attainment plan for the San Joaquin Valley area that addressed the applicable CAA requirements, including the Serious area plan requirements and

the requirements of CAA section 189(d) for the 1997 annual PM_{2.5} NAAQS. The revised plan was required to demonstrate attainment of these NAAQS as expeditiously as practicable and no later than 5 years from the date of the EPA’s prior determination that the area failed to attain (*i.e.*, by November 23, 2021), except that the EPA could extend the attainment date to a date no later than 10 years from the failure to attain determination (*i.e.*, to November 23, 2026), “considering the severity of nonattainment and the availability and feasibility of pollution control measures.”¹⁹

On November 8, 2021, CARB submitted the “Attainment Plan Revision for the 1997 Annual PM_{2.5} Standard” (“15 µg/m³ SIP Revision”), adopted by the SJVUAPCD on August 19, 2021, and adopted by CARB on September 23, 2021.²⁰ In the letter accompanying the submission, CARB clarified that the 15 µg/m³ SIP Revision amended the 2018 PM_{2.5} Plan.²¹

On December 14, 2023, the EPA approved the 15 µg/m³ SIP Revision as a revision to the California SIP, establishing an applicable attainment date of December 31, 2023, for the 1997 annual PM_{2.5} NAAQS in the San Joaquin Valley.²² As a part of that approval, the EPA approved CARB’s commitment to achieve aggregate emissions reductions of 3.0 tons per day (tpd) of NO_x and 0.04 tpd of direct PM_{2.5} (referred to as an “aggregate tonnage commitment”) through adoption of CARB’s “Heavy-Duty Vehicle Inspection and Maintenance Program” (“Heavy-Duty I/M”) (referred to as a “control measure commitment”) and/or substitute measures.²³ The 15 µg/m³ SIP Revision also included discussion of the “Accelerated Turnover of Agricultural Equipment Incentive Projects” (“Valley Incentive Measure”), which was expected to provide for further emissions reductions by the 2023 attainment year. No specific emissions

¹⁹ 81 FR 84481, 84482 (final EPA action determining that the San Joaquin Valley had failed to attain the 1997 PM_{2.5} NAAQS by the December 31, 2015, Serious area attainment date).

²⁰ Letter dated November 8, 2021, from Richard W. Corey, Executive Officer, CARB, to Deborah Jordan, Acting Regional Administrator, EPA Region 9. The 15 µg/m³ SIP Revision was developed jointly by CARB and the District.

²¹ *Id.* at 1.

²² 88 FR 86581. As discussed in the EPA’s proposal to approve the 15 µg/m³ SIP Revision, the attainment date for the 189(d) plan was established consistent with CAA sections 179(d)(3) and 172(a)(2).

²³ CARB Resolution 21–21, September 23, 2021, p. 6; and August 2021 Staff Report, pp. 4–5.

⁷ For example, see 72 FR 20586, 20589 (April 25, 2007).

⁸ 70 FR 944 (January 5, 2005).

⁹ 40 CFR 81.305.

¹⁰ 79 FR 31566.

¹¹ 80 FR 18528 (April 7, 2015).

¹² 81 FR 84481.

¹³ 83 FR 62720.

¹⁴ *Id.* at 62723.

¹⁵ Letter dated May 9, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9.

¹⁶ Letter dated June 24, 2020, from Elizabeth J. Adams, Director, Air and Radiation Division, EPA Region IX, to Richard Corey, Executive Officer, CARB, Subject: “RE: Completeness Finding for State Implementation Plan (SIP) Submissions for San Joaquin Valley for the 1997, 2006, and 2012 Fine Particulate Matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) and Termination of Clean Air Act (CAA) Sanction Clocks.”

¹⁷ 86 FR 38652.

¹⁸ 86 FR 67329.

reductions were attributed to this measure.²⁴

CARB adopted the Valley Incentive Measure on December 12, 2019,²⁵ and submitted the measure to the EPA on February 11, 2020.²⁶ The EPA approved portions of the Valley Incentive Measure into the California SIP on December 27, 2021.²⁷ The SIP-approved Valley Incentive Measure contains a set of enforceable commitments by CARB to monitor, assess, and regularly report on emissions reductions from off-road mobile, diesel agricultural equipment replacement projects implemented through CARB's Carl Moyer Memorial Air Quality Standards Attainment Program ("Carl Moyer") and CARB's Funding Agricultural Replacement Measures for Emission Reductions (FARMER) Program, according to specific guidelines and/or program criteria. These program requirements ensure, among other things, that older, dirtier agricultural equipment currently in operation in the San Joaquin Valley will be replaced with less-polluting equipment.

The Valley Incentive Measure obligates CARB to achieve specific amounts of NO_x and PM_{2.5} emissions reductions through implementation of these programs by specific years, to submit annual reports to the EPA beginning on May 15, 2021, detailing the implementation of specific projects and the projected emissions reductions, and to adopt and submit substitute measures by specific dates if the EPA determines that the identified projects will not achieve the necessary emissions reductions by the applicable implementation deadlines.

The Valley Incentive Measure included commitments by CARB to (1) monitor, assess, and report on emissions reductions, and to (2) achieve emissions reductions by 2024 of 4.83 tpd of NO_x and 0.24 tpd of direct PM_{2.5} and emissions reductions by 2025 of 4.46 tpd of NO_x and 0.26 tpd of direct PM_{2.5}.²⁸ The EPA's final partial approval of this measure on December 27, 2021, credited CARB's tonnage

commitments for 2024 (for attaining the 2006 24-hour PM_{2.5} NAAQS) and 2025 (for attaining the 2012 annual PM_{2.5} NAAQS).²⁹ While the State did not take credit for any emissions reductions from this measure in the 15 µg/m³ SIP Revision, it asserted in its "Staff Report, Proposed SIP Revision for the 15 µg/m³ Annual PM_{2.5} Standard for the San Joaquin Valley," release date August 13, 2021 ("August 2021 Staff Report"),³⁰ that a large portion of those emissions reductions would in fact be achieved by 2023.³¹

II. The State's Submittal

A. Revision of the Aggregate Tonnage Commitment for the 15 µg/m³ SIP Revision

The 15 µg/m³ Plan Amendments are included in the CARB Staff Report, "Review of the San Joaquin Valley 2024 Plan for the 2012 12 µg/m³ Annual PM_{2.5} Standard and Amendments to the Agricultural Equipment Incentive Measure and the 1997 15 µg/m³ State Implementation Plan Revision," which otherwise includes the CARB staff assessment of the 2024 PM_{2.5} Plan for the 2012 annual PM_{2.5} NAAQS.³² In the 15 µg/m³ Plan Amendments, CARB seeks to revise the 15 µg/m³ SIP Revision commitment to achieve aggregate emissions reductions of 3.0 tpd of NO_x and 0.04 tpd of direct PM_{2.5} from CARB's Heavy-Duty I/M Program by replacing it with a commitment to achieve the same reductions from the Valley Incentive Measure.³³ CARB states that, per its "2022 Annual Demonstration Report, San Joaquin Valley Agricultural Equipment Incentive Measure, Covering Projects Completed Through 12/31/2022" ("2022 Annual Demonstration Report"),³⁴ "the Carl Moyer and FARMER agricultural equipment projects completed by December 31, 2022, achieved reductions of 5.0 tpd of NO_x and 0.27 tpd PM_{2.5} emission reductions, well in excess of the 3.0 tpd of NO_x and 0.04 tpd aggregate commitment in the 15 µg/m³

SIP Revision."³⁵ The 2022 Annual Demonstration Report includes CARB's quantification of the emissions reductions from the Valley Incentive Measure based on detailed information about each agricultural equipment replacement project completed under the Carl Moyer and FARMER programs leading up to the 2023 attainment year established in the 15 µg/m³ SIP Revision.³⁶

B. Revision to the State's Valley Incentive Measure

The 15 µg/m³ Plan Amendments seek to amend the SIP-approved Valley Incentive Measure to include a quantification of emissions reductions for 2023 from existing Carl Moyer and FARMER agriculture equipment projects and for the EPA to approve those emissions reductions for SIP credit.³⁷ CARB's submittal explains that the EPA "approved the portions of the Valley Incentive Measure that were attributed to projects funded through Carl Moyer and FARMER Programs," and that the emissions reductions resulting from the two projects were specifically credited against CARB's 2024 and 2025 aggregate tonnage emissions reduction commitment for the 2006 24-hour PM_{2.5} and 2012 annual PM_{2.5} standards in the Valley.³⁸ CARB asserts that because the Valley Incentive Measure included projects to achieve SIP credit in 2024, the projects through December 31, 2022, should also be SIP-creditable for 2023 and that they similarly meet the EPA integrity elements: enforceable, quantifiable, surplus, and permanent.³⁹

III. The EPA's Evaluation of the State's Submittal

A. Completeness Review of the 15 µg/m³ Plan Amendments

On June 21, 2024, CARB submitted the 15 µg/m³ Plan Amendments for parallel processing.⁴⁰ Parallel processing refers to a process that utilizes concurrent state and federal proposed rulemaking actions.⁴¹ Generally, the state submits a copy of the proposed regulation or other revisions to the EPA before conducting its public hearing and completing its public comment process under state law. The EPA reviews this proposed

²⁴ August 2021 Staff Report, pp. 3–4.

²⁵ CARB Resolution 19–26, December 12, 2019.

²⁶ Letter dated February 11, 2020, from Richard W. Corey, Executive Officer, CARB, to Ms. Deborah Jordan, Acting Regional Administrator, EPA Region 9.

²⁷ 86 FR 73106. The EPA approved the Carl Moyer Memorial Air Quality Standards Attainment Program ("Carl Moyer Program") and Funding Agricultural Replacement Measures for Emission Reductions Program ("FARMER Program"). The EPA deferred action on the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) Environmental Quality Incentive Program (EQIP) portion of the Agricultural Equipment Incentive Measure.

²⁸ Id. at 73108–73109.

²⁹ Id.

³⁰ CARB's August 2021 Staff Report includes CARB's review of, among other things, the control strategy in the 15 µg/m³ SIP Revision.

³¹ CARB's August 2021 Staff Report, p. 3.

³² CARB, "Staff Report, Review of the San Joaquin Valley 2024 Plan for the 2012 12 µg/m³ Annual PM_{2.5} Standard and Amendments to the Agricultural Equipment Incentive Measure and the 1997 15 µg/m³ State Implementation Plan Revision" (June 14, 2024).

³³ 15 µg/m³ Plan Amendments, pp. 54–55.

³⁴ CARB, "2022 Annual Demonstration Report, San Joaquin Valley Agricultural Equipment Incentive Measure, Covering Projects Completed Through 12/31/2022," (May 15, 2023) (included as Appendix B to the 15 µg/m³ Plan Amendments).

³⁵ 15 µg/m³ Plan Amendments, 55.

³⁶ 2022 Annual Demonstration Report, Appendix A.

³⁷ 15 µg/m³ Plan Amendments, p. 55.

³⁸ Id.

³⁹ Id.

⁴⁰ Letter dated June 21, 2024, from Steven S. Cliff, Executive Office, CARB, to Martha Guzman, Regional Administrator, EPA Region 9, with enclosure.

⁴¹ 40 CFR part 51, Appendix V, section 2.3.

state action and prepares a notice of proposed rulemaking under federal law. In some cases, the EPA publishes its notice of proposed rulemaking in the **Federal Register** during the same time frame that the state is holding its own public hearing and public comment process. The state and the EPA then provide for concurrent public comment periods on both the state action and federal action on the initial SIP submission from the state. If, after completing its public comment process and after the EPA's public comment process has run, the state materially changes its final SIP submission to the EPA from the initial proposed submission, the EPA evaluates those changes and decides whether to publish another notice of proposed rulemaking in light of those changes or to proceed to taking final action on its proposed action and describe the state's changes in its final rulemaking action. Any final rulemaking action by the EPA will occur only after the state formally adopts and submits its final submission to the EPA.

Section 110(k)(1)(B) of the CAA requires the EPA to determine whether a SIP submission is complete within 60 days of receipt. This section also provides that if the EPA has not affirmatively determined a SIP submission to be complete or incomplete, it will become complete by operation of law six months after the date of submission. The EPA's SIP completeness criteria are found in 40 CFR part 51, Appendix V. The EPA has reviewed the 15 $\mu\text{g}/\text{m}^3$ Plan Amendments and finds that it fulfills the completeness criteria of Appendix V, with the exception of the requirements of paragraphs 2.1(e)–2.1(h), which do not apply to plans submitted for parallel processing.

CAA sections 110(a)(1) and (2) and 110(l) require each state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP submission to the EPA. To meet this requirement, a state's SIP submission must include evidence that the state provided adequate public notice and an opportunity for a public hearing, consistent with the EPA's implementing regulations in 40 CFR 51.102. However, because CARB submitted the 15 $\mu\text{g}/\text{m}^3$ Plan Amendments for parallel processing, this initial submission is exempt from this requirement pursuant to 40 CFR part 51 Appendix V, Section 2.3.1. CARB is required to meet these procedural criteria during the parallel processing period and prior to adopting and submitting the final SIP submission to the EPA. The EPA will evaluate whether the final submission meets

these requirements at the time of any final action on the 15 $\mu\text{g}/\text{m}^3$ Plan Amendments.

B. Review of the Revision to the Aggregate Tonnage Commitment for the 15 $\mu\text{g}/\text{m}^3$ SIP Revision

Section 110(l) of the CAA prohibits the EPA from approving a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the CAA.⁴² In this instance, the EPA-approved 15 $\mu\text{g}/\text{m}^3$ SIP Revision includes an aggregate tonnage commitment to achieve 3.0 tpd of NO_x emissions reductions and 0.04 tpd of direct $\text{PM}_{2.5}$ emissions reductions in 2023 through the implementation of CARB's Heavy-Duty I/M measure and/or through SIP-approved substitute measures.⁴³ In its 15 $\mu\text{g}/\text{m}^3$ Plan Amendments and 2022 Annual Demonstration Report, CARB provided sufficient documentation to demonstrate that its aggregate tonnage commitment was achieved by implementation of the Valley Incentive Measure, specifically that the implementation of the Carl Moyer and FARMER programs completed by December 31, 2022, achieved reductions of 5.0 tpd of NO_x and 0.27 tpd of direct $\text{PM}_{2.5}$ emissions. For this reason, we propose to find that the revision of this commitment to satisfy its terms through a substitute measure would not interfere with any applicable requirement of the CAA, and we are proposing to approve the revision to the State's aggregate tonnage commitment into the SIP.

C. Review of the Revision to the State's Valley Incentive Measure

1. The EPA's Evaluation Criteria

Generally, SIP control measures must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

The CAA explicitly provides for the use of economic incentive programs

(EIPs) as one tool for states to use to achieve attainment of the NAAQS. EIPs use market-based strategies to encourage the reduction of emissions from stationary, area, and mobile sources in an efficient manner. The EPA has promulgated regulations for statutory EIPs required under section 182(g) of the Act and has issued guidance for discretionary EIPs.

The EPA has consistently stated that, where a state intends to rely on a nontraditional program, such as an EIP, to satisfy CAA requirements, the state must demonstrate that the program achieves emissions reductions that are quantifiable, surplus, enforceable, and permanent. In addition, where a State relies on a discretionary EIP or other voluntary measure to satisfy an attainment planning requirement under the CAA (*e.g.*, to demonstrate that specific amounts of emissions reductions will occur by a future milestone date), the State must take responsibility for assuring that SIP emissions reduction requirements are met through an enforceable commitment, which becomes federally enforceable upon approval into the SIP. The purpose of the revision to the Valley Incentive Measure in the 15 $\mu\text{g}/\text{m}^3$ Plan Amendments, however, is to demonstrate that the emissions reductions required under a previously-approved SIP commitment (*i.e.*, the aggregate tonnage commitment in the 15 $\mu\text{g}/\text{m}^3$ Plan) have in fact been achieved, not to satisfy a future emissions reduction requirement. Accordingly, it is not necessary to require the State to submit additional commitments for this purpose.

2. Does the measure meet the evaluation criteria?

In the EPA's December 2021 action partially approving the Valley Incentive Measure into the SIP and crediting emissions reductions for 2024 and 2025, we evaluated the Valley Incentive Measure according to the above criteria and found that portions of the submitted measure satisfied CAA requirements for SIP approval.⁴⁴ Specifically, we found that CARB's Carl Moyer and FARMER agricultural equipment replacement projects spanning a 2015–2024 timeframe satisfied the EPA integrity elements (that the emissions reductions from the programs were enforceable, permanent, quantifiable, and surplus), complied with required procedures for public disclosure of information, and adequately demonstrated State funding, resources, and legal authority to

⁴² 42 U.S.C. 7410(l).

⁴³ CARB's August 2021 Staff Report, pp. 4–5 (“[I]f a particular measure does not get its expected emission reductions, the State is still committed to achieving the total aggregate emission reductions . . . The SIP revision would outline the changes that have occurred and provide appropriate tracking to demonstrate that aggregate emission reductions sufficient for attainment are being achieved through enforceable emission reduction measures.”).

⁴⁴ 86 FR 73106.

implement the programs.⁴⁵ We also found that CARB had adequately explained how the projects implemented under the Valley Incentive Measure would achieve emissions reductions beyond those already accounted for in the baseline inventories in the 2018 PM_{2.5} Plan.⁴⁶

In the intervening years between the EPA's December 2021 partial approval of the Valley Incentive Measure and the current action, CARB has continued to implement the SIP-approved Valley Incentive Measure, including the submittal of annual demonstration reports to the EPA, *e.g.*, the 2022 Annual Demonstration Report, which covered projects completed through December 31, 2022 (*i.e.*, prior to the 2023 attainment year in the 15 µg/m³ SIP Revision).⁴⁷ We also note that the 15 µg/m³ SIP Revision relied on the same baseline inventories in the 2018 PM_{2.5} Plan,⁴⁸ and therefore the reductions from projects implemented under the Valley Incentive Measure through December 31, 2022, are surplus relative to the inventories in the 15 µg/m³ SIP Revision.⁴⁹ Thus, the EPA finds that our December 2021 determination that the Carl Moyer and FARMER programs satisfied the EPA's evaluation criteria extends to the emissions reductions from projects completed under the Valley Incentive Measure by December 31, 2022. Specifically, we find that these reductions were enforceable, permanent, quantifiable, and surplus with respect to the 2023 baseline inventory in the 15 µg/m³ SIP Revision, and they are therefore creditable as a substitute measure to meet the aggregate tonnage commitment in the 15 µg/m³ SIP Revision.

⁴⁵ Id. See also EPA Region IX, "Technical Support Document for EPA's Rulemaking for the California State Implementation Plan, California Air Resources Board Resolution 19–26 San Joaquin Valley Agricultural Equipment Incentive Measure," (February 2020).

⁴⁶ Id. at 28.

⁴⁷ See CARB, "2021 Annual Demonstration Report, San Joaquin Valley Agricultural Equipment Incentive Measure, Covering Projects Completed Through 3/31/2022," (May 15, 2022); CARB, 2022 Annual Demonstration Report; CARB, "2023 Annual Demonstration Report, San Joaquin Valley Agricultural Equipment Incentive Measure Covering Projects Completed Through 12/31/2023," (May 15, 2024).

⁴⁸ 88 FR 45276, 45279.

⁴⁹ See 86 FR 73106, 73110 ("to satisfy the surplus (*i.e.*, additional) criterion in the EPA's longstanding guidance, the Amended Valley Incentive Measure need only be surplus to the control measures and programs that are accounted for in the attainment plan(s) in which CARB relies upon this measure.").

IV. Environmental Justice Considerations

Executive Order 12898 requires that federal agencies, to the greatest extent practicable and permitted by law, identify and address disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations.⁵⁰ Additionally, Executive Order 13985 directs federal government agencies to assess whether, and to what extent, their programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups,⁵¹ and Executive Order 14008 directs federal agencies to develop programs, policies, and activities to address the disproportionate health, environmental, economic, and climate impacts on disadvantaged communities.⁵²

To identify environmental burdens and susceptible populations in underserved communities in the San Joaquin Valley nonattainment area and to better understand the context of our proposed action on these communities, we rely on the EPA's August 2022 screening-level analysis for PM_{2.5} in the San Joaquin Valley using the EPA's environmental justice (EJ) screening and mapping tool ("EJSCREEN").⁵³ The results of this analysis are being provided for informational and transparency purposes.

Our screening-level analysis indicates that the "Demographic Index" for each of the eight counties in the San Joaquin Valley is above the national average, ranging from 48 percent in Stanislaus County to 61 percent in Tulare County, compared to 36 percent nationally. The Demographic Index is the average of an area's percent minority and percent low income populations, *i.e.*, the two populations explicitly named in Executive Order 12898.⁵⁴ All eight

counties are above the national average for demographic indices of "Linguistically Isolated Population" and "Population with Less than High School Education."

With respect to pollution, all eight counties are at or above the 97th percentile nationally for the PM_{2.5} index and seven of the eight counties in the San Joaquin Valley are at or above the 90th percentile nationally for the PM_{2.5} EJ index, which is a combination of the Demographic Index and the PM_{2.5} index. Most counties are also above the 80th percentile for each of 11 additional EJ indices included in the EPA's EJSCREEN analysis. In addition, several counties are above the 90th percentile for certain EJ indices, including, for example, the Ozone EJ Index (Fresno, Kern, Madera, Merced, and Tulare counties), the National Air Toxics Assessment (NATA) Respiratory Hazard EJ Index (Madera and Tulare counties), and the Wastewater Discharge Indicator EJ Index (Merced, San Joaquin, Stanislaus, and Tulare counties).⁵⁶

This proposed action would approve a State SIP revision related to the 1997 annual PM_{2.5} NAAQS into the California SIP. Information on the 1997 annual PM_{2.5} NAAQS and its relationship to negative health impacts can be found at 62 FR 38652 (July 18, 1997). We expect that this action will generally have neutral environmental and health impacts on all populations in the San Joaquin Valley, including people of color and low-income populations. This action would not worsen existing air quality and there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

traffic proximity and volume) and demographic indicators (*e.g.*, people of color, low income, and linguistically isolated populations). The value for a particular indicator measures how the community of interest compares with the state, the EPA region, or the national average. For example, if a given location is at the 95th percentile nationwide, this means that only 5 percent of the U.S. population has a higher value than the average person in the location being analyzed. EJSCREEN also reports EJ indexes, which are combinations of a single environmental indicator with the EJSCREEN Demographic Index. For additional information about environmental and demographic indicators and EJ indexes reported by EJSCREEN, see EPA, "EJSCREEN Environmental Justice Mapping and Screening Tool—EJSCREEN Technical Documentation," Section 2 (September 2019).

⁵⁶ Notably, Tulare County is above the 90th percentile for 6 of the 12 EJ indices in the EPA's EJSCREEN analysis, including the PM_{2.5} EJ Index, which is the highest value among all San Joaquin Valley counties.

⁵⁰ 59 FR 7629 (February 16, 1994).

⁵¹ 86 FR 7009 (January 25, 2021).

⁵² 86 FR 7619 (February 1, 2021).

⁵³ EJSCREEN provides a nationally consistent dataset and approach for combining environmental and demographic indicators. EJSCREEN is available at <https://www.epa.gov/ejscreen/what-ejscreen>. The EPA used EJSCREEN to obtain environmental and demographic indicators representing each of the eight counties in the San Joaquin Valley. We note that the indicators for Kern County are for the entire county. While the indicators might have slightly different numbers for the San Joaquin Valley portion of the county, most of the county's population is in the San Joaquin Valley portion, and thus the differences would be small. These indicators are included in EJSCREEN reports that are available in the rulemaking docket for this action.

⁵⁴ EPA Region IX, "EJSCREEN Analysis for the Eight Counties of the San Joaquin Valley Nonattainment Area," August 2022.

⁵⁵ EJSCREEN reports environmental indicators (*e.g.*, air toxics cancer risk, Pb paint exposure, and

V. Summary of Proposed Actions and Request for Public Comment

For the reasons discussed in this proposed rule, under CAA section 110(k)(3), the EPA proposes to approve, as a revision to the California SIP, the 15 µg/m³ Plan Amendments, which amends the Valley Incentive Measure for the purposes of emissions reductions in 2023 and revises the aggregate tonnage commitment in the 15 µg/m³ SIP Revision to reflect that it has been satisfied by the Valley Incentive Measure. We also propose to approve the State's demonstration that the Valley Incentive Measure has achieved emissions reductions of 5.0 tpd of NO_x and 0.27 tpd of direct PM_{2.5} in the year 2023.

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal for the next 30 days.

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997)

because it proposes to approve a state plan;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA;

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

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

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an EJ analysis, as is described above in the section titled, "Environmental Justice Considerations." The analysis was included in this document for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based

inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

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

Dated: June 27, 2024.

Cheree Peterson,

Acting Regional Administrator, Region IX.

[FR Doc. 2024-14677 Filed 7-5-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0250; FRL-12006-01-R9]

Attainment Date Extension for the San Joaquin Valley, California 1997 Annual PM_{2.5} Fine Particulate Matter Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant a one-year extension of the applicable "Serious" attainment date for the 1997 annual fine particulate matter (PM_{2.5}) San Joaquin Valley, California nonattainment area. This action is based on the EPA's evaluation of air quality monitoring data and the extension request submitted by the State of California on May 23, 2024. The EPA is proposing to grant a one-year extension of the Serious attainment date from December 31, 2023, to December 31, 2024, in accordance with section 172(a)(2)(C) of the Clean Air Act (CAA). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before August 7, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2024-0250 at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public

docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT:

Ashley Graham, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 972-3877; email: graham.ashleyr@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. Background
 - A. PM_{2.5} NAAQS
 - B. San Joaquin Valley PM_{2.5} Designations, Classifications, and SIP Revisions
 - C. CAA Requirements for an Attainment Date Extension
- II. The State’s Request for an Extension
- III. The EPA’s Evaluation
 - A. Compliance With the Applicable SIP
 - B. Air Quality Data
- IV. Environmental Justice Considerations
- V. The EPA’s Proposed Action
- VI. Statutory and Executive Order Reviews

I. Background

A. PM_{2.5} NAAQS

Under section 109 of the CAA, the EPA has established NAAQS for certain pervasive air pollutants (referred to as “criteria pollutants”) and conducts periodic reviews of the NAAQS to determine whether the EPA should revise or establish new NAAQS to protect public health.

On July 18, 1997, the EPA revised the NAAQS for particulate matter by establishing new NAAQS for particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers

(PM_{2.5}).¹ The EPA established primary and secondary annual and 24-hour standards for PM_{2.5}.² The EPA set the annual primary and secondary standards at 15.0 micrograms per cubic meter (µg/m³), based on a three-year average of annual mean PM_{2.5} concentrations, and set the 24-hour primary and secondary standards at 65 µg/m³, based on the three-year average of the 98th percentile of 24-hour PM_{2.5} concentrations at each monitoring site within an area.³ Collectively, we refer herein to the 1997 annual and 24-hour PM_{2.5} NAAQS as the “1997 PM_{2.5} NAAQS.”

On October 17, 2006, the EPA revised the level of the 24-hour PM_{2.5} NAAQS to 35 µg/m³,⁴ and on January 15, 2013, the EPA revised the level of the primary annual PM_{2.5} NAAQS to 12.0 µg/m³.⁵ On February 7, 2024, the EPA revised the level of the primary annual PM_{2.5} NAAQS once more to 9.0 µg/m³.⁶ Even though the EPA lowered the 24-hour and annual PM_{2.5} NAAQS, the 1997 24-hour PM_{2.5} NAAQS remain in effect and the 1997 primary annual PM_{2.5} NAAQS remains in effect in areas designated nonattainment for that NAAQS.⁷

The EPA established each of the PM_{2.5} NAAQS after considering substantial evidence from numerous health studies demonstrating that serious health effects are associated with exposures to PM_{2.5} concentrations above these levels. Epidemiological studies have shown statistically significant correlations between elevated PM_{2.5} levels and premature mortality. Other important health effects associated with PM_{2.5} exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity dates), changes in lung function and increased respiratory symptoms, and new evidence for more subtle indicators of cardiovascular health. Individuals particularly sensitive to PM_{2.5} exposure include

older adults, people with heart and lung disease, and children.⁸

PM_{2.5} can be particles emitted by sources directly into the atmosphere as a solid or liquid particle (“primary PM_{2.5}” or “direct PM_{2.5}”) or can be particles that form in the atmosphere as a result of various chemical reactions from PM_{2.5} precursor emissions emitted by sources (“secondary PM_{2.5}”). The EPA has identified the precursors of PM_{2.5} to be oxides of nitrogen (“NO_x”), sulfur oxides (“SO_x”), volatile organic compounds (“VOC”), and ammonia.⁹

B. San Joaquin Valley PM_{2.5}

Designations, Classifications, and SIP Revisions

Following promulgation of a new or revised NAAQS, the EPA is required under CAA section 107(d) to designate areas throughout the nation as attainment, nonattainment, or unclassifiable for the NAAQS. Effective April 5, 2005, the EPA established the initial air quality designations for the 1997 annual and 24-hour PM_{2.5} NAAQS, using air quality monitoring data for the three-year periods of 2001–2003 and 2002–2004.¹⁰ The EPA designated the San Joaquin Valley as nonattainment for both the 1997 annual PM_{2.5} NAAQS (15.0 µg/m³) and the 1997 24-hour PM_{2.5} NAAQS (65 µg/m³).¹¹

The San Joaquin Valley PM_{2.5} nonattainment area encompasses over 23,000 square miles and includes all or part of eight counties: San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, and the valley portion of Kern.¹² The area is home to four million people and is one of the nation’s leading agricultural regions. Stretching over 250 miles from north to south and averaging 80 miles wide, it is partially enclosed by the Coast Mountain range to the west, the Tehachapi Mountains to the south, and the Sierra Nevada range to the east. Under State law, the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or “District”) has primary responsibility for developing plans to provide for attainment of the NAAQS in this area. The District works cooperatively with the California Air Resources Board (CARB) in preparing attainment plans. Authority for regulating sources under State jurisdiction in the San Joaquin Valley is

¹ 62 FR 38652.

² For a given air pollutant, “primary” NAAQS are those determined by the EPA as requisite to protect the public health, allowing an adequate margin of safety, and “secondary” standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. See CAA section 109(b).

³ 40 CFR 50.7.

⁴ 71 FR 61144.

⁵ 78 FR 3086.

⁶ 89 FR 16202.

⁷ 40 CFR 50.13(d).

⁸ EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P-99/002aF and EPA/600/P-99/002bF, October 2004.

⁹ For example, see 72 FR 20586, 20589 (April 25, 2007).

¹⁰ 70 FR 944 (January 5, 2005).

¹¹ 40 CFR 81.305.

¹² For a precise description of the geographic boundaries of the San Joaquin Valley nonattainment area, see 40 CFR 81.305.

split under State law between the District, which has responsibility for regulating stationary and most area sources, and CARB, which has responsibility for regulating most mobile sources.

At the time of the initial designations for the 1997 PM_{2.5} NAAQS, the EPA interpreted the CAA to require implementation of the NAAQS under the general nonattainment plan requirements of subpart 1.¹³ Under subpart 1, states were required to submit nonattainment plan SIP submissions within three years of the effective date of designations that, among other things, provided for implementation of reasonably available control measures (RACM), reasonable further progress (RFP), contingency measures, and a modeled attainment demonstration showing attainment of the NAAQS as expeditiously as practicable, but no later than five years from the designation (in this instance, no later than April 5, 2010), unless the state justified an attainment date extension of up to five years.¹⁴

Between 2007 and 2011, California submitted six nonattainment plan and supporting SIP revisions to address nonattainment area planning requirements for the 1997 PM_{2.5} NAAQS in the San Joaquin Valley,¹⁵ which we refer to collectively as the “2008 PM_{2.5} Plan.” On November 9, 2011, the EPA approved the portions of the 2008 PM_{2.5} Plan, as revised in 2009 and 2011, that addressed attainment of the 1997 PM_{2.5} NAAQS in the San Joaquin Valley nonattainment area, except for the attainment contingency measures, which we disapproved.¹⁶ We also granted the State’s request to extend the attainment deadline for the 1997 PM_{2.5} NAAQS in the San Joaquin Valley to April 5, 2015.¹⁷

Following a January 4, 2013 decision of the U.S. Court of Appeals for the D.C. Circuit remanding the EPA’s 2007 implementation rule for the 1997 PM_{2.5} NAAQS,¹⁸ the EPA published a final

rule on June 2, 2014, classifying the San Joaquin Valley as a “Moderate” nonattainment area for the 1997 PM_{2.5} NAAQS under subpart 4, part D of title I of the Act.¹⁹ In that action, the EPA acknowledged that states must meet both subpart 1 and subpart 4 requirements in nonattainment plan SIP submissions for the 1997 24-hour and annual PM_{2.5} NAAQS and provided states with additional time to supplement or withdraw and resubmit any pending nonattainment plan SIP submissions.

Effective May 7, 2015, the EPA reclassified the San Joaquin Valley as a Serious nonattainment area for the 1997 PM_{2.5} NAAQS based on our determination that the State could not practicably attain these NAAQS in the San Joaquin Valley nonattainment area by the latest statutory Moderate area attainment date, *i.e.*, April 5, 2015.²⁰ Upon reclassification as a Serious area, the State became subject to the requirement of CAA section 188(c)(2) to attain the 1997 PM_{2.5} NAAQS as expeditiously as practicable but no later than ten years after designation, *i.e.*, by no later than December 31, 2015. California submitted its Serious area plan for the 1997 PM_{2.5} NAAQS for the San Joaquin Valley in two submissions dated June 25, 2015, and August 13, 2015, including a request under section 188(e) to extend the attainment date for the 1997 24-hour PM_{2.5} NAAQS by three years (to December 31, 2018) and to extend the attainment date for the 1997 annual PM_{2.5} NAAQS by five years (to December 31, 2020). On February 9, 2016, the EPA proposed to approve most of the Serious area plan and to grant the State’s request for extensions of the December 31, 2015 attainment date.²¹ However, on October 6, 2016, after considering public comments, the EPA denied California’s request for these extensions of the attainment dates.²² Consequently, on November 23, 2016, the EPA determined that the San Joaquin Valley had failed to attain the 1997 24-hour and annual PM_{2.5} NAAQS by the December 31, 2015 Serious area attainment date.²³ This determination triggered a requirement for California to

requirements as PM₁₀. The court remanded the rule, without vacatur, and instructed the EPA “to promulgate these rules pursuant to Subpart 4 consistent with this opinion.”

¹⁹ 79 FR 31566.

²⁰ 80 FR 18528 (April 7, 2015).

²¹ 81 FR 6936. California’s request for extension of the Serious Area attainment date for the San Joaquin Valley accompanied its Serious Area attainment plan for the 1997 PM_{2.5} NAAQS and related motor vehicle emissions budgets, submitted June 25, 2015, and August 13, 2015, respectively.

²² 81 FR 69396.

²³ 81 FR 84481.

submit a new SIP submission for the 1997 24-hour and annual PM_{2.5} NAAQS for the San Joaquin Valley that satisfies the requirements of CAA section 189(d). The statutory deadline for this additional SIP submission was December 31, 2016. The EPA did not finalize the actions proposed on February 9, 2016, with respect to the submitted Serious area plan.²⁴

On December 6, 2018, the EPA determined that California had failed to submit a complete section 189(d) attainment plan for the 1997 24-hour and annual PM_{2.5} NAAQS, among other required SIP submissions for the San Joaquin Valley, by the statutory deadlines.²⁵ This finding, which became effective on January 7, 2019, triggered clocks under CAA section 179(a) for the application of emissions offset sanctions 18 months after the finding, and highway funding sanctions 6 months thereafter, unless the EPA affirmatively determined that the State made a complete SIP submission addressing the identified failure to submit deficiencies.²⁶ The finding also triggered the obligation under CAA section 110(c) for the EPA to promulgate a federal implementation plan no later than two years after the finding, unless the State submitted, and the EPA approved, the required SIP submission.²⁷

On May 10, 2019, CARB submitted the “2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards,” adopted by the SJVUAPCD on November 15, 2018, and by CARB on January 24, 2019 (“2018 PM_{2.5} Plan”).²⁸ The 2018 PM_{2.5} Plan addressed the Serious area nonattainment plan and CAA section 189(d) requirements for the 1997 24-hour and annual PM_{2.5} NAAQS, among other requirements for the 2006 and 2012 PM_{2.5} NAAQS. CARB clarified in its submittal letter that the 2018 PM_{2.5} Plan superseded past submissions to the EPA that the agency had not yet acted on for the 1997 PM_{2.5} NAAQS, including the 2015 Serious area attainment plan submissions.²⁹ On June 24, 2020, the EPA issued a letter finding these submissions complete and

²⁴ 81 FR 69396, 69400.

²⁵ 83 FR 62720.

²⁶ *Id.* at 62723.

²⁷ *Id.*

²⁸ Letter dated May 9, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9.

²⁹ The 2015 Serious area attainment plan submissions include the “2015 Plan for the 1997 Standard” (submitted by CARB on June 25, 2015) and motor vehicle emissions budgets (submitted by CARB August 13, 2015).

¹³ 72 FR 20586.

¹⁴ CAA sections 172(a)(2), 172(c)(1), 172(c)(2), and 172(c)(9).

¹⁵ 76 FR 69896, n. 2 (November 9, 2011).

¹⁶ *Id.* at 69924.

¹⁷ *Id.*

¹⁸ *Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir. 2013) (“*NRDC*”). In *NRDC*, the court held that the EPA erred in implementing the 1997 PM_{2.5} NAAQS solely pursuant to the general implementation requirements of subpart 1, without also considering the requirements specific to nonattainment areas for particles less than or equal to 10 µm in diameter (PM₁₀) in subpart 4, part D of title I of the CAA. The court reasoned that the plain meaning of the CAA requires implementation of the 1997 PM_{2.5} NAAQS under subpart 4 because PM_{2.5} falls within the statutory definition of PM₁₀ and is thus subject to the same statutory

terminating the sanctions clocks under CAA section 179(a).³⁰

On January 28, 2022, the EPA approved those portions of the 2018 PM_{2.5} Plan that pertain to the 1997 24-hour PM_{2.5} NAAQS, except for the contingency measure element, which the EPA disapproved.³¹ As part of that action, the EPA also finalized a determination that the San Joaquin Valley attained the 1997 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2020, and that therefore the requirement for contingency measures no longer applies in the San Joaquin Valley nonattainment area for the 1997 24-hour PM_{2.5} NAAQS.³²

On July 22, 2021, the EPA proposed to partially approve and partially disapprove portions of the 2018 PM_{2.5} Plan that addressed attainment of the 1997 annual PM_{2.5} NAAQS in the San Joaquin Valley nonattainment area.³³ The EPA proposed to approve the 2013 base year emissions inventories and disapprove the attainment demonstration and related elements, including the comprehensive precursor demonstration, five percent annual emissions reductions demonstration, best available control measures (BACM) demonstration, RFP demonstration, quantitative milestones, and motor vehicle emissions budgets established for 2017, 2020, and 2023. We proposed to disapprove the attainment demonstration and related elements because certified air quality data were available that established that the San Joaquin Valley area did not attain the 1997 annual PM_{2.5} NAAQS by December 31, 2020, as projected in the 2018 PM_{2.5} Plan. On November 26, 2021, the EPA finalized the partial approval and partial disapproval of the 2018 PM_{2.5} Plan for the 1997 annual PM_{2.5} NAAQS as proposed.³⁴

As a result of the November 26, 2021 disapprovals, California was required to develop and submit a revised attainment plan for the San Joaquin Valley area that addressed the applicable CAA requirements, including the Serious area plan requirements and the requirements of CAA section 189(d), for the 1997 annual PM_{2.5} NAAQS. In

accordance with sections 179(d)(3) and 172(a)(2) of the CAA, the revised plan was required to demonstrate attainment of these NAAQS as expeditiously as practicable and no later than 5 years from the date of the EPA's prior determination that the area failed to attain (*i.e.*, by November 23, 2021), except that the EPA could extend the attainment date to a date no later than 10 years from the failure to attain determination (*i.e.*, to November 23, 2026), "considering the severity of nonattainment and the availability and feasibility of pollution control measures."³⁵

On November 8, 2021, CARB submitted the "Attainment Plan Revision for the 1997 Annual PM_{2.5} Standard" ("15 µg/m³ SIP Revision"), adopted by the SJVUAPCD on August 19, 2021, and adopted by CARB on September 23, 2021.³⁶ In the letter accompanying the submission, CARB clarified that the 15 µg/m³ SIP Revision amended the 2018 PM_{2.5} Plan.³⁷

On December 14, 2023, the EPA approved the 15 µg/m³ SIP Revision as a revision to the California SIP, establishing an applicable attainment date of December 31, 2023, for the 1997 annual PM_{2.5} NAAQS in the San Joaquin Valley.³⁸

C. CAA Requirements for an Attainment Date Extension

Under CAA section 172(a)(2)(C), the EPA may grant a state's request to extend the attainment date established under CAA section 172(a)(2)(A) if: "(1) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and (2) in accordance with guidance published by the Administrator, no more than the minimal number of exceedances of the relevant national ambient air quality standard has occurred in the area in the year preceding the Extension Year." The EPA may grant a second 1-year extension if these same criteria are met at the end of the first extension year. The EPA cannot issue more than two one-year extensions under section

172(a)(2)(C) for a single nonattainment area.

In an August 24, 2016 final rule entitled, "Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements" ("PM_{2.5} SIP Requirements Rule"), the EPA established regulatory requirements and provided further interpretive guidance on the statutory SIP requirements that apply to areas designated nonattainment for the PM_{2.5} NAAQS,³⁹ including guidance on the extension provisions for particulate matter nonattainment areas under CAA section 188. Because CAA section 188(d) is nearly identical to CAA section 172(a)(2)(C), the EPA considers the guidance pertaining to the one-year extension requirements under CAA section 188(d) to persuasively inform the requirements for a one-year extension for a particulate matter nonattainment area under CAA section 172(a)(2)(C). Thus, our assessment of the State's extension request will rely on the guidance for one-year extensions under CAA section 188(d).

With regard to the first criterion for an extension of the attainment date, the EPA clarified in the PM_{2.5} SIP Requirements Rule that a state must show that it has "submitted the necessary attainment plan for the area for the applicable PM_{2.5} NAAQS and is implementing the control measures in the submission."⁴⁰ The EPA interprets this requirement to mean that a state must have adopted and be implementing the control measures and commitments in the approved SIP revisions it has submitted to address the CAA requirements for the applicable PM_{2.5} NAAQS.⁴¹

With regard to the second criterion, the EPA explains in the PM_{2.5} SIP Requirements Rule that we interpret that "a state seeking an attainment date extension for an annual PM_{2.5} NAAQS would be required to demonstrate that the area had clean data for that particular standard . . . in the calendar year prior to the applicable attainment date for the area . . ." ⁴² That is, for the 1997 annual PM_{2.5} NAAQS, a state

³⁵ 81 FR 84481, 84482 (final EPA action determining that the San Joaquin Valley had failed to attain the 1997 PM_{2.5} NAAQS by the December 31, 2015, Serious area attainment date).

³⁶ Letter dated November 8, 2021, from Richard W. Corey, Executive Officer, CARB, to Deborah Jordan, Acting Regional Administrator, EPA Region 9. The 15 µg/m³ SIP Revision was developed jointly by CARB and the District.

³⁷ *Id.* at 1.

³⁸ 88 FR 86581. As discussed in the EPA's proposal to approve the 15 µg/m³ SIP Revision, the attainment date for the 189(d) plan was established consistent with CAA sections 179(d)(3) and 172(a)(2).

³⁹ 81 FR 58010.

⁴⁰ *Id.* at 58070.

⁴¹ See *Delaware Dept. of Nat. Resources and Env'tl. Control v. EPA*, 895 F.3d 90, 101 (D.C. Cir. 2018) (holding that for the purposes of an attainment date extension, the CAA requires only that an applying state with jurisdiction over a nonattainment area comply with the requirements in its applicable SIP, not every requirement of the Act); see also *Vigil v. Leavitt*, 381 F.3d 826, 846 (9th Cir. 2004). A state may meet this requirement by certifying its compliance, and in the absence of such certification, the EPA may make a determination as to whether the criterion has been met. See *Delaware*, 895 F.3d, pp. 101–102.

⁴² 81 FR 58010, 58071.

³⁰ Letter dated June 24, 2020, from Elizabeth J. Adams, Director, Air and Radiation Division, EPA Region IX, to Richard Corey, Executive Officer, CARB, Subject: "RE: Completeness Finding for State Implementation Plan (SIP) Submissions for San Joaquin Valley for the 1997, 2006, and 2012 Fine Particulate Matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) and Termination of Clean Air Act (CAA) Sanction Clocks."

³¹ 87 FR 4503 (January 28, 2022).

³² *Id.* at 4506.

³³ 86 FR 38652.

³⁴ 86 FR 7329.

would need to show that the annual mean value in the year proceeding the attainment year (in this case, 2023) did not exceed the 15.0 $\mu\text{g}/\text{m}^3$ level of the standard.

If the EPA finds that a state has satisfied the criteria for an extension and grants an extension of the attainment date, the EPA must determine whether the area attained the relevant NAAQS following the end of the extension year (unless the state requests a second one-year extension and the EPA finds that the requirements for such extension are satisfied and extends the attainment date by an additional year). In the absence of an attainment date extension, upon a determination of failure to attain by the EPA, the state would be required to develop a revised attainment plan for the area.

II. The State's Request for an Extension

As discussed in Section I.B of this document, on December 14, 2023, the EPA approved California's plan to address the Serious area and CAA section 189(d) plan requirements for the 1997 annual $\text{PM}_{2.5}$ NAAQS, establishing a December 31, 2023 attainment date. On May 23, 2024, the State of California transmitted a letter to the EPA requesting that the EPA grant a one-year extension under CAA section 172(a)(2)(C) to the applicable Serious area attainment date for the San Joaquin Valley from December 31, 2023, to December 31, 2024.⁴³ In its request, the State certified that it has complied with all requirements and commitments pertaining to the area in the approved implementation plan and that complete, certified monitoring data for the San Joaquin Valley for 2023 are below the level of the 1997 annual $\text{PM}_{2.5}$ NAAQS.

The State's May 23, 2024 extension request includes documentation in three enclosures in support of its certification that it has complied with the requirements for an attainment date extension under CAA section 172(a)(2)(C):

(1) A letter dated May 14, 2024, from Samir Sheikh, Executive Director/Air Pollution Control Officer, SJVUAPCD, to Dr. Steven S. Cliff, Executive Officer, CARB, Subject: "RE: Attainment Date Extension for the 1997 Annual $\text{PM}_{2.5}$ Standard for the San Joaquin Valley Nonattainment Area;"

(2) A document titled "Documentation of CARB Having Met Previous State Implementation Plan Obligations for the 15 $\mu\text{g}/\text{m}^3$ $\text{PM}_{2.5}$ Standard for the San Joaquin Valley" ("2024 CARB Compliance Demonstration"); and

(3) A letter dated April 29, 2024, from Sylvia Vanderspek, Chief, Air Quality Planning Branch, CARB, to Dena Vallano, Manager, Monitoring and Analysis Section, EPA Region 9, with enclosures, certifying 2023 ambient data collected by State and Local Air Monitoring Stations and Special Purpose Monitors operated by CARB in the San Joaquin Valley.

We briefly describe each of these documents in the remainder of this section and provide more detail as part of our evaluation in Section III.

The District's May 14, 2024 extension request letter includes a discussion of the State's SIP submittals to address CAA requirements, including the control measure requirements under CAA sections 189(b) and 189(d); the State's submission of quantitative milestone reports documenting its progress towards attaining the 1997 annual $\text{PM}_{2.5}$ NAAQS; and the District's amendments to Rule 4901 ("Wood Burning Fireplaces and Wood Burning Heaters") to address contingency measure requirements and achieve reductions in $\text{PM}_{2.5}$ emissions for purposes of meeting the NAAQS. The District's letter also presents certified ambient air monitoring data for the San Joaquin Valley for the 2023 calendar year, which show that the annual mean concentration was less than 15.0 $\mu\text{g}/\text{m}^3$ (*i.e.*, the level of the 1997 annual $\text{PM}_{2.5}$ NAAQS) at all monitoring sites.

The 2024 CARB Compliance Demonstration documents how CARB has complied with all requirements and commitments pertaining to the San Joaquin Valley for the 1997 annual $\text{PM}_{2.5}$ NAAQS by addressing the requirements in each of the SIP submittals for those NAAQS (*i.e.*, the 2008 $\text{PM}_{2.5}$ Plan, the 2015 $\text{PM}_{2.5}$ Plan, the 2018 $\text{PM}_{2.5}$ Plan, and the 15 $\mu\text{g}/\text{m}^3$ SIP Revision). For each attainment plan submittal, CARB discusses the control measure and emissions reductions it committed to in the plan and the actions the State has taken to meet those commitments (*i.e.*, by adopting the measures identified in the plan or by adopting substitute measures). CARB also discusses the measures the State has adopted and submitted to the EPA to address contingency measure requirements and submissions it has made to meet its obligations to submit quantitative milestone reports for the 1997 annual $\text{PM}_{2.5}$ NAAQS.

Lastly, in support of the State's assertion that it has met the air quality criterion for a one-year attainment date extension for the 1997 annual $\text{PM}_{2.5}$ NAAQS, CARB included with its extension request a letter certifying 2023 ambient data for the San Joaquin Valley

collected by monitors operated by CARB.

III. The EPA's Evaluation

A. Compliance With the Applicable SIP

The first requirement for an extension of the attainment date under CAA section 172(a)(2)(C) is a showing that the state has complied with all requirements and commitments pertaining to that area in the implementation plan. As discussed in Section I.C of this document, the EPA interprets this requirement to mean that a state must have adopted and be implementing the control measures and commitments in the SIP revisions it has submitted to address the CAA requirements for the applicable $\text{PM}_{2.5}$ NAAQS. For the San Joaquin Valley for the 1997 annual $\text{PM}_{2.5}$ NAAQS, the EPA has approved control measure requirements and commitments in the 2008 $\text{PM}_{2.5}$ Plan and the 15 $\mu\text{g}/\text{m}^3$ SIP Revision to the 2018 $\text{PM}_{2.5}$ Plan into the California SIP. Therefore, in the remainder of this section, we describe the State's and District's implementation of the control measures and commitments in those plans.

1. 2008 $\text{PM}_{2.5}$ Plan

The specific State and District commitments that the EPA approved into the California SIP as part of the 2008 $\text{PM}_{2.5}$ Plan are as follows:

(1) A commitment by CARB to propose specific measures identified in Appendix B of the "Progress Report on Implementation of $\text{PM}_{2.5}$ State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions," dated April 28, 2011 ("2011 Progress Report"), in accordance with the timetable specified therein;⁴⁴

(2) A commitment by the District to "adopt and implement the rules and measures in the 2008 $\text{PM}_{2.5}$ Plan" in accordance with the timetable specified in Table 6–2 of the 2008 $\text{PM}_{2.5}$ Plan, as amended June 17, 2010, and to submit these rules and measures to CARB for transmittal to the EPA as SIP revisions;⁴⁵

(3) A commitment by CARB to achieve a total of 17.1 tons per day (tpd) of NO_x emissions reductions and 2.3 tpd of direct $\text{PM}_{2.5}$ emissions reductions by 2014 as described in CARB Resolution No. 07–28, Attachment B, as amended in 2009 and 2011;⁴⁶ and

⁴⁴ 40 CFR 52.220(c)(395)(ii)(A)(2), CARB Resolution No. 07–28, Attachment B (September 27, 2007), CARB Resolution No. 09–34 (April 24, 2009), and CARB Resolution No. 11–24 (April 28, 2011); see also 76 FR 69896, 69921–69922, Table 2.

⁴⁵ 40 CFR 52.220(c)(392)(ii)(A)(2), SJVUAPCD Governing Board Resolution No. 08–04–10 (April 30, 2008), and SJVUAPCD Governing Board Resolution No. 10–06–18 (June 17, 2010); see also 76 FR 69896 at 69921, Table 1.

⁴⁶ 40 CFR 52.220(c)(356)(ii)(B)(2).

⁴³ Letter dated May 23, 2024, from Steven S. Cliff, Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region 9, with enclosures.

(4) A commitment by the District to achieve a total of 8.97 tpd of NO_x emissions reductions and 0.92 tpd of SO_x emissions reductions by 2014, as described in Table 6–3a, Table 6–3b, and Table 6–3c, respectively, of the 2008 PM_{2.5} Plan.⁴⁷

As of November 9, 2011, the date of the EPA's final action on the 2008 PM_{2.5} Plan, CARB and the District had each satisfied substantial portions of these control measure and emissions reduction commitments. Specifically, CARB had proposed action on six of the seven measures it had committed to propose for Board consideration, leaving one additional measure that was scheduled for proposal in 2013 ("New Emissions Standards for Recreational Boats").⁴⁸ The District had adopted 12 of the 13 measures it had committed to adopt and implement, leaving one additional measure that was scheduled for adoption in 2014, amendments to Rule 4905 ("National Gas-Fired, Fan-Type Central Furnaces").⁴⁹ Finally, together CARB and the District had achieved all of the SO_x emissions reduction commitments and substantial portions of the direct PM_{2.5} and NO_x emissions reductions commitments through implementation of State and District control strategy measures, leaving 3.0 tpd of direct PM_{2.5} emissions reductions and 12.9 tpd of NO_x emissions reductions yet to be achieved by the beginning of 2014.⁵⁰

Subsequently, CARB submitted a staff report, entitled "Review of San Joaquin Valley PM_{2.5} State Implementation Plan" ("2015 CARB Compliance Demonstration"), that contains CARB's demonstration that both CARB and the District had satisfied the commitments in the 2008 PM_{2.5} Plan that remained outstanding as of November 9, 2011.⁵¹ As discussed in the 2015 CARB Compliance Demonstration, on January 22, 2015, the District adopted amendments to Rule 4905 and on April 7, 2015, CARB submitted this rule to the EPA as a revision to the California SIP.⁵²

Second, on February 19, 2015, CARB proposed for Board consideration, and the Board adopted, new emissions standards for recreational boats entitled "Evaporative Emissions Control Requirements for Spark-Ignition Marine Watercraft."⁵³ These State and District rulemaking actions satisfied the last remaining control measure commitments in the 2008 PM_{2.5} Plan. All of these measures have been submitted to the EPA and approved into the California SIP.⁵⁴

With respect to the remaining emissions reduction commitments, the 2015 CARB Compliance Demonstration, as amended by CARB's "Technical Clarifications to the 2015 San Joaquin Valley PM_{2.5} State Implementation Plan," identified State and District control measures that, according to CARB, achieved emissions reductions beyond those already credited towards the 2008 PM_{2.5} Plan and satisfied the State's remaining 2014 emissions reduction obligations.⁵⁵ The EPA previously determined that the State and District measures identified in the State's demonstration achieved a total of 12.97 tpd of NO_x emissions reductions and 3.0 tpd of direct PM_{2.5} emissions reductions. These reductions had not previously been credited as part of the attainment demonstration in the 2008 PM_{2.5} Plan and therefore could be credited toward the State's outstanding obligation to achieve 12.9 tpd of NO_x emissions reductions and 3.0 tpd of direct PM_{2.5} emissions reductions by the beginning of 2014.⁵⁶ Therefore, we concluded that the State had complied with all requirements and commitments pertaining to the San Joaquin Valley nonattainment area in the implementation plan for the 1997 PM_{2.5} NAAQS.⁵⁷

2. 15 µg/m³ SIP Revision

The control strategy in the 15 µg/m³ SIP Revision was based primarily on

(transmitting air district regulations to the EPA as California SIP revisions).

⁴⁷ 40 CFR 52.220(c)(392)(ii)(A)(2).
⁴⁸ 76 FR 69896, 69922, Table 2 ("2007 State Strategy Defined Measures Schedule for Consideration and Current Status").
⁴⁹ Id. at 69921, Table 1 ("San Joaquin Valley Air Pollution Control District 2008 PM_{2.5} Plan Specific Rule Commitments").
⁵⁰ Id. at 69923, Table 4 ("Reductions Needed for Attainment Remaining as Commitments Based on SIP-Creditable Measures").
⁵¹ CARB, "Review of San Joaquin Valley PM_{2.5} State Implementation Plan," released April 20, 2015 ("2015 CARB Compliance Demonstration"), transmitted by email dated February 5, 2020, from Michael Benjamin, CARB to Meredith Kurpius, EPA Region IX, pp. 17–22 and Appendix B.
⁵² 2015 CARB Compliance Demonstration, p. 19, Table 7, and letter dated April 7, 2015, from Richard Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region 9

⁵³ 2015 CARB Compliance Demonstration, p. 20, Table 8 and CARB, Resolution 15–3, "Evaporative Emissions Control Requirements for Spark-Ignition Marine Watercraft," February 19, 2015, available at <https://www.arb.ca.gov/regact/2015/simw2015/simw2015.htm>.
⁵⁴ See Technical Support Document, EPA General Evaluation, San Joaquin Valley PM_{2.5} Plan for the 2006 PM_{2.5} NAAQS, Table III–A.
⁵⁵ 2015 CARB Compliance Demonstration, pp. 21–22, and CARB, "Technical Clarifications to the 2015 San Joaquin Valley PM_{2.5} State Implementation Plan," transmitted by email dated February 5, 2020, from Michael Benjamin, CARB to Meredith Kurpius, EPA Region IX, pp. 1–4.
⁵⁶ 85 FR 44192 (July 22, 2020). Also see the EPA's proposed rulemaking at 85 FR 17382, 17405–17407 (March 27, 2020).
⁵⁷ Id.

ongoing emissions reductions from baseline control measures (*i.e.*, State and District regulations adopted prior to the development of the plan that continue to achieve emissions reductions through the projected attainment year and beyond).⁵⁸ However, the 15 µg/m³ SIP Revision also identified several additional control measures to provide for expeditious attainment of the 1997 annual PM_{2.5} NAAQS.⁵⁹ These measures include three regulatory measures adopted by CARB or the District following development of the 2018 PM_{2.5} Plan and a commitment by CARB to adopt and implement an additional regulatory measure to meet an enforceable commitment.

The three regulatory measures adopted following development of the 2018 PM_{2.5} Plan include CARB's "Lower Opacity Limits for Heavy-Duty Vehicles" regulation,⁶⁰ CARB's "Amended Warranty Requirements for Heavy-Duty Vehicles" regulation,⁶¹ and the District's 2019 amendments to Rule 4901 ("Wood Burning Fireplaces and Wood Burning Heaters").⁶² As discussed in our July 14, 2023 proposal to approve the 15 µg/m³ SIP Revision, all three of these measures have been adopted by the State and submitted to the EPA for SIP approval.⁶³ The EPA approved the District's 2019 amendments to Rule 4901 on July 22, 2020,⁶⁴ and as part of our final rule approving the 15 µg/m³ SIP Revision, we credited this measure with annual average emissions reductions of 0.2 tpd of direct PM_{2.5} for the purpose of attaining the 1997 annual PM_{2.5} NAAQS by December 31, 2023.⁶⁵ The EPA did not credit CARB's Lower Opacity Limits for Heavy-Duty Vehicles regulation or the Amended Warranty Requirements for Heavy-Duty Vehicles regulation with any particular amount of emissions

⁵⁸ These baseline control measures include many EPA-approved regulations for on-road and non-road mobile sources, as well as District measures that limit NO_x and PM_{2.5} emissions from stationary and area sources. See discussion in the EPA's July 14, 2023, proposed approval of the plan (88 FR 45276, 45297–45299).
⁵⁹ Id. at 45299–45300.
⁶⁰ Initially adopted via CARB Resolution 18–20 (May 25, 2018). CARB Resolution 18–20 was repealed on July 26, 2018 via CARB Resolution 18–28, which included a modified version of the regulation to address public comments. Per direction from CARB Resolution 18–28, the regulation was adopted via Executive Order R19–001 (March 12, 2019).
⁶¹ CARB Resolution 18–24, June 28, 2018.
⁶² SJVUAPCD Resolution 19–06–22, June 20, 2019.
⁶³ 88 FR 45276, 45299–45300.
⁶⁴ 85 FR 44206.
⁶⁵ 88 FR 86581. See also the discussion regarding this measure in our July 14, 2023, proposed approval (88 FR 45276, 45299).

reductions toward attainment of the 1997 annual PM_{2.5} NAAQS for the reasons discussed in our proposal; however, we noted that the relatively small quantity of emissions reductions from these measures would not materially affect the attainment demonstration for the 1997 annual PM_{2.5} NAAQS.⁶⁶

CARB's commitment in the 15 µg/m³ SIP Revision was to achieve aggregate emissions reductions of 3.0 tpd of NO_x and 0.04 tpd of direct PM_{2.5} (referred to as an "aggregate tonnage commitment") through adoption of CARB's "Heavy-Duty Vehicle Inspection and Maintenance Program" ("Heavy-Duty I/M") (referred to as a "control measure commitment") and/or substitute measures.⁶⁷ CARB adopted the Heavy-Duty I/M measure on December 9, 2021, fulfilling CARB's control measure commitment in the 15 µg/m³ SIP Revision. On December 14, 2022, CARB submitted the measure to the EPA as a revision to the California SIP.^{68 69} Implementation of the program began on January 1, 2023.

In addition to the baseline and additional measures discussed herein, CARB noted in its "Staff Report, Proposed SIP Revision for the 15 µg/m³ Annual PM_{2.5} Standard for the San Joaquin Valley," ("August 2021 Staff Report") accompanying the 15 µg/m³ SIP Revision that the "Accelerated Turnover of Agricultural Equipment Incentive Projects" ("Valley Incentive Measure") was expected to provide for further emissions reductions by the 2023 attainment year.⁷⁰ The Valley Incentive Measure includes commitments by CARB to monitor, assess, and report on emissions reductions, and to achieve emissions reductions of 5.1 tpd of NO_x and 0.3 tpd of direct PM_{2.5} from the 2025 baseline inventory in the 2018 PM_{2.5} Plan by December 31, 2024.⁷¹ The EPA finalized a partial approval of this measure on December 16, 2021, wherein the EPA credited 4.83 tpd of NO_x and 0.24 tpd of direct PM_{2.5} towards CARB's tonnage

commitments for 2024 (for attaining the 2006 24-hour PM_{2.5} NAAQS).⁷² While the State did not take credit for any emissions reductions from this measure in the 15 µg/m³ SIP Revision, it asserted in the August 2021 Staff Report that a large portion of those emissions reductions would in fact be achieved by 2023.⁷³

To address how California has met the outstanding aggregate tonnage commitment in the 15 µg/m³ SIP Revision, CARB provided updates on implementation of the Heavy-Duty I/M program and the Valley Incentive Measure in the 2024 CARB Compliance Demonstration. For the Heavy-Duty I/M program, CARB provided a summary of the vehicle screening, inspections, and citations issued in San Joaquin Valley cities in 2023.⁷⁴ CARB notes that these enforcement efforts led to a reduction in emissions from heavy-duty vehicles in the San Joaquin Valley. However, CARB explains that because of the "time-sensitive nature of documenting that we achieved the CARB emission reduction commitment," it is relying on the reductions achieved by a substitute measure, the Valley Incentive Measure, to demonstrate that it has met the aggregate tonnage commitment in the 15 µg/m³ SIP Revision.

On June 21, 2024, CARB submitted the "Amendments to the 15 µg/m³ SIP Revision and Agricultural Equipment Incentive Measure for the 1997 PM_{2.5} Standard" ("15 µg/m³ Plan Amendments") for parallel processing.⁷⁵ The 15 µg/m³ Plan Amendments revises the State's aggregate tonnage commitment in the 15 µg/m³ SIP Revision, amends the Valley Incentive Measure, and demonstrates that projects implemented under the SIP-approved Valley Incentive Measure achieved specified amounts of reductions in emissions of NO_x and PM_{2.5} in the San Joaquin Valley area in the year 2023. In a separate current action, the EPA is proposing to approve the 15 µg/m³ Plan Amendments, credit the emissions reductions of 5.0 tpd of NO_x and 0.27 tpd of direct PM_{2.5} from

the Valley Incentive Measure in the year 2023, and formally substitute the Valley Incentive Measure for the Heavy-Duty I/M measure as the measure satisfying the aggregate tonnage commitment for the 15 µg/m³ SIP Revision.⁷⁶ In this action, the EPA is proposing to find that, upon final approval of the 15 µg/m³ Plan Amendments, the State will have adequately documented that it has complied with its commitment to achieve 3.0 tpd of NO_x and 0.04 tpd of direct PM_{2.5} emissions reductions by the beginning of 2023. Thus, based on the EPA's review of the requirements and commitments pertaining to the San Joaquin Valley in the 2008 PM_{2.5} Plan and 15 µg/m³ SIP Revision, the supporting information in the State's extension request, and additional information discussed herein, we find that the State has complied with all requirements for the 1997 annual PM_{2.5} NAAQS in the applicable SIP. We therefore propose to find that the area meets the first criterion to qualify for a one-year attainment date extension under CAA section 172(a)(2)(C).

B. Air Quality Data

As discussed in Section I.C of this document, the second requirement for an extension of the attainment date under CAA section 172(a)(2)(C) is a showing that the area had clean data for the relevant standard in the calendar year preceding the applicable attainment date. Such determination is typically based upon complete, quality-assured data gathered at established State and Local Air Monitoring Stations (SLAMS) in a nonattainment area and entered into the EPA's Air Quality System (AQS) database. Data from ambient air monitors operated by state/local agencies in compliance with the EPA monitoring requirements must be submitted to AQS. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, the EPA relies primarily on data in AQS when determining compliance with the NAAQS.⁷⁷ The EPA reviews all data to determine the area's air quality status in accordance with 40 CFR part 50, Appendix N. Under EPA regulations in 40 CFR 50.7 and in accordance with Appendix N, the 1997 annual PM_{2.5} NAAQS are met when the annual arithmetic mean concentration, as determined in accordance with the rounding conventions in 40 CFR part 50,

⁷⁶ The EPA is proposing to approve the 15 µg/m³ Plan Amendments in a separate rulemaking.

⁷⁷ See 40 CFR 50.7; 40 CFR part 50, Appendix L; 40 CFR part 53; 40 CFR part 58, and 40 CFR part 58, appendices A, C, D, and E.

⁶⁶ 88 FR, 45276, 45300.

⁶⁷ CARB Resolution 21–21, September 23, 2021, p. 6; and August 2021 Staff Report, pp. 4–5.

⁶⁸ Letter dated December 7, 2022, from Steven S. Cliff, Ph.D., Executive Officer, to Martha Guzman, Regional Administrator, EPA Region IX, with enclosures.

⁶⁹ At the time that this document was being prepared, the EPA had not yet proposed action on the Heavy-Duty I/M measure.

⁷⁰ August 2021 Staff Report, pp. 3–4.

⁷¹ EPA Region IX "Technical Support Document for EPA's Rulemaking for the California State Implementation Plan California Air Resources Board Resolution 19–26 San Joaquin Valley Agricultural Equipment Incentive Measure," February 2020, pp. 4–5, 24–25, and 31.

⁷² 86 FR 73106 (December 27, 2021). The EPA approved the Carl Moyer Memorial Air Quality Standards Attainment Program ("Carl Moyer Program") and Funding Agricultural Replacement Measures for Emission Reductions Program ("FARMER Program"). The EPA deferred action on the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) Environmental Quality Incentive Program (EQIP) portion of the Valley Incentive Measure.

⁷³ CARB's August 2021 Staff Report, p. 3.

⁷⁴ 2024 CARB Compliance Demonstration, pp. 7–8.

⁷⁵ Letter dated June 21, 2024, from Steven S. Cliff, Ph.D., Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region 9, with enclosure.

Appendix N, is less than or equal to 15.0 µg/m³ at each eligible monitoring site within the area. Data completeness requirements for a given year are met when at least 75 percent of the scheduled sampling days for each quarter have valid data.⁷⁸

Section 110(a)(2)(B)(i) of the CAA requires states to establish and operate air monitoring networks to compile data on ambient air quality for all criteria pollutants. The monitoring requirements are specified in 40 CFR part 58. These requirements are applicable to state, and where delegated, local air monitoring agencies that operate criteria pollutant monitors. The regulations in 40 CFR part 58 establish specific requirements for operating air quality surveillance networks to measure ambient concentrations of PM_{2.5}, including requirements for measurement methods, network design, quality assurance procedures, and, in the case of large urban areas, the minimum number of monitoring sites designated as SLAMS.

In section 4.7 of Appendix D to 40 CFR part 58, the EPA specifies minimum monitoring requirements for PM_{2.5} to operate at SLAMS. SLAMS produce data comparable to the NAAQS, and therefore, the monitor must be an approved federal reference method (FRM) or federal equivalent method (FEM). The minimum number of SLAMS required is described in section 4.7.1 and can be met by either filter-based or continuous FRMs or FEMs. The monitoring regulations also provide that each core-based statistical area must operate a minimum number of PM_{2.5} continuous monitors;⁷⁹ however, this requirement can be met by either an FEM or a non-FEM continuous monitor, and the continuous monitors can be located with other SLAMS or at a different location. Consequently, the monitoring requirements for PM_{2.5} can be met with

filter-based FRMs/FEMs, continuous FEMs, continuous non-FEMs, or a combination of monitors at each required SLAMS.

During 2023, ambient PM_{2.5} concentration data were collected at a total of 18 sites within the San Joaquin Valley: 5 sites in Fresno County; 3 sites in Kern County; 2 sites each in Kings, Merced, San Joaquin, and Stanislaus counties; and 1 site each in Madera and Tulare counties. The District operates 12 of these sites while CARB operates 6 of these sites. All of the sites are designated SLAMS for PM_{2.5}.⁸⁰ The primary monitors are FRMs at 1 of the 18 sites and beta attenuation monitor FEMs at 17 of the 18 sites. Overall, the District's PM_{2.5} monitoring network meets, and in several metropolitan statistical areas exceeds, the PM_{2.5} minimum monitoring requirements for the San Joaquin Valley.

Based on our review of the PM_{2.5} monitoring network as summarized above, we find that the monitoring network in the San Joaquin Valley is adequate for the purpose of collecting ambient PM_{2.5} concentration data for use in determining whether the San Joaquin Valley had clean data for the 1997 annual PM_{2.5} NAAQS during the 2023 calendar year.

Under 40 CFR 58.10, states are required to submit annual monitoring network plans to the EPA.⁸¹ Within the San Joaquin Valley, CARB and the District are the agencies responsible for assuring that the area meets air quality monitoring requirements. CARB and SJVUAPCD submit monitoring network plans to the EPA annually. These plans describe and discuss the status of the air monitoring network, as required under 40 CFR 58.10. The EPA reviews these annual network plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to PM_{2.5}, we have found that the CARB and SJVUAPCD annual network

plans meet the applicable requirements under 40 CFR part 58.⁸²

Under 40 CFR 58.15, monitoring agencies must certify, on an annual basis, that data collected at all SLAMS and at all FRM and FEM special purpose monitor stations meet the EPA's quality assurance requirements. In doing so, monitoring agencies must certify that the previous year of ambient concentration and quality assurance data are submitted to AQS and that the ambient concentration data are accurate. CARB annually certifies that the data the agency submits to AQS are quality assured, including the data collected at monitoring sites in the San Joaquin Valley.⁸³ SJVUAPCD does the same for data submitted to AQS from monitoring sites operated by the District.⁸⁴

With respect to data completeness, we determined that the data collected by CARB and the District meet the quarterly completeness criterion for all four quarters of 2023 at most of the PM_{2.5} monitoring sites in the San Joaquin Valley. More specifically, among the 18 PM_{2.5} monitoring sites from which regulatory data are available, only the data from Stockton-University (AQS ID: 06–077–1003) did not meet the 75 percent completeness criterion for one quarter;⁸⁵ however, the data from the site are sufficient nonetheless to produce a valid design value for the 1997 annual PM_{2.5} NAAQS pursuant to the rules governing design value validity in 40 CFR part 50, Appendix N, section 4.1.

The EPA evaluated data from calendar year 2023 to determine whether the San Joaquin Valley PM_{2.5} nonattainment area met the air quality criterion for granting a one-year extension of the applicable attainment date for the 1997 annual PM_{2.5} NAAQS from December 31, 2023, to December 31, 2024, under CAA section 172(a)(2)(C). Table 1 shows the PM_{2.5} annual mean at each of the 18 SLAMS monitoring sites for 2023.

TABLE 1—2023 PM_{2.5} ANNUAL MEAN FOR THE SAN JOAQUIN VALLEY NONATTAINMENT AREA

County	Site name	Site (AQS ID)	Annual mean (µg/m ³)
Fresno	Fresno-Garland	06–019–0011	10.5
Fresno	Tranquillity	06–019–2009	4.8
Fresno	Fresno-Foundry	06–019–2016	12.5

⁷⁸ 40 CFR part 50, Appendix N, section 4.1(b).

⁷⁹ 40 CFR part 58, Appendix D, section 4.7.2.

⁸⁰ There are a number of other PM_{2.5} monitoring sites within the valley, including other sites operated by the District, the National Park Service, and certain Indian tribes, but the data collected from these sites are non-regulatory and not eligible for comparison with the PM_{2.5} NAAQS.

⁸¹ 40 CFR 58.10(a)(1).

⁸² Letter dated October 30, 2023, from Dena Vallano, Manager, Monitoring and Analysis

Section, EPA Region IX, to Sylvia Vanderspek, Manager, Air Quality Planning Branch, CARB; and letter dated October 31, 2023, from Dena Vallano, Manager, Monitoring and Analysis Section, EPA Region IX, to Jon Klassen, Director, Air Quality Science, SJVUAPCD.

⁸³ For example, see letter dated April 29, 2024, from Sylvia Vanderspek, Chief, Air Quality Planning Branch, CARB, to Dena Vallano, Manager, Monitoring and Analysis Section, EPA Region 9,

with enclosures, certifying calendar year 2023 ambient air quality data and quality assurance data.

⁸⁴ For example, see letter dated April 23, 2024, from Robert Gilles, Program Manager, SJVUAPCD, to Matt Lakin, Director, Air and Radiation Division, EPA Region IX, with attachments, certifying calendar year 2023 ambient air quality data and quality assurance data.

⁸⁵ EPA AQS Combined Site Sample Values, AMP355, accessed May 17, 2024 (User ID: STSAI, Report Request ID: 2193827).

TABLE 1—2023 PM_{2.5} ANNUAL MEAN FOR THE SAN JOAQUIN VALLEY NONATTAINMENT AREA—Continued

County	Site name	Site (AQS ID)	Annual mean (µg/m ³)
Fresno	Clovis-Villa	06-019-5001	8.6
Fresno	Fresno-Pacific	06-019-5025	12.6
Kern	Bakersfield-Golden/M-St	06-029-0010	13.7
Kern	Bakersfield-California	06-029-0014	12.0
Kern	Bakersfield-Airport (Planiz)	06-029-0016	12.5
Kings	Corcoran-Patterson	06-031-0004	10.1
Kings	Hanford-Irwin	06-031-1004	12.5
Merced	Merced-M St	06-047-2510	9.6
Merced	Merced-Coffee	06-047-0003	8.4
San Joaquin	Stockton-University Park	06-077-1003	^a 10.8
San Joaquin	Manteca	06-077-2010	7.9
Stanislaus	Modesto-14th Street	06-099-0005	10.5
Stanislaus	Turlock	06-099-0006	10.1
Madera	Madera-City	06-039-2010	9.9
Tulare	Visalia-W Ashland Avenue	06-107-2003	11.7

^a Quarter 2 does not meet completeness criteria.

Source: EPA AQS Design Value Report, AMP480, accessed May 17, 2024 (User ID: STSAI, Report Request ID: 2193813).

Table 1 shows that the annual mean for the 2023 calendar year was less than 15.0 µg/m³ (*i.e.*, the level of the 1997 annual PM_{2.5} NAAQS) at each of the 18 SLAMS monitoring sites in the San Joaquin Valley. Thus, the EPA proposes to find that the area meets the air quality criterion to qualify for a one-year attainment date extension under CAA section 172(a)(2)(C).

IV. Environmental Justice Considerations

Executive Order 12898 requires that federal agencies, to the greatest extent practicable and permitted by law, identify and address disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations.⁸⁶ Additionally, Executive Order 13985 directs federal government agencies to assess whether, and to what extent, their programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups,⁸⁷ and Executive Order 14008 directs federal agencies to develop programs, policies, and activities to address the disproportionate health, environmental, economic, and climate impacts on disadvantaged communities.⁸⁸

The CAA gives the EPA the discretion to extend an area's applicable attainment date by one year upon application by a state if the state has met the two criteria under CAA section 172(a)(2)(C) (see Section I.C of this document). To identify environmental burdens and susceptible populations in underserved communities in the San Joaquin Valley nonattainment area and

to better understand the context of our proposed action on these communities, we rely on the EPA's August 2022 screening-level analysis for PM_{2.5} in the San Joaquin Valley using the EPA's environmental justice (EJ) screening and mapping tool ("EJSCREEN").^{89,90} The results of this analysis are being provided for informational and transparency purposes.

Our screening-level analysis indicates that the "Demographic Index" for each of the eight counties in the San Joaquin Valley is above the national average, ranging from 48 percent in Stanislaus County to 61 percent in Tulare County, compared to 36 percent nationally. The Demographic Index is the average of an area's percent minority and percent low-income populations, *i.e.*, the two populations explicitly named in Executive Order 12898.⁹¹ All eight

⁸⁹ EJSCREEN provides a nationally consistent dataset and approach for combining environmental and demographic indicators. EJSCREEN is available at <https://www.epa.gov/ejscreen/what-ejscreen>. The EPA used EJSCREEN to obtain environmental and demographic indicators representing each of the eight counties in the San Joaquin Valley. We note that the indicators for Kern County are for the entire county. While the indicators might have slightly different numbers for the San Joaquin Valley portion of the county, most of the county's population is in the San Joaquin Valley portion, and thus the differences would be small. These indicators are included in EJSCREEN reports that are available in the rulemaking docket for this action.

⁹⁰ EPA Region IX, "EJSCREEN Analysis for the Eight Counties of the San Joaquin Valley Nonattainment Area," August 2022.

⁹¹ EJSCREEN reports environmental indicators (*e.g.*, air toxics cancer risk, Pb paint exposure, and traffic proximity and volume) and demographic indicators (*e.g.*, people of color, low income, and linguistically isolated populations). The value for a particular indicator measures how the community of interest compares with the state, the EPA region, or the national average. For example, if a given location is at the 95th percentile nationwide, this means that only 5 percent of the U.S. population

counties are above the national average for demographic indices of "Linguistically Isolated Population" and "Population with Less than High School Education."

With respect to pollution, all eight counties are at or above the 97th percentile nationally for the PM_{2.5} index and seven of the eight counties in the San Joaquin Valley are at or above the 90th percentile nationally for the PM_{2.5} EJ index, which is a combination of the Demographic Index and the PM_{2.5} index. Most counties are also above the 80th percentile for each of 11 additional EJ indices included in the EPA's EJSCREEN analysis. In addition, several counties are above the 90th percentile for certain EJ indices, including, for example, the Ozone EJ Index (Fresno, Kern, Madera, Merced, and Tulare counties), the National Air Toxics Assessment (NATA) Respiratory Hazard EJ Index (Madera and Tulare counties), and the Wastewater Discharge Indicator EJ Index (Merced, San Joaquin, Stanislaus, and Tulare counties).⁹²

This proposed action would grant an extension of attainment date for the 1997 annual PM_{2.5} NAAQS. Information on the 1997 annual PM_{2.5} NAAQS and its relationship to negative health impacts can be found at 62 FR 38652

has a higher value than the average person in the location being analyzed. EJSCREEN also reports EJ indexes, which are combinations of a single environmental indicator with the EJSCREEN Demographic Index. For additional information about environmental and demographic indicators and EJ indexes reported by EJSCREEN, see EPA, "EJSCREEN Environmental Justice Mapping and Screening Tool—EJSCREEN Technical Documentation," Section 2 (September 2019).

⁹² Notably, Tulare County is above the 90th percentile for 6 of the 12 EJ indices in the EPA's EJSCREEN analysis, including the PM_{2.5} EJ Index, which is the highest value among all San Joaquin Valley counties.

⁸⁶ 59 FR 7629 (February 16, 1994).

⁸⁷ 86 FR 7009 (January 25, 2021).

⁸⁸ 86 FR 7619 (February 1, 2021).

(July 18, 1997). We expect that this action will generally have neutral environmental and health impacts on all populations in the San Joaquin Valley, including people of color and low-income populations. This action would not worsen existing air quality and there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

V. The EPA's Proposed Action

In response to a request from the State of California on May 23, 2024, the EPA is proposing to grant a one-year extension to the applicable Serious area attainment date for the 1997 annual PM_{2.5} NAAQS for the San Joaquin Valley nonattainment area. The proposed action to extend the applicable Serious attainment date for this nonattainment area is based on the EPA's evaluation of air quality monitoring data and the extension request submitted by the State of California and our determination that the State has satisfied the two statutory criteria for a 1-year extension under CAA section 172(a)(2)(C).

If finalized, this action would extend the applicable Serious area attainment date for the San Joaquin Valley nonattainment area from December 31, 2023, to December 31, 2024. If we finalize this proposal, consistent with CAA section 172(a)(2)(C), the area will remain a Serious PM_{2.5} nonattainment area with an applicable Serious area attainment date of December 31, 2024. Consistent with CAA section 172(a)(2)(C), the EPA will determine whether the area attained the standard within six months following the applicable attainment date.

VI. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review. This action merely proposes to approve a state request as meeting federal requirements and imposes no new requirements.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action merely proposes to approve a state request for an attainment date extension, and this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law. Approval of a state's request for an attainment date extension does not create any new requirements and does not directly regulate any entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Pursuant to the CAA, this action merely proposes to approve a state request for an attainment date extension.

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern

environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it merely proposes to approve a state request for an attainment date extension as meeting federal requirements. Furthermore, the EPA's Policy on Children's Health does not apply to this action.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

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

Under the CAA, an extension of the attainment date under section

172(a)(2)(C) does not impose any additional regulatory requirements on sources beyond those imposed by state law. The State did not evaluate EJ considerations as part of its documentation supporting its request for an attainment date extension; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an EJ analysis, as is described above in the section titled, "Environmental Justice Considerations." The analysis was included in this document for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

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

Dated: June 27, 2024.

Cheree Peterson,

Acting Regional Administrator, Region IX.

[FR Doc. 2024-14617 Filed 7-5-24; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 24-193; RM-11986; DA 24-614; FR ID 229399]

Radio Broadcasting Services; Huntley, Montana

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rulemaking filed by SSR Communications, Inc., proposing to amend the Table of FM Allotments, by adding Channel 284A at Huntley, Montana, as the community's first local service. To accommodate the proposed allotment, we issue Order to Show Cause to BMG Billings, LLC, licensee of KYSX, Billings, Montana to

show cause why the station license should not be modified to specify operation on Channel 286A in lieu of reserved Channel 283C1 at Billings, Montana. A staff engineering analysis indicates that Channel 284A can be allotted to Huntley, Montana, consistent with the minimum distance separation requirements of the Federal Communications Commission's (Commission) rules, with a site restriction of 13.9 km (8.6 miles) north of the community. The reference coordinates are 46-01-30 NL and 108-18-00 WL.

DATES: Comments must be filed on or before August 19, 2024, and reply comments on or before September 3, 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).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <https://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 hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530.

In addition to filing comments with the FCC, interested parties should serve

the petitioner as follows: Matthew K. Wesolowski, CEO, SSR Communications, Inc., 740 Highway 49 North, Suite R, Flora, MS 39071, matt@wyab.com.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418-2054, Rolanda-Faye.Smith@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Order to Show Cause, in MB Docket No. 24-193, DA 24-614; adopted and released on June 27, 2024. The full text of this document is available online at <https://docs.fcc.gov/public/attachments/DA-24-614A1.pdf>.

Paperwork Reduction Act. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, 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).

Providing Accountability Through Transparency Act. The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. Accordingly, the Commission will publish the required summary of this NPRM on <https://www.fcc.gov/proposed-rulemakings>.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a notice of proposed rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.202, in paragraph (b), amend table 1 under Montana by adding, in alphabetical order, the entry for “Huntley” to read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

TABLE 1 TO PARAGRAPH (b)
[U.S. States]

Channel No.
* * * * *
Montana
* * * * *
Huntley 284A

TABLE 1 TO PARAGRAPH (b)—
Continued
[U.S. States]

Channel No.
* * * * *

[FR Doc. 2024–14746 Filed 7–5–24; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 89, No. 130

Monday, July 8, 2024

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

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Nonlawyer Assistance and Representation; Request for Comments

AGENCY: Administrative Conference of the United States (ACUS).

ACTION: Notice; request for comments.

SUMMARY: The Office of the Chair of ACUS is requesting public input on representation and other forms of assistance provided by nonlawyers to participants in federal agency adjudication. Responses to this request may inform an ongoing ACUS project, *Nonlawyer Assistance and Representation*, which, if warranted, may recommend best practices for agencies to use.

DATES: Comments must be received no later than 10:00 a.m. (ET) August 31, 2024.

ADDRESSES: You may submit comments by email to info@acus.gov (with “Nonlawyer Assistance and Representation” in the subject line of the message), or by U.S. Mail addressed to Nonlawyer Assistance and Representation, Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW, Washington, DC 20036. ACUS will ordinarily post comments on the project web page (<https://www.acus.gov/projects/nonlawyer-assistance-and-representation>) as they are received. Commenters should not include information, such as personal information or confidential business information, that they do not wish to appear on the ACUS website. For the full ACUS public comment policy, please visit <https://www.acus.gov/policy/public-comment-policy>.

FOR FURTHER INFORMATION CONTACT: Matthew Gluth, Deputy Research Director, Administrative Conference of the United States, 1120 20th Street NW,

Suite 706 South, Washington, DC 20036; Telephone (202) 480–2080; email mgluth@acus.gov.

SUPPLEMENTARY INFORMATION: The Administrative Conference Act, 5 U.S.C. 591–596, established the Administrative Conference of the United States. The Conference studies the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies and makes recommendations to agencies, the President, Congress, and the Judicial Conference of the United States for procedural improvements (5 U.S.C. 594(1)). For further information about the Conference and its activities, see www.acus.gov.

Nonlawyer Assistance and Representation

Millions of people each year engage with administrative programs or participate in administrative adjudicative processes to access federal programs (for example, to obtain needed benefits and services) and resolve legal issues (for example, to resolve tax and immigration disputes). Many people “need assistance to access and obtain fair outcomes” in administrative adjudications.¹ But many people, particularly low-income people and members of other underserved communities, are not always able to access representation or other forms of assistance that they need to navigate administrative adjudications successfully.

One barrier to accessing representation or assistance is the critical shortage of affordable legal services. Agencies have long innovated various ways to expand assistance and widen the pool of available representatives. For example, many agencies currently permit participants in agency adjudications to be represented by accredited or qualified nonlawyers. In 1986, ACUS recommended that agencies “take the steps necessary to encourage—as well as eliminate inappropriate barriers to—nonlawyer assistance and representation.”² Since then, a growing academic literature has analyzed the

experience and outcomes people have when using various forms of nonlawyer representation. Just last year, ACUS recommended that agencies allow participants in many adjudications “to be represented by a lawyer or a lay person with relevant expertise” and to establish “rules authorizing accredited or qualified nonlawyer representatives to practice before the agency.”³ Additionally, a recent recommendation on regulation of representatives in agency adjudicative proceedings led to a working group focused on developing a model code for representation.⁴ Yet there is still much more to understand about the extent and character of representation by professionals who are not lawyers.

ACUS is undertaking a project to map and define the spectrum of assistance that parties to administrative proceedings may (or may not) have available to them. It will identify areas in which certain forms of assistance may be underutilized in administrative proceedings and, conversely, where agencies may be relying too heavily on certain types of assistance.

Specific Topics for Public Comment

ACUS welcomes views, information, and data on all aspects of strategies that agencies are using or might use to expand assistance and/or representation for members of the public when they engage with administrative programs or participate in administrative adjudicative processes. ACUS also seeks specific feedback on the following questions related to assistance and nonlawyer representation:

Experiences Navigating Administrative Adjudication

1. What has been your experience interacting with an administrative adjudication regarding a benefit or service that you are applying for or renewing, for example unemployment

³ Admin. Conf. of the U.S., Recommendation 2023–5, *Best Practices for Adjudication Not Involving an Evidentiary Hearing*, 89 FR 1509 (Jan. 10, 2024); Admin. Conf. of the U.S., Recommendation 2023–6, *Identifying and Reducing Burdens on the Public in Administrative Proceedings*, 89 FR 1511 (Jan. 10, 2024).

⁴ George M. Cohen, Regulation of Representatives in Agency Adjudicative Proceedings (Dec. 3, 2021) (report to the Admin. Conf. of the U.S.). See also *Working Group on Model Rules of Representative Conduct*, Admin. Conf. of the U.S., <https://www.acus.gov/research-projects/working-group-model-rules-representative-conduct>.

¹ White House Legal Aid Interagency Roundtable, Access to Justice in Federal Administrative Proceedings: Nonlawyer Assistance and Other Strategies 19 (2023).

² Admin. Conf. of the U.S., Recommendation 86–1, *Nonlawyer Assistance and Representation*, 51 FR 25641 (July 16, 1986).

insurance or student loan assistance? Were you able to receive adequate assistance from the agency, including interactions with agency staff and agency-provided resources, such that you did not need external legal services from lawyers or nonlawyers? If not, what steps did you take to find such assistance, if any?

2. If you have been represented by someone in an administrative adjudication, how would you describe the experience and outcome? Have you experienced any unintended consequences from representation? How did you find and decide to work with your representative? Did the agency assist you with finding your representative? Was your representative a lawyer? If not, was your representative part of an organization or a solo practitioner? How did you decide to proceed with your representative, and what alternatives did you consider?

Perspectives From Representatives or Legal Assistance Providers

3. If you have worked as a nonlawyer representative in administrative adjudications, how long have you worked in this capacity? Before which agency or agencies do you practice? What tasks do you undertake as part of your representation? How were you trained? Are you required to re-certify regularly or seek ongoing training? Is training provided by the agency or by a sponsoring organization? Are you supervised by a lawyer in any capacity?

4. If you have worked as a nonlawyer representative in administrative adjudications, what was the certification and oversight process from the agency? In your experience, was that process efficient and/or successful?

5. If you have worked as a nonlawyer representative in administrative adjudications, have you felt that you were treated professionally and equally by others in the process? Was the government represented by a lawyer?

6. If you are a lawyer representing people in administrative adjudications, what are your experiences and interactions with nonlawyer representatives, if any?

7. If you represent people in administrative adjudications, what are your experiences with agency rules and procedures regarding representation? In what ways could they be improved?

Landscape of Relevant Agency Programs

8. Are you familiar with specific agency programs that encourage nonlawyer representation? Are these programs working to meet the demand

of need for assistance and/or representation in administrative adjudications? If not, how might they be improved?

9. Are there specific agency programs that could be expanded to encourage more forms of nonlawyer assistance and/or representation?

10. Are you aware of studies or other data examining aspects of nonlawyer representation before federal agencies, beyond data that is publicly available through agency websites?

11. What role can public- and private-sector groups play in increasing nonlawyer representation, and how should government agencies encourage such actions, if at all?

Dated: July 2, 2024.

Shawne C. McGibbon,
General Counsel.

[FR Doc. 2024–14915 Filed 7–5–24; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–112–2024]

Foreign-Trade Zone 214; Application for Subzone Expansion; Consolidated Diesel Company; Whitakers, North Carolina

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the North Carolina Department of Transportation, grantee of FTZ 214, requesting an expansion of Subzone 214A on behalf of Consolidated Diesel Company (Consolidated Diesel), located in Whitakers, North Carolina. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on July 1, 2024.

The application requests authority to expand Subzone 214A to include the following new site: Site 5 (0.5 acres)—7111 US 301, Whitaker. No authorization for additional production activity has been requested at this time. The proposed expanded subzone would be subject to the existing activation limit of FTZ 214.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be

addressed to the FTZ Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is August 19, 2024. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 3, 2024.

A copy of the application will be available for public inspection in the "Online FTZ Information Section" section of the FTZ Board's website, which is accessible via www.trade.gov/ftz.

For further information, contact Christopher Kemp at Christopher.Kemp@trade.gov.

Dated: July 1, 2024.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2024–14792 Filed 7–5–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–11–2024]

Production Activity Not Authorized; Foreign-Trade Zone (FTZ) 39; Trina Solar US Manufacturing Module 1, LLC (Trina Solar); (Solar Panels); Wilmer, Texas

On March 1, 2024, the Dallas/Fort Worth International Airport Board, grantee of FTZ 39, submitted a notification of proposed production activity to the FTZ Board on behalf of Trina Solar, within FTZ 39, in Wilmer, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (89 FR 18893–18894, March 15, 2024). On July 1, 2024, the applicant was notified of the FTZ Board's decision that further review of the activity is warranted. The production activity described in the notification was not authorized. If the applicant wishes to seek authorization for this activity, it will need to submit an application for production authority, pursuant to section 400.23.

Dated: July 1, 2024.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2024–14793 Filed 7–5–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-357-823]

Raw Honey From Argentina: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2021–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Asociación De Cooperativas Argentinas Cooperativa Limitada (ACA), and the non-individually-examined companies for which a review was requested made sales of raw honey from Argentina is being sold in the United States at less than normal value (NV) during the period of review (POR), November 23, 2021, through May 31, 2023. Additionally, Commerce preliminarily determines that NEXCO S.A. (NEXCO) did not make sales of raw honey at prices below NV during the POR. We are also rescinding this review, in part, with respect to five companies which had no suspended entries. We invite interested parties to comment on these preliminary results.

DATES: Applicable July 8, 2024.

FOR FURTHER INFORMATION CONTACT: Thomas Martin or Zachary Shaykin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3936 or (202) 482–2638, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On June 10, 2022, Commerce published in the **Federal Register** the antidumping duty (AD) order on raw honey from Argentina.¹ On August 3, 2023, Commerce initiated an administrative review of the *Order* covering 24 companies, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).² On February 13, 2024, we extended the

deadline for the preliminary results of this review to June 28, 2024.³

For details regarding the events that occurred subsequent to the initiation of this review, see the Preliminary Decision Memorandum.⁴ A list of topics discussed in the Preliminary Decision Memorandum is included in as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise covered by the *Order* is raw honey from Argentina. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Rescission, in Part, of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), Commerce will rescind an administrative review when there are no entries of subject merchandise during the POR for which liquidation is suspended.⁵ Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate calculated for the review period.⁶ Therefore, for an administrative review of a company to be conducted, there must be a suspended entry that Commerce can instruct and U.S. Customs and Border Protection (CBP) to liquidate at the AD assessment rate calculated for the POR.⁷

On June 14, 2024, we notified parties of our intent to rescind this administrative review, in part, with respect to the five companies listed in Appendix II because there were no suspended entries of subject merchandise produced or exported by

these companies during the POR. We invited interested parties to comment.⁸ No parties commented on our intent to rescind the review, in part. In the absence of suspended entries of subject merchandise from these companies during the POR, we are rescinding, in part, the administrative review for the companies listed in Appendix II, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1) and (2) of the Act. We calculated constructed export price in accordance with section 772(b) of the Act. We calculated NV in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, see the Preliminary Decision Memorandum.

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to 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 a market economy investigation, for guidance when calculating the rate 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 or *de minimis* margins, and any margins determined entirely | on the basis of facts available." In this review, we calculated a weighted-average dumping margin for the two mandatory respondents, ACA and NEXCO, of 58.34 percent and 0.00 percent, respectively, and we have assigned to the non-selected companies a rate of 58.34 percent, which is the rate calculated for ACA.

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margins exist for the period of November 23, 2021, through May 31, 2023:

⁸ See Memorandum, "Notice of Intent to Rescind Review, In Part," dated June 14, 2024.

¹ See *Raw Honey from Argentina, Brazil, India, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 87 FR 35501 (June 10, 2022) (*Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 51271 (August 3, 2023) (*Initiation Notice*).

³ See Memorandum, "Extension of Deadline for the Preliminary Results of Antidumping Duty Administrative Review," dated February 13, 2024.

⁴ See Memorandum, "Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Raw Honey from Argentina; 2021–2023," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁵ See, e.g., *Large Diameter Welded Pipe from Greece: Rescission of Antidumping Duty Administrative Review; 2022–2023*, 89 FR 4274 (January 23, 2024).

⁶ See 19 CFR 351.212(b)(2).

⁷ See 19 CFR 351.213(d)(3).

Producer or exporter	Weighted-average dumping margin (percent)
Asociación De Cooperativas Argentinas Cooperativa Limitada	58.34
Nexco S.A	0.00
Review-Specific Rate for Non-Examined Companies ⁹	58.34

Disclosure

Commerce intends to disclose its calculations and analysis performed for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(3) of the Act, we intend to verify the information upon which we will rely in determining our final results of review with respect to the mandatory respondents, ACA and NEXCO.

Public Comment

As stated below, Commerce intends to verify the information upon which it will rely in making its final determination. Interested parties may submit case briefs within seven days after issuance of the last verification report. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the date for filing case briefs.¹⁰ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹¹

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings, we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide, at the beginning of their briefs, a public executive summary for each issue raised in their briefs.¹² Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, no including citations. We intend to use the public executive summaries as the basis of the comment summaries

included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹³

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.¹⁴

Assessment Rates

Upon completion of this administrative review, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.¹⁵ Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

For an individually examined respondent whose weighted-average dumping margin is not zero or *de minimis* (*i.e.*, less than 0.50 percent), upon completion of the final results,

Commerce intends to calculate importer-specific AD 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. Pursuant to 19 CFR 351.212(b)(1), neither ACA nor NEXCO reported actual entered value for all of its U.S. sales; in such instances, we calculated importer-specific per-unit duty assessment rates by aggregating the importer's amount of dumping calculated for the examined sales and dividing this amount by the total quantity of those sales. To consider whether the importer-specific assessment rate is *de minimis*, we estimated the enter value for each U.S. sales and calculated an estimated *ad valorem* importer-specific assessment rate as the importer's aggregated amount of dumping divided by the estimated entry value of those sales. Where either a respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific estimated *ad valorem* assessment rate is zero or *de minimis*, we intend to instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁶

Commerce's "automatic assessment" practice will apply to entries of subject merchandise during the POR produced by ACA or NEXCO for which it did not know that the merchandise it sold to an intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate those entries at the all-others rate (*i.e.*, 16.92 percent)¹⁷ if there is no rate for the intermediate company(ies) involved in the transaction.¹⁸

For the companies that were not selected for individual examination, we the antidumping duty assessment rate will be equal to the weighted-average

⁹ See Appendix III.

¹⁰ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹² We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹³ See *APO and Service Procedures*.

¹⁴ See 19 CFR 351.310(d).

¹⁵ See section 751(a)(2)(C) of the Act.

¹⁶ See 19 CFR 351.106(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).

¹⁷ See *Raw Honey from Argentina: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 87 FR 22179, 22181 (April 14, 2022) (*Honey Argentina Inv. Final*).

¹⁸ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

dumping margin calculated for each company in the final results of this review.

For the companies listed in Appendix II for which we are rescinding this review, we will instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, in accordance with 19 CFR 351.212(c)(1)(i), not before 35 days after the publication date of these preliminary results.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is *de minimis* (i.e., less than 0.50 percent), in which case the cash deposit rate will be zero; (2) for an exporter of subject merchandise previously reviewed or investigated companies not covered by this review, the cash deposit rate will continue to be equal to the company-specific rate published for the most recently-completed segment of this proceeding in which they were examined; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the producer is, the cash deposit rate will continue to be equal to the rate established for the most recently-completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 16.92 percent, the all-others rate established in the *Amended Final Determination*.¹⁹

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review including the results of its analysis of issues raised in written briefs, no later than 120 days after the date of publication of this notice in the **Federal Register**, pursuant to 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, 19 CFR 351.213, and 19 CFR 351.221(b)(4).

Dated: June 28, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Currency Conversion
- VI. Recommendation

Appendix II

Companies for Which Commerce is Rescinding this Review

1. Algodonera Avellaneda S.A.
2. Apicola Danangie.
3. Argentik LLC.
4. Camino de Circunvalacion y Calle.
5. Miele Cor Pam Srl.

Appendix III

Non-Examined Companies Receiving a Review-Specific Rate

1. Azul Agronegocios S.A.
2. Compañia Apicola Argentina S.A.
3. Compania Inversora Platense S.A.
4. Cooperativa Apicola La Colmena Ltda.
5. D'Ambros Maria de Los Angeles y D'Ambros Maria Daniela SRL.
6. Gasroni S.R.L.
7. Geomiel S.A.
8. Gruas San Blas S.A.
9. Honey & Grains Srl.
10. Industrial Haedo S.A.
11. Industrias Haedo S.A.
12. Naiman S.A.
13. Newsan S.A.
14. Patagonik Food S.A.,
15. Promiel Srl (Vicentin S.A.I.C.).
16. Terremare Foods S.A.S.
17. Villamora S.A.

[FR Doc. 2024-14912 Filed 7-5-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Announcement of Approved International Trade Administration Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: The United States Department of Commerce, International Trade Administration (ITA), is announcing one upcoming trade mission that will be recruited, organized, and implemented by ITA. This mission is: Genomic and Genetic Technologies Trade Mission to Greece, Türkiye, and Italy on May 19–23, 2025. A summary of the mission is found below. Application information and more detailed mission information, including the commercial setting and sector information, can be found at the trade mission website: <https://www.trade.gov/trade-missions>. For this mission, recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<https://www.trade.gov/trade-missions-schedule>) and other internet websites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Odum, Trade Events Task Force, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482-6397 or email Jeffrey.Odum@trade.gov.

SUPPLEMENTARY INFORMATION:

The Following Conditions for Participation Will Be Used for the Mission

Applicants must submit a completed and signed mission application and supplemental application materials, including adequate information on their products and/or services, primary market objectives, and goals for participation that is adequate to allow the Department of Commerce to evaluate their application. If the Department of Commerce receives an incomplete application, the Department may either: reject the application, request additional information/clarification, or take the lack of information into account when evaluating the application. If the requisite minimum number of participants is not selected for a

¹⁹ See *Honey Argentina Inv. Final*, 87 FR at 22181.

particular mission by the recruitment deadline, the mission may be cancelled. Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content by value.

- In addition, each applicant must:
- Certify that the products and services that it wishes to market through the mission would be in compliance with U.S. export controls and regulations;
 - Certify that it has identified any matter pending before any bureau or office in the Department of Commerce;
 - Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and
 - Sign and submit an agreement that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

The Following Selection Criteria Will Be Used for the Mission

- Targeted mission participants are U.S. firms providing or promoting U.S. products and services that have an interest in entering or expanding their business in the mission's destination country. The following criteria will be evaluated in selecting participants:
- Suitability of the applicant's products or services to these markets;
 - The applicant's potential for business in the markets, including likelihood of exports resulting from the mission; and
 - Consistency of the applicant's goals and objectives with the stated scope of the mission.
- Balance of company size and location may also be considered during the review process.
- Referrals from a political party or partisan political group or any information, including on the application, containing references to

political contributions or other partisan political activities will be excluded from the application and will not be considered during the selection process. The sender will be notified of these exclusions.

Definition of Small- and Medium-Sized Enterprise

For purposes of assessing participation fees, an applicant is a small or medium-sized enterprise (SME) if it qualifies as a "small business" under the Small Business Administration's (SBA) size standards (<https://www.sba.gov/document/support-table-size-standards>), which vary by North American Industry Classification System (NAICS) Code. The SBA Size Standards Tool (<https://www.sba.gov/size-standards>) can help you determine the qualifications that apply to your company.

Mission List: (additional information about trade missions can be found at <https://www.trade.gov/trade-missions>).

Genomic and Genetic Technologies Trade Mission to Greece, Türkiye, and Italy on May 19–23, 2025

Summary

The United States Department of Commerce, International Trade Administration (ITA), is organizing a Genomic and Genetic Technologies Trade Mission to Greece, Türkiye, and Italy on May 19–23, 2025.

The mission is open to U.S. firms working on genomic and genetic technologies. Examples of participant companies include those engaged in products for Next Generation Sequencing (NGS) R&D and test kit development, Whole Genome Sequencing (WGS), Whole Exome Sequencing (WES), Bioinformatics, Molecular Cytogenetics, Molecular Genetics, Cancer Genetics, Pharmacogenetics, Rare Diseases, Pre-natal Genetic Disorders, and Preimplantation Genetic Testing (PGT) for in Vitro Fertilization.

Participation in the Genomic and Genetic Technologies Trade Mission to Greece, Türkiye and Italy will provide participating U.S. firms with the

opportunity to better understand the market for their products, visit leading research institutes and genetics labs, network with key industry people, and identify local partners.

Mission Scenario

The mission fee will include market briefings, B2B meetings, Ministries of Health meetings, site visits (* Subject to confirmation) to research institutes or genetic labs, receptions with industry contacts and hosted luncheons in each market with keynote industry speakers.

Delegation participants will arrive in Athens, Greece on Sunday, May 18, 2025. The mission will officially start on Monday, May 19. The day will include a market briefing on the genomic and genetic technologies market in Greece followed by B2B meetings. The schedule will likely include a B2G meeting with the Ministry of Health. There will be a hosted luncheon with a keynote industry speaker and an evening reception with industry contacts.

On Tuesday, May 20, the delegation will fly to Istanbul, Türkiye. Before a reception with key industry players at the Consul General's Residence, CS Istanbul staff will deliver a market briefing to the participants at the same venue. On Wednesday, May 21, U.S. companies will have B2B meetings with potential business partners, visit an industry site, and attend a hosted luncheon with a keynote industry speaker. Participants will depart Istanbul for Milan, Italy on an evening flight.

On Thursday, May 22, participants will attend a market briefing followed by B2B meetings. In the evening, participants will attend a reception with industry contacts. On Friday, May 23, U.S. firms will participate in a site visit and attend a hosted luncheon with a keynote industry speaker.

Participants interested in attending the European Human Genomics Conference (separate fee), taking place May 24–27, may opt to stay in Milan. Otherwise, participants will depart Milan on Saturday, May 24.

PROPOSED TIMETABLE

[* NOTE: The final schedule and potential site visits will depend on the availability of host government and business officials, specific goals of mission participants, and ground transportation.]

Sunday, May 18, 2025	• Trade Mission Participants in <i>Athens, Greece</i> .
Monday, May 19, 2025	• <i>Athens, Greece.</i> ○ Morning: Market Briefing. ○ Morning: B2B Meetings. ○ Lunch: Hosted lunch with a keynote industry speaker. ○ Afternoon: Visit to Ministry of Health or Greek Industry Institution. ○ Evening: Small Reception (maximum 50 participants).
Tuesday, May 20, 2025	• <i>En route to Istanbul, Türkiye.</i>

PROPOSED TIMETABLE—Continued

[* NOTE: The final schedule and potential site visits will depend on the availability of host government and business officials, specific goals of mission participants, and ground transportation.]

Wednesday, May 21, 2025	○ Early morning: Flight to Istanbul, Türkiye. ○ Afternoon: Market Briefing. ○ Evening: Small Reception (maximum 50 participants). ● <i>Istanbul, Türkiye and En route to Milan, Italy.</i> ○ Morning: B2B Meetings. ○ Lunch: Hosted lunch with a keynote industry speaker. ○ Afternoon: Site visit. ○ Evening: Flight to Milan, Italy.
Thursday, May 22, 2025	● <i>Milan, Italy.</i> ○ Morning: Market Briefing. ○ Morning: B2B Meetings—Session #1. ○ Lunch: Networking Lunch. ○ Afternoon: B2B Meetings—Session #2. ○ Evening: Small Reception (maximum 50 participants).
Friday, May 23, 2025	● <i>Milan, Italy.</i> ○ Morning: Site visit. ○ Lunch: Hosted lunch with a keynote industry speaker. ○ End of Trade Mission.
Saturday, May 24, 2025	● <i>Option #1:</i> Departure from Milan, Italy. ● <i>Option #2:</i> Participate in the European Human Genomics Conference in Milan, Italy—registration is the responsibility of the U.S. firm.

Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the DOC. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 10 and maximum of 15 firms will be selected to participate in the mission from the applicant pool.

Fees and Expenses

After a firm has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the Genomic and Genetic Technologies Trade Mission to Greece, Türkiye and Italy will be \$4,400 for small or medium-sized enterprises (SME); and \$6,500 for large firms. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Interpreter and driving services can be arranged at an additional cost. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

There will be a \$750 fee for each additional firm representative (large firm or SME) that wishes to participate in.

If and when an applicant is selected to participate on a particular mission, a payment to the Department of Commerce in the amount of the designated participation fee above is required. Upon notification of acceptance to participate, those selected

have 5 business days to submit payment or the acceptance may be revoked.

Participants selected for a trade mission will be expected to pay for the cost of personal expenses, including, but not limited to, international travel, lodging, meals, transportation, communication, and incidentals, unless otherwise noted. Participants will, however, be able to take advantage of U.S. Government rates for hotel rooms. In the event that a mission is cancelled, no personal expenses paid in anticipation of a mission will be reimbursed. However, participation fees for a cancelled mission will be reimbursed to the extent they have not already been expended in anticipation of the mission.

If a visa is required to travel on a particular mission, applying for and obtaining such a visa will be the responsibility of the mission participant. Government fees and processing expenses to obtain such a visa are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain business visas.

Trade Mission members participate in trade missions and undertake mission-related travel at their own risk. The nature of the security situation in a given foreign market at a given time cannot be guaranteed. The U.S. Government does not make any representations or guarantees as to the safety or security of participants. The U.S. Department of State issues U.S. Government international travel alerts and warnings for U.S. citizens available

at <https://travel.state.gov/content/passports/en/alertswarnings.html>. Any question regarding insurance coverage must be resolved by the participant and its insurer of choice.

Travel and in-person activities are contingent upon the safety and health conditions in the United States and the mission countries. Should safety or health conditions not be appropriate for travel and/or in-person activities, the Department will consider postponing the event or offering a virtual program in lieu of an in-person agenda. In the event of a postponement, the Department will notify the public, and applicants previously selected to participate in this mission will need to confirm their availability but need not reapply. Should the decision be made to organize a virtual program, the Department will adjust fees, accordingly, prepare an agenda for virtual activities, and notify the previous selected applicants with the option to opt-in to the new virtual program.

Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<http://export.gov/trademissions>) and other internet websites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than January 31, 2025. The U.S. Department of Commerce will review applications and inform applicants of selection decisions on a rolling basis. Applications received after January 31, 2025, will be considered only if space and scheduling constraints permit.

Contacts

Michelle Ouellette (U.S. based Recruitment Lead), Senior International Trade Specialist, Boston U.S. Export Assistance Center, + 1 (617) 565-4302, Michelle.Ouellette@trade.gov

Cindy Ma, Senior International Trade Specialist, U.S. Commercial Service—San Jose, CA, +1 (510) 368-0765, Cindy.Ma@trade.gov

Monica Toporkiewicz, Senior International Trade Specialist, U.S. Commercial Service—Chicago, IL, +1 312-353-8059, Monica.Toporkiewicz@trade.gov

Gemal Brangman,

Director, Global Trade Programs.

[FR Doc. 2024-14931 Filed 7-5-24; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

Notice of Availability of Final Programmatic Environmental Assessment for Modernization and Expansion of Existing Semiconductor Fabrication Facilities Under the CHIPS Incentives Program

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice; availability of a Final Programmatic Environmental Assessment and finding of no significant impact.

SUMMARY: The National Institute of Standards and Technology (NIST) announces the availability of the Final Programmatic Environmental Assessment (PEA) and finding of no significant impact (FONSI) for the modernization and expansion of existing semiconductor fabrication facilities under the CHIPS Incentives Program. The Final PEA addresses Federal financial assistance under the CHIPS Incentives Program for the proposed modernization or expansion of existing current-generation, mature-node, or leading-edge front- or back-end commercial semiconductor fabrication facilities within existing facility footprints.

ADDRESSES: The Final PEA and FONSI are available for review and download

at <https://www.nist.gov/chips/national-environmental-policy-act-nepa>.

FOR FURTHER INFORMATION CONTACT:

David Frenkel, NIST, telephone number 240-204-1960, email David.Frenkel@chips.gov.

SUPPLEMENTARY INFORMATION: NIST prepared the Final PEA in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and the Council on Environmental Quality (CEQ) NEPA implementing regulations, 40 CFR parts 1500-1508. The Final PEA addresses Federal financial assistance for the proposed modernization or expansion of existing current-generation, mature-node, or leading-edge front- or back-end commercial semiconductor fabrication facilities within existing facility footprints (the Proposed Action).

Background

The Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act in title XCIX of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283), as amended by the CHIPS and Science Act of 2022 (Division A of Pub. L. 117-167) (together, the CHIPS Act or Act) authorized the CHIPS Incentives Program within the U.S. Department of Commerce. The Program, which is administered by the CHIPS Program Office (CPO) within NIST, an agency of the Department, aims to boost American semiconductor research, development, and production.

The CHIPS Incentives Program Commercial Fabrication Facilities Notice of Funding Opportunity (NOFO) was originally published in February 2023 and amended in June 2023. The NOFO solicits applications for the construction, expansion, or modernization of commercial facilities for the front- or back-end fabrication of leading-edge, current-generation, and mature-node semiconductors; commercial facilities for wafer manufacturing; and commercial facilities for materials used to manufacture semiconductors and semiconductor manufacturing equipment, provided that the capital investment equals or exceeds \$300 million. The potential amount available under the NOFO is up to \$38.22 billion for direct funding and up to \$75 billion in direct loan or guaranteed principals. CPO is responsible for completion of the NEPA process before Federal financial assistance can be disbursed.

Final PEA

The purpose of the CHIPS Incentives Program in this area is to invest in U.S. production of strategically important semiconductors (“chips”) and ensure a sufficient, sustainable, and secure supply of older and current generation chips for national security purposes and critical manufacturing industries. As part of this effort, CPO aims to increase semiconductor manufacturing capacity and strengthen the security of the U.S. supply chain via the modernization of semiconductor production. The need for CPO’s action in this area is to fulfill the agency’s statutory responsibilities under the CHIPS Act, including the requirements of 15 U.S.C. 4652 to incentivize investment in facilities and equipment in the United States for the fabrication, assembly, testing, advanced packaging, production, or research and development of semiconductors, materials used to manufacture semiconductors, or semiconductor manufacturing equipment.

Under the Proposed Action, CPO would provide Federal financial assistance for the proposed modernization or expansion of existing current-generation, mature-node, or leading-edge front- or back-end commercial semiconductor fabrication facilities within existing facility footprints. Eligible projects would include the replacement or upgrade of existing fab equipment, the addition of new semiconductor manufacturing equipment, and the expansion of cleanroom space.

CPO published the Notice of Availability of the Draft PEA for public comment in the **Federal Register** on December 27, 2023.¹ CPO extended the 30-day public comment period by two weeks from January 25, 2024, to February 9, 2024.² CPO considered the public comments received on the Draft PEA and has responded to comments in Appendix E of the Final PEA. CPO has made revisions to the PEA in response to comments where appropriate.

Based on its analysis, CPO has determined that the Proposed Action to provide Federal financial assistance for the proposed modernization or expansion of existing current-generation, mature-node, or leading-edge front- or back-end commercial semiconductor fabrication facilities (or “fabs”) within existing fab facility footprints normally would not result in significant adverse environmental effects. Thus, preparation of a programmatic environmental impact

¹ 88 FR 89372 (Dec. 27, 2023).

² 89 FR 6506 (Feb. 1, 2024).

statement (EIS) is not required, and CPO is issuing a FONSI for the Proposed Action.

Authority: This notice is provided pursuant to NEPA, 42 U.S.C. 4336(b)(2), and the NEPA implementing regulations, 40 CFR 1506.6.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2024–14844 Filed 7–5–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE085]

South Atlantic Fishery Management Council (SAFMC); Public Meetings

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

ACTION: Notice of public hearings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold two virtual public hearings pertaining to Regulatory Amendment 36 to the Fishery Management Plan (FMP) for the Snapper Grouper Fishery of the South Atlantic Region. This amendment considers revisions to the recreational vessel limits for gag and black grouper and stowage requirements for black sea bass pots equipped with on-demand gear while transiting closed areas.

DATES: The public hearings will take place via webinar July 31 and August 1, 2024, beginning at 6 p.m., EDT. For specific dates and times, see **SUPPLEMENTARY INFORMATION**.

SUPPLEMENTARY INFORMATION.

ADDRESSES: The hearings will be held via webinar. The webinar is open to members of the public. Information, including a link to webinar registration will be posted on the Council's website at: <https://safmc.net/public-hearings-and-scoping/> when it becomes available.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION: A public hearing document, an online public comment form, and other materials will be posted to the Council's website at <https://safmc.net/public-hearings-and-scoping/> as they become available.

Written comments should be addressed to John Carmichael, Executive Director, SAFMC, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405. Written comments must be received by August 2, 2024, at 5 p.m. During the hearings, Council staff will provide an overview of actions being considered in the amendment. Staff will answer clarifying questions on the presented information and the proposed actions. Following the presentation and questions, the public will have the opportunity to provide comments on the amendment.

Regulatory Amendment 36 to the Snapper Grouper FMP

Amendment 53 to the Fishery Management Plan (FMP) for the Snapper Grouper Fishery of the South Atlantic Region (Snapper Grouper FMP) became effective October 23, 2023, and established recreational vessel limits of 2 fish per vessel per day or per trip (depending on private recreational or for-hire component) of gag and black grouper (2 fish limit for each species). The Council intended for these limits to instead be an aggregate limit of 2 gag or black grouper per vessel. Therefore, the Council is considering a revision of these recreational vessel limits through Regulatory Amendment 36.

Regulatory Amendment 36 also addresses stowage requirements for black sea bass pots equipped with on-demand (also known as 'ropeless') gear while transiting closed areas. Other regulations for black sea bass pots were reviewed and were determined to not limit the fishery's ability to use pots equipped with on-demand gear in areas and times of year when pots are currently allowed. While transiting marine protected areas, special management zones, and spawning special management zones, black sea bass pots are required to be appropriately stowed, meaning they are not baited, and the buoy is not attached. Detaching and re-attaching the buoy is more difficult for pots with on-demand gear, due to the construction of on-demand retrieval mechanisms. Therefore, the Council is considering revision of the stowage requirements to better accommodate the transportation of this gear.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: July 2, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–14928 Filed 7–5–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE073]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Scientific and Statistical Committee (SSC) of the Mid-Atlantic Fishery Management Council (Council) will hold a meeting.

DATES: The meeting will be held on Tuesday, July 23, 2024, starting at 9:30 a.m. and continue through 1 p.m. on Thursday, July 25, 2024. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: This will be an in-person meeting with a virtual option. SSC members, other invited meeting participants, and members of the public will have the option to participate in person at the Le Méridien Philadelphia, 1421 Arch St., Philadelphia, PA, or virtually via Webex webinar. Webinar connection instructions and briefing materials will be available at: www.mafmc.org/ssc.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: www.mafmc.org.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: During this meeting, the SSC will make multi-year acceptable biological catch (ABC) recommendations for Golden Tilefish, Black Sea Bass, Butterfish, and Atlantic Surfclam based on the results of the recently completed management track stock assessments and peer review. The SSC will recommend new 2025–27 ABC specifications for Golden Tilefish, new 2025 ABC recommendations for Black Sea Bass, new 2025–26 ABC recommendations for Butterfish, and review existing 2025–26 ABCs and

recommend new 2027–28 ABCs for Atlantic Surfclam. The SSC will review the most recent fishery data for Blueline Tilefish and make a 2025 ABC recommendation. The SSC will review the most recent survey and fishery data and the previously recommended 2025 ABC for Bluefish, Summer Flounder, and Scup. The SSC will review and finalize the draft report developed by an SSC sub-group to address the Terms of Reference regarding the Recreational Measures Setting Framework/Addenda. The SSC will also receive the results of updated Surfclam genetics research. The SSC may take up any other business as necessary.

A detailed agenda and background documents will be made available on the Council's website (www.mafmc.org) prior to the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: July 2, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–14934 Filed 7–5–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE082]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Tilefish Monitoring Committee will hold a public webinar meeting.

DATES: The meeting will be held on Thursday, July 25, 2024, from 1 p.m. until 3:30 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Connection information, agenda items, and any additional information will be posted at www.mafmc.org prior to the meeting.

Council address: Mid-Atlantic Fishery Management Council, 800 N State

Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; www.mafmc.org.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Tilefish Monitoring Committee will meet via webinar to discuss management measures for both golden and blueline tilefish. The objectives of this meeting are for the Monitoring Committee to: (1) Review recent stock assessment information, fishery performance, and recommendations from the Advisory Panel, Scientific and Statistical Committee, and staff; (2) Recommend commercial and recreational annual catch limits, annual catch targets, and total allowable landing limits/quotas for golden tilefish for 2025–27 and for blueline tilefish for 2025; and (3) review commercial and recreational management measures for both species and recommend changes if needed. Meeting materials will be posted to www.mafmc.org.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: July 2, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–14930 Filed 7–5–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE080]

Identification of Nations or Entities Engaged in Illegal, Unreported, or Unregulated Fishing, Bycatch of Protected Living Marine Resources, or Fishing Activities That Target or Incidentally Catch Sharks

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

ACTION: Notice; request for information.

SUMMARY: NMFS is seeking information from 2022, 2023, and/or 2024 regarding nations or entities that have competency

to enter into international fishery management agreements (entities) that are engaging in or endorsing illegal, unreported, or unregulated (IUU) fishing or have vessels that engaged or are engaging in IUU fishing, fishing activities or practices that result in the bycatch of protected living marine resources (PLMRs) on the high seas or within the exclusive economic zone (EEZ) of any nation or fishing activities on the high seas or within the EEZ of another nation that target or incidentally catch sharks. Such information will be reviewed and may be used for the purpose of identifying nations or entities pursuant to the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act).

DATES: NMFS encourages submission before the preferred deadline of October 1, 2024, with a final deadline of December 31, 2024.

ADDRESSES: Information may be submitted either electronically to: IUU.PLMR.Sharks@noaa.gov or by mail to: NMFS Office of International Affairs, Trade, and Commerce, Attn.: Moratorium Protection Act Information, F/IATC 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Ellie Bors, (240) 429–4461, eleonor.bors@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Moratorium Protection Act requires the Secretary of Commerce (Secretary) to issue a biennial report to Congress that includes a list of nations and entities identified for engaging in or endorsing IUU fishing, as well as those nations and entities having fishing vessels that engaged in or are engaging in IUU fishing, fishing activities or practices that result in the bycatch of PLMRs on the high seas or within the EEZ of any nation without a regulatory program comparable in effectiveness to that of the United States; and/or fishing activities on the high seas or within the EEZ of another nation that target or incidentally catch sharks without a regulatory program comparable to that of the United States.

NMFS submitted the eighth biennial report to Congress in August 2023 and it is available online at: <https://www.fisheries.noaa.gov/s3/2023-08/2023RTC-ImprovingIFManagement.pdf>. NMFS identified seven nations and entities for IUU fishing and two for shark catch where those nations do not have a comparable regulatory program to that of the United States. In fulfillment of its requirements under the Moratorium Protection Act, NMFS is

preparing the ninth biennial report to Congress, to be released in 2025. NMFS is soliciting information from the public regarding activities by foreign fishing vessels, nations, and entities in 2022, 2023, and/or 2024 that may support identification of nations and entities in the biennial report.

Recent Amendments to the Moratorium Protection Act

On December 27, 2022, the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (2023 NDAA) (Pub. L. 117–263) amended the Moratorium Protection Act by, in part:

(1) adding new considerations when making IUU fishing identifications;

(2) expanding the scope of information that can be used for the identification of nations for bycatch of a PLMR or shark catch to include fishing activities within the EEZ of another nation; and

(3) authorizing the agency to make an identification at any time that the Secretary has sufficient information to make such identification.

IUU Fishing

The Moratorium Protection Act requires the Secretary to list in a biennial report to Congress those nations and entities identified for engaging in or endorsing IUU fishing, or for having fishing vessels engaged in or are engaging in IUU fishing. In making these identifications, the Secretary is to consider any nation or entity that is violating, or has violated at any point during the preceding three years, conservation and management measures required under an international fishery management agreement to which the United States is a party; any nation or entity that is failing, or has failed at any point during the preceding three years to effectively address or regulate IUU fishing within its fleets in any areas where its vessels are fishing; and any nation that fails to discharge its flag, port, or coastal state responsibilities to prevent, deter, and eliminate IUU fishing; and any nation or entity producing for export to the United States seafood-related goods through forced labor or oppressive child labor that the U.S. Department of Labor has included in the most recent List of Goods Produced by Child Labor or Forced Labor.

The definition of IUU fishing for the Moratorium Protection Act can be found at 50 CFR 300.201 and includes:

(1) Fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch

limits or quotas, capacity restrictions, bycatch reduction requirements, shark conservation measures, and data reporting;

(2) In the case of non-parties to an international fishery management agreement to which the United States is a party, fishing activities that would undermine the conservation of the resources managed under that agreement;

(3) Overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks;

(4) Fishing activity that has an adverse impact on vulnerable marine ecosystems such as seamounts, hydrothermal vents, cold water corals and other vulnerable marine ecosystems located beyond any national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement; and

(5) Fishing activities by foreign-flagged vessels in U.S. waters without authorization of the United States.

PLMR Bycatch

The Moratorium Protection Act requires the Secretary to list in the biennial report to Congress those nations and entities identified for having fishing vessels that are engaged, or have been engaged at any point during the preceding three years in fishing activities or practices on the high seas or within the EEZ of any nation that have resulted in bycatch of a PLMR, and the vessel's flag state has not adopted, implemented, and enforced a regulatory program governing such fishing designed to end or reduce such bycatch that is comparable in effectiveness to the regulatory program of the United States, taking into account differing conditions. PLMRs are defined as non-target fish (including sharks), sea turtles, or marine mammals that are protected under U.S. law or international agreement, including the Marine Mammal Protection Act, the Endangered Species Act, the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna. PLMRs do not include species, except sharks, managed under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, or any international fishery management agreement. A list of species considered as PLMRs for the purposes of

identification under the Moratorium Protection Act is available online at: https://media.fisheries.noaa.gov/dam-migration/plmr_list_2019.pdf.

Shark Catch

The Moratorium Protection Act requires that the Secretary list in the biennial report to Congress those nations and entities whose fishing vessels are engaged, or have been engaged at any point during the preceding three years, in fishing activities on the high seas or within the EEZ of another nation that target or incidentally catch sharks; and the vessel's flag state has not adopted, implemented, and enforced a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark, including the tail, before landing the shark in port, that is comparable to that of the United States.

Information Solicited

NMFS is soliciting information from 2022, 2023, and/or 2024 from the public that could be relevant to the identification of nations and entities that meet the criteria described above for IUU fishing, PLMR bycatch, or shark catch. Such information might include documentation of activities, such as photographs, videos, witness testimony, publically available data, verifiable catch data, or other proof of activity. Useful details include the location, time, and date of activity; and, where applicable, flag, name, or other identifier of the vessel. Some types of information that may prove relevant to the process include:

- Documentation of IUU fishing activity;
- Documentation of fishing vessels engaged in bycatch of PLMRs on the high seas or within the EEZ of any nation;
- Documentation of illegal shark fishing in contravention of shark conservation and management measures adopted by Regional Fisheries Management Organizations (RFMOs) (shark finning without full utilization of the carcass, retention of prohibited shark species, *etc.*);
- Documentation of instances where a nation has failed to meet reporting, compliance, scientific, or any other binding requirements as outlined by international fora, including, for example, RFMOs or the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- Documentation of nations' regulatory programs to provide for the conservation of sharks that do not

prohibit removal of any of the fins of a shark, including the tail, before landing the shark in port;

- Reports from off-loading facilities, port-side government officials, enforcement agents, military personnel, port inspectors, transshipment vessel workers and fish importers;

- Sightings of vessels included on RFMO IUU vessel lists;
- RFMO catch documents and statistical document programs;
- Reports of vessels fishing in the EEZ of another nation without authorization, or fishing with authorization in the EEZ of another nation but violating the conditions of that authorization;

- Relevant reports from governments, international organizations, or nongovernmental organizations; and
- Evidence of large-scale (over 2.5 km in length) drift-net use.

NMFS will consider all available information, as appropriate, when making a determination whether to identify a particular nation or entity in the biennial report to Congress. Information should be as specific as possible as this will assist NMFS in its review. NMFS will consider several criteria when determining whether information is appropriate for use in making identifications, including but not limited to:

- Corroboration of information;
- Whether multiple sources have been able to provide information in support of an identification;
- The methodology used to collect the information;
- Specificity of the information provided (*i.e.*, location, date, time of occurrence);
- Susceptibility of the information to falsification and alteration;
- Credibility of the individuals or organization providing the information; and

- Ability to share the provided information with a nation or entity in the event that it is identified, so that the nation can take specific corrective actions.

More information regarding the identification process and how the information received will be used in that process can be found at 16 U.S.C. 1826h–1826k and in the regulations codified at 50 CFR 300.200 *et seq.*

Dated: July 1, 2024.
Alexa Cole,
*Director, Office of International Affairs,
Trade, and Commerce, National Marine
Fisheries Service.*
[FR Doc. 2024–14823 Filed 7–5–24; 8:45 am]
BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE
Patent and Trademark Office
**Agency Information Collection
Activities; Submission to the Office of
Management and Budget (OMB) for
Review and Approval; Comment
Request; Third-Party Submissions and
Protests**

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: 0651–0062 (Third-Party Submissions and Protests). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before September 6, 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:* InformationCollection@uspto.gov. Include “0651–0062 comment” in the subject line of the message.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Request for additional information should be directed to Jeffrey West, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–2226; or by email at jeffrey.west@uspto.gov with “0651–0062 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 *et seq.* to examine an application for patent and, when appropriate, issue a patent. The provisions of 35 U.S.C. 122(c), 122(e), 131, and 151, as well as 37 CFR 1.290 and 1.291, limit the ability of a third-party to have information entered and considered in, or to protest, a patent application pending before the USPTO.

37 CFR 1.290 provides a mechanism for third parties to submit to the USPTO for consideration and inclusion in the record of a patent application, any patents, published patent applications, or other printed publications of potential relevance to the examination of the application.

A third-party submission under 37 CFR 1.290 may be made in any nonprovisional utility, design, and plant application, including any continuing application. A third-party submission under 37 CFR 1.290 must include a concise description of the asserted relevance of each document submitted, and must be submitted within a certain statutorily specified time period.

37 CFR 1.291 permits a member of the public to file a protest against a pending application. Protests pursuant to 37 CFR 1.291 are supported by a separated statutory provision from third-party submissions under 37 CFR 1.290. As a result, there are several differences between protests and third-party submissions, as explained in the table below.

TABLE 1—COMPARISON OF THIRD-PARTY SUBMISSIONS AND PROTESTS

Comparison	Third-party submission	Protest
Statute/Regulation	35 U.S.C. 122(e), 37 CFR 1.290	35 U.S.C. 122(c), 37 CFR 1.291.
Content	Printed publications	Printed publications and any facts or information adverse to patentability.
Remarks	Concise description of relevance (limited to a concise description of each document’s relevance).	Concise explanation of the relevance (allows for arguments against patentability).

TABLE 1—COMPARISON OF THIRD-PARTY SUBMISSIONS AND PROTESTS—Continued

Comparison	Third-party submission	Protest
Timing	The earlier of—(A) the date of a notice of allowance; or (B) the later of—(i) 6 months after the date of Pre-Grant Publication, or (ii) the date of the first rejection of any claim during the examination of the application for patent.	(1) Prior to the date of Pre-Grant Publication or the date of a notice of allowance, whichever occurs first, or (2) accompanied by written consent of the applicant and prior to the date of a notice of allowance.

For example, 37 CFR 1.291 permits the submission of information that is not permitted in a third-party submission under 37 CFR 1.290. Specifically, 37 CFR 1.291 provides for the submission of information other than publications, including any facts or information adverse to patentability. Unlike the concise explanation of the relevance required for a preissuance submission under 37 CFR 1.290, which is limited to a description of a document's relevance, the concise explanation for a protest under 37 CFR 1.291 allows for arguments against patentability. Additionally, the specified time period for submitting a protest differs from the time period for submitting third-party submissions and is impacted by whether the protest is accompanied by the written consent of the applicant.

This information collection covers the items used by the public to submit information and protests regarding patent applications to the USPTO. This information collection is necessary so that the public can contribute to the quality of issued patents. The USPTO will use this information, as appropriate, to assist in evaluating the patent application as it moves through the patent examination process.

II. Method of Collection

The items in this information collection may be submitted electronically, or on paper by either mail or hand delivery.

III. Data

OMB Control Number: 0651-0062.

Forms: (SB = Specimen Book)

- PTO/SB/429 (Third-Party Submission Under 37 CFR 1.290)

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: 1,033 respondents.

Estimated Number of Annual Responses: 1,033 responses.

Frequency: On occasion.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately 10 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed item to the USPTO.

Estimated Total Annual Respondent Burden Hours: 10,330 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$4,617,510.

TABLE 2—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate ¹ (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
1	Third-Party Submissions in Nonissued Applications Under 37 CFR 1.290.	1,017	1	1,017	10	10,170	\$447	\$4,545,990
2	Protests by the Public Against Pending Applications Under 37 CFR 1.291.	16	1	16	10	160	447	71,520
Totals ..	.....	1,033	.....	1,033	.....	10,330	.....	4,617,510

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>).

Estimated Total Annual Respondent Non-hourly Cost Burden: \$153,686. There are no capital start-up, maintenance costs, or recordkeeping costs associated with this information

collection. However, the USPTO estimates that the total annual non-hour cost burden for this information collection, in the form of filing fees and postage, is \$153,686.

Filing Fees

The filing fees associated with this information collection are listed in the table below.

TABLE 3—FILING FEES

Item No.	Fee code	Item	Estimated annual responses	Filing fee (\$)	Non-hourly cost burden (\$)
			(a)	(b)	(a) × (b) = (c)
1	1818	Third-Party Submissions in Nonprovisional Applications Under 37 CFR 1.290 (undiscounted).	742	\$180	\$133,560

TABLE 3—FILING FEES—Continued

Item No.	Fee code	Item	Estimated annual responses (a)	Filing fee (\$) (b)	Non-hourly cost burden (\$) (a) × (b) = (c)
1	2818	Third-Party Submissions in Nonprovisional Applications Under 37 CFR 1.290 (small and micro entities).	275	72	19,800
2	1830	Protest by the Public Against Pending Applications Under 37 CFR 1.291—second or subsequent protest by the same real party in interest (undiscounted).	1	140	140
2	2830	Protest by the Public Against Pending Applications Under 37 CFR 1.291—second or subsequent protest by the same real party in interest (small entity).	1	56	56
2	3830	Protest by the Public Against Pending Applications Under 37 CFR 1.291—second or subsequent protest by the same real party in interest (micro entity).	1	28	28
Totals	.....	.....	1,020	.....	153,584

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 1,033 items will be submitted in the mail resulting in 10 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail legal flat rate envelope, will be \$10.15. Therefore, the USPTO estimates the total mailing costs for this information collection at \$102.

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. The 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, the 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. 2024–14920 Filed 7–5–24; 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; Fastener Quality Act Insignia Recordal Process

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 April 23, 2024 during a 60-day comment period (89 FR 30324). This notice allows for an additional 30 days for public comment.

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

Title: Fastener Quality Act Insignia Recordal Process.

OMB Control Number: 0651–0028.

Needs and Uses: Under Section 5 of the Fastener Quality Act (FQA) of 1999,¹ 15 U.S.C. 5401 *et seq.*, certain industrial fasteners must bear an insignia identifying the manufacturer. It is also mandatory for manufacturers of fasteners covered by the FQA to submit an application to the USPTO for recordal of the insignia on the Fastener Insignia Register.

The procedures for the recordal of fastener insignia under the FQA are set forth in 15 CFR 280.300 *et seq.* The purpose of requiring both the insignia and the recordation is to ensure that certain fasteners can be traced to their manufacturers and to protect against the sale of mismarked, misrepresented, or counterfeit fasteners.

The insignia may be a unique alphanumeric designation that the USPTO will issue upon request or a trademark that is registered at the USPTO or is the subject of an application to obtain a registration. After a manufacturer submits a complete application for recordal, the USPTO issues a Certificate of Recordal. These certificates remain active for five years. Applications to renew the certificates must be filed within six months of the expiration date or, upon payment of an additional surcharge, within six months following the expiration date.

If a recorded alphanumeric designation is assigned by the manufacturer to a new owner, the designation becomes “inactive” and the

¹ <https://www.govinfo.gov/content/pkg/PLAW-106publ34/pdf/PLAW-106publ34.pdf>.

new owner must submit an application to reactivate the designation within six months of the date of assignment. If the recordal is based on a trademark application or registration and the registration is assigned to a new owner, the recordal becomes “inactive” and cannot be reassigned. Instead, the new owner of the trademark application or registration must apply for a new recordal. Manufacturers who record insignia must notify the USPTO of any changes of address.

This information collection includes one form, the Application for Recordal of Insignia or Renewal/Reactivation of Recordal Under the Fastener Quality Act (PTO–1611), which provides manufacturers with a convenient way to submit a request for the recordal of a fastener insignia or to renew or reactivate an existing Certificate of Renewal.

The public uses this information collection to comply with the insignia recordal provisions of the FQA. The USPTO uses the information in this collection to record or renew insignias under the FQA and to maintain the Fastener Insignia Register, which is open for public inspection and is updated quarterly. The public may download the Fastener Insignia Register from the USPTO website.²

Forms

- PTO–1611 (Application for Recordal of Insignia or Renewal/Reactivation of Recordal Under the Fastener Quality Act)

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.

Frequency: On occasion.

Estimated Number of Annual

Respondents: 90 respondents.

Estimated Number of Annual

Responses: 90 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately 30 minutes (0.50 hours) to complete. This includes the time to gather the necessary information, complete the form, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 45 hours.

Estimated Total Annual Respondent Non-Hourly Cost Burden: \$2,413.

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, 0651–0028.

Further information can be obtained by:

- *Email:* InformationCollection@uspto.gov. Include “0651–0028 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. 2024–14919 Filed 7–5–24; 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 Reexaminations, Supplemental Examinations, and Post Patent Submissions

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: 0651–0064 (Patent Reexaminations, Supplemental Examinations, and Post Patent Submissions). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information

collection must be received on or before September 6, 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:* InformationCollection@uspto.gov. Include “0651–0064 comment” in the subject line of the message.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.

- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT:

Request for additional information should be directed to Jeffrey West, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–2226; or by email at jeffrey.west@uspto.gov with “0651–0064 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 and 151 to examine applications and, when appropriate, allow applications and issue them as patents. Chapter 30 of title 35 U.S.C. provides that any person at any time may file a request for reexamination by the USPTO of any claim of a patent on the basis of prior art cited under the provisions of 35 U.S.C. 301. Once initiated, the reexamination proceedings under Chapter 30 are substantially *ex parte* and do not permit input from third parties. The regulations outlining *ex parte* reexaminations are found at 37 CFR 1.510–1.570. The purpose of this information collection is to facilitate requests for *ex parte* reexamination and supplemental examination, to facilitate prosecution of reexamination and to ensure that the associated documentation is submitted to the USPTO, and to permit relevant post-patent prior art and claim scope information to be entered into a patent file.

35 U.S.C. 257 permits a patent owner to request supplemental examination of a patent by the USPTO to consider, reconsider, or correct information believed to be relevant to the patent.

² <https://www.uspto.gov/trademarks/laws/fastener-quality-act-fqa/fastener-quality-act-fqa>.

The regulations outlining supplemental examination are found at 37 CFR 1.601–1.625.

The Leahy-Smith America Invents Act terminated *inter partes* reexamination effective September 16, 2012. However, *inter partes* reexamination proceedings based on *inter partes* reexamination requests filed before September 16, 2012, continue to be prosecuted. Therefore, this collection continues to include items related to the prosecution of *inter partes* reexamination proceedings. The regulations outlining *inter partes* reexaminations are found at 37 CFR 1.902–1.959.

The provisions of 35 U.S.C. 301 and 37 CFR 1.501 govern the ability of a person to submit into the file of an issued patent (1) prior art consisting of patents or printed publications which the person making the submission believes to have a bearing on the patentability of any claim of the issued patent and (2) statements of the owner of the issued patent filed in a proceeding before a Federal court or the USPTO in which the owner of the issued patent took a position on the scope of any claim of the issued patent.

Thus, the items included in this collection cover (1) requests for *ex parte*

reexamination, (2) requests for supplemental examination, (3) information that may be submitted by patent owners and third-party requesters in relation to the prosecution of an *ex parte* or *inter partes* reexamination proceeding, (4) information submitted by the public to aid in ascertaining the patentability and/or scope of the claims of the issued patent, and (5) information submitted by patent owners regarding a position taken before the USPTO or a Federal court regarding the scope of any claim in their issued patent. The USPTO's use of the statements of the patent owners ((5) above) will be limited to determining the meaning of a patent claim in *ex parte* reexamination proceedings that already have been ordered and in *inter partes* review and post grant review proceedings that already have been instituted.

II. Method of Collection

The items in this information collection may be submitted electronically, or on paper by either mail or hand delivery.

III. Data

OMB Control Number: 0651–0064.

Forms: (SB = Specimen Book)

- PTO/SB/42 (37 CFR 1.501 Information Disclosure Citation in a Patent)
- PTO/SB/57 (Request for *Ex Parte* Reexamination Transmittal Form)
- PTO/SB/59 (Request for Supplemental Examination Transmittal Form)

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: 874 respondents.

Estimated Number of Annual Responses: 890 responses.

Frequency: On occasion.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately between 30 minutes (0.50 hours) and 55 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: 25,714 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$11,494,158.

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate ¹ (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
1	Request for Supplemental Examination PTO/SB/59.	30	1	30	25	750	\$447	\$335,250
2	Request for <i>Ex Parte</i> Reexamination PTO/SB/57.	332	1	332	55	18,260	447	8,162,220
3	Petition in a Reexamination Proceeding (except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)).	117	1	117	23	2,691	447	1,202,877
4	Patent Owner's 37 CFR 1.530 Statement.	25	1	25	8	200	447	89,400
5	Third Party Requester's 37 CFR 1.535 Reply.	15	1	15	8	120	447	53,640
6	Amendment in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination.	15	1	15	33	495	447	221,265
7	Third Party Requester's 37 CFR 1.947 Comments in <i>Inter Partes</i> Reexamination.	1	1	1	41	41	447	18,327
8	Response to Final Rejection in <i>Ex Parte</i> Reexamination.	148	1	148	17	2,516	447	1,124,652
9	Patent Owner's 37 CFR 1.951 Comments in <i>Inter Partes</i> Reexamination.	1	1	1	41	41	447	18,327
10	Third Party Requester's 37 CFR 1.951 Response in <i>Inter Partes</i> Reexamination.	1	1	1	41	41	447	18,327
11	Petition to Request Extension of Time in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination.	157	1	157	0.5	79	447	35,313

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS—Continued

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate ¹ (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
12	37 CFR 1.501 Information Disclosure Citation in a Patent PTO/SB/42.	32	1.5	48	10	480	447	214,560
Totals ..	.....	874	.....	890	.....	25,714	.....	11,494,158

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>).

Estimated Total Annual Respondent Non-hourly Cost Burden: \$3,680,879. There are no capital start-up, maintenance costs, or recordkeeping costs associated with this information

collection. However, the USPTO estimates that the total annual non-hour cost burden for this information collection, in the form of filing fees and postage, is \$3,680,879.

Filing Fees

There are filing fees associated with this information collection, which are listed in the table below.

TABLE 2—FILING FEES

Item No.	Fee code(s)	Item	Estimated annual responses	Filing fee (\$)	Total non-hour cost burden (yr) (\$)
			(a)	(b)	(a) × (b) = (c)
1	1826	Request for supplemental examination (undiscounted entity)	17	\$4,620	\$78,540
1	2826	Request for supplemental examination (small entity)	12	1,848	22,176
1	3826	Request for supplemental examination (micro entity)	1	924	924
1	1827	Reexamination ordered as a result of supplemental examination (undiscounted entity).	10	12,700	127,000
1	2827	Reexamination ordered as a result of supplemental examination (small entity).	1	5,080	5,080
1	3827	Reexamination ordered as a result of supplemental examination (micro entity).	1	2,540	2,540
1	1828	Supplemental examination document size fee—for nonpatent document having between 21 and 50 sheets (undiscounted entity).	19	180	3,420
1	2828	Supplemental examination document size fee—for nonpatent document having between 21 and 50 sheets (small entity).	12	72	864
1	3828	Supplemental examination document size fee—for nonpatent document having between 21 and 50 sheets (micro entity).	1	36	36
1	1829	Supplemental examination document size fee—for each additional 50 sheets or a fraction thereof in a nonpatent document (undiscounted entity).	1	300	300
1	2829	Supplemental examination document size fee—for each additional 50 sheets or a fraction thereof in a nonpatent document (small entity).	3	120	360
1	3829	Supplemental examination document size fee—for each additional 50 sheets or a fraction thereof in a nonpatent document (micro entity).	1	60	60
2	1821	Each reexamination independent claim in excess of three and also in excess of the number of such claims in the patent under reexamination (undiscounted entity).	112	480	53,760
2	2821	Each reexamination independent claim in excess of three and also in excess of the number of such claims in the patent under reexamination (small entity).	49	192	9,408
2	3821	Each reexamination independent claim in excess of three and also in excess of the number of such claims in the patent under reexamination (micro entity).	1	96	96
2	1822	Each reexamination claim in excess of 20 and also in excess of the number of claims in the patent under reexamination (undiscounted entity).	1,626	100	162,600
2	2822	Each reexamination claim in excess of 20 and also in excess of the number of claims in the patent under reexamination (small entity).	298	40	11,920
2	3822	Each reexamination claim in excess of 20 and also in excess of the number of claims in the patent under reexamination (micro entity).	1	20	20
2	1831	<i>Ex parte</i> reexamination (§ 1.510(a)) streamlined (undiscounted entity)	23	6,300	144,900
2	2831	<i>Ex parte</i> reexamination (§ 1.510(a)) streamlined (small entity)	67	2,520	168,840
2	3831	<i>Ex parte</i> reexamination (§ 1.510(a)) streamlined (micro entity)	2	1,260	2,520
2	1812	<i>Ex parte</i> reexamination (§ 1.510(a)) non-streamlined (undiscounted entity)	195	12,600	2,457,000
2	2812	<i>Ex parte</i> reexamination (§ 1.510(a)) non-streamlined (small entity)	45	5,040	226,800
2	3812	<i>Ex parte</i> reexamination (§ 1.510(a)) non-streamlined (micro entity)	1	2,520	2,520

TABLE 2—FILING FEES—Continued

Item No.	Fee code(s)	Item	Estimated annual responses	Filing fee (\$)	Total non-hour cost burden (yr) (\$)
			(a)	(b)	(a) × (b) = (c)
3	1824	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (undiscounted entity).	87	2,040	177,480
3	2824	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (small entity).	25	816	20,400
3	3824	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (micro entity).	3	408	1,224
Totals	.....	.....	2,614	.....	3,680,788

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 890 items will be submitted in the mail resulting in 9 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail legal flat rate envelope, will be \$10.15. Therefore, the USPTO estimates the total mailing costs for this information collection at \$91.

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. The 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, the 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. 2024–14917 Filed 7–5–24; 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; Trademark Submissions Regarding Correspondence and Regarding Attorney Representation

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 April 17, 2024 during a 60-day comment period (89 FR 27420). This notice allows for an additional 30 days for public comment.

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

Title: Trademark Submissions Regarding Correspondence and Regarding Attorney Representation.

OMB Control Number: 0651–0056.

Needs and Uses: The United States Patent and Trademark Office (USPTO) administers the Trademark Act (Act), 15 U.S.C. 1051 *et seq.*, which provides for the federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

Such individuals and businesses may also submit various communications to the USPTO regarding their pending applications or registered trademarks, including providing additional information needed to process a pending application, filing amendments to the application, or filing the papers necessary to keep a trademark in force.

In the majority of circumstances, individuals and businesses retain attorneys to handle these matters. As such, these parties may also submit communications to the USPTO regarding the appointment of attorneys to represent applicants or registrants in the application or post-registration processes or, in the case of applicants or registrants who are not domiciled in the United States, the appointment of domestic representatives on whom may be served notices of process in proceedings affecting the mark, the revocation of an attorney's or domestic representative's appointment, and requests for permission to withdraw from representation.

The regulations implementing the Act are set forth in 37 CFR part 2. Regulations regarding representation of others before the USPTO are also set forth in 37 CFR part 11. In addition to governing the registration of trademarks, the Act and regulations govern the appointment and revocation of attorneys and domestic representatives and provide the specifics for filing requests for permission to withdraw as the attorney of record. The information in

this information collection is available to the public.

This information collection covers various actions concerning the appointment and retention of attorneys and domestic representatives in trademark registrations. The information in this collection is also a matter of public record and is utilized by the public for a variety of private business purposes related to establishing and enforcing trademark rights.

Forms:

- PTO-2201 (Request for Withdrawal as Attorney of Record/Update of USPTO's Database After Power of Attorney Ends)
- PTO-2300 (Change Address or Representation Form)

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.

Frequency: On occasion.

Estimated Number of Annual

Respondents: 486,000 respondents.

Estimated Number of Annual

Responses: 486,000 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately between 15 minutes (0.25 hours) and 1 hour to complete. This includes the time to gather the necessary information, create the appropriate documents, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 156,650 hours.

Estimated Total Annual Respondent Non-Hourly Cost Burden: \$508.

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, 0651-0056.

Further information can be obtained by:

- *Email:* InformationCollection@uspto.gov. Include "0651-0056 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. 2024-14902 Filed 7-5-24; 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; Applications for Trademark Registration

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 April 24, 2024 during a 60-day comment period (89 FR 31143). This notice allows for an additional 30 days for public comment.

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

Title: Applications for Trademark Registration.

OMB Control Number: 0651-0009.

Needs and Uses: The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. 1051 *et seq.*, which provides for the federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO. Registered marks may remain on the register indefinitely, so long as the owner of the registration files the necessary maintenance documents.

This information collection addresses submissions required by the regulations at 37 CFR part 2 for initial applications regarding the registration of trademarks,

service marks, collective trademarks and service marks, collective memberships marks, and certification marks. Trademarks can be registered on either the Principal or Supplemental Register. The Trademark Act and rules mandate that each certificate of registration include the mark, the goods and/or services in connection with which the mark is used, ownership information, dates of use, and certain other information. The USPTO also provides similar information concerning pending applications. The register and pending application information may be accessed by an individual or by businesses to determine the availability of a mark. By accessing the USPTO's information, parties may reduce the possibility of initiating use of a mark previously adopted by another. The federal trademark registration process may thereby reduce the number of filings between both litigating parties and the courts.

Forms:

- PTO-1478 (Trademark/Service Mark Application, Principal Register)
- PTO-1479 (Trademark/Service Mark Form, Supplemental Register)
- PTO-1480 (Certification Mark Form, Principal Register)
- PTO-1481 (Collective Membership Mark Form, Principal Register)
- PTO-1482 (Collective Trademark/Service Mark Form, Principal Register)

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.

Frequency: On occasion.

Estimated Number of Annual

Respondents: 581,377 respondents.

Estimated Number of Annual

Responses: 581,377 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately between 45 minutes (0.75 hours) and 1 hour 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: 508,394 hours.

Estimated Total Annual Respondent Non-Hourly Cost Burden: \$166,906,580.

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, 0651–0009.

Further information can be obtained by:

- *Email:* InformationCollection@uspto.gov. Include “0651–0009 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.

Lisa Lawn,

Director, Records and Information Compliance Program Office, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2024–14907 Filed 7–5–24; 8:45 am]

BILLING CODE 3510–16–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; AmeriCorps Program Life Cycle Evaluation—Puerto Rico Bundled Evaluation

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled AmeriCorps Program Life Cycle Evaluation—Puerto Rico Bundled Evaluation for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by August 7, 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:

Copies of this ICR, with applicable supporting documentation, may be obtained by calling AmeriCorps, Dr. Jehyra M. Asencio Yace, 202–956–9736, or by email at jasencioyace@americorps.gov.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose 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

A 60-day Notice requesting public comment was published in the **Federal Register** on March 26, 2024 at 89 FR 20952, with a comment period ending May 28, 2024. No public comments were received from that Notice.

Title of Collection: AmeriCorps Program Life Cycle Evaluation—Puerto Rico Bundled Evaluation.

OMB Control Number: 3045–NEW.
Type of Review: New.

Respondents/Affected Public: Individuals and households (national service members, national service member alumni, community members), businesses and organizations (grantee and sponsor organization project director and staff, partner organization staff, non-supported organizations), and State, local, or Tribal governments (the Puerto Rico service commission staff).

Total Estimated Number of Annual Responses: 697 responses.

Total Estimated Number of Annual Burden Hours: 530 hours.

Abstract: The purpose of this evaluation is to provide insight on the context, implementation, and outcomes of 13 AmeriCorps-supported organizations in Puerto Rico with AmeriCorps State and National formula grants (funded through the Puerto Rico

service commission, Comisión de Voluntariado y Servicio Comunitario), as well as those that have both AmeriCorps State and National grants and AmeriCorps VISTA projects. The evaluation will also explore the effectiveness of evaluation capacity-building workshops to be provided to the bundle participants.

AmeriCorps will conduct a 15 month long bundled evaluation of grantees and sponsors in Puerto Rico. Bundling combines programs and projects in a similar place into a single evaluation. The bundled evaluation will use surveys, interviews, and focus groups with a wide range of stakeholders, including grantee and sponsor organization project directors and staff, national service members, national service member alumni, community members, partner organization staff, non-supported organizations, and the Puerto Rico service commission staff. This is a new information collection.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will

be available for public inspection on *regulations.gov*.

Mary Hyde,

Director, Office of Research and Evaluation.

[FR Doc. 2024–14795 Filed 7–5–24; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Adoption of Electric Vehicle Charging Stations Categorical Exclusion Under the National Environmental Policy Act

AGENCY: Defense Threat Reduction Agency (DTRA), Department of Defense (DoD).

ACTION: Notice of adoption of categorical exclusion.

SUMMARY: DTRA is adopting the Department of Energy's (DOE's) Electric Vehicle (EV) Charging Stations Categorical Exclusion (CE) under the National Environmental Policy Act (NEPA) to use in DTRA programs and funding opportunities administered by DTRA. This notice describes the categories of proposed actions for which DTRA intends to use DOE's CEs and describes the consultation between the agencies.

FOR FURTHER INFORMATION CONTACT: Ms. Sherry Davis, 703–767–7122, sherry.j.davis3.civ@mail.mil.

SUPPLEMENTARY INFORMATION:

I. Background

National Environmental Policy Act and Categorical Exclusions

The NEPA, as amended at 42 U.S.C. 4321–4347, requires all Federal agencies to assess the environmental impact of their actions. Congress enacted NEPA in order to encourage productive and enjoyable harmony between humans and the environment, recognizing the profound impact of human activity and the critical importance of restoring and maintaining environmental quality to the overall welfare of humankind (42 U.S.C. 4321, 4331). NEPA's twin aims are to ensure agencies consider the environmental effects of their proposed actions in their decision-making processes and inform and involve the public in that process (42 U.S.C. 4331). NEPA created the Council on Environmental Quality (CEQ), which promulgated NEPA implementing regulations, 40 CFR parts 1500 through 1508 (CEQ regulations).

To comply with NEPA, agencies determine the appropriate level of review—an Environmental Impact

Statement (EIS), Environmental Assessment (EA), or CE (42 U.S.C. 4336). If a proposed action is likely to have significant environmental effects, the agency must prepare an EIS and document its decision in a record of decision (42 U.S.C. 4336). If the proposed action is not likely to have significant environmental effects or the effects are unknown, the agency may instead prepare an EA, which involves a more concise analysis and process than an EIS (42 U.S.C. 4336). Following the EA, the agency may conclude the process with a finding of no significant impact if the analysis shows that the action will have no significant effects. If the analysis in the EA finds that the action is likely to have significant effects, however, then an EIS is required.

Under NEPA and the CEQ regulations, a Federal agency also can establish CEs—categories of actions that the agency has determined normally do not significantly affect the quality of the human environment—in their agency NEPA procedures (42 U.S.C. 4336(e)(1); 40 CFR 1501.4, 1507.3(e)(2)(ii), 1508.1(d)). If an agency determines that a CE covers a proposed action, it then evaluates the proposed action for extraordinary circumstances in which a normally excluded action may have a significant effect (40 CFR 1501.4(b)). If no extraordinary circumstances are present or if further analysis determines that the extraordinary circumstances do not involve the potential for significant environmental impacts, the agency may apply the CE to the proposed action without preparing an EA or EIS (42 U.S.C. 4336(a)(2), 40 CFR 1501.4). If the extraordinary circumstances have the potential to result in significant effects, the agency is required to prepare an EA or EIS.

Section 109 of NEPA, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to “adopt” or use another agency's CEs for a category of proposed agency actions (42 U.S.C. 4336(c)). To use another agency's CEs under section 109, an agency must identify the relevant CEs listed in another agency's (“establishing agency”) NEPA procedures that cover its category of proposed actions or related actions; consult with the establishing agency to ensure that the proposed adoption of the CE to a category of actions is appropriate; identify to the public the CE that the agency plans to use for its proposed actions; and document adoption of the CE.

This notice documents DTRA's adoption of DOE's Electric Vehicle Charging Stations CE under section 109 of NEPA to use in DTRA programs and

funding opportunities administered by DTRA Operating Administrations.

II. Identification of the Categorical Exclusion

DOE's EV Charging Stations CE

DOE's EV charging stations CE is codified in DOE's NEPA procedures at 10 CFR part 1021, subpart D, appendix B, B5.23. DOE provides clarification on the meaning of the phrase, “previously disturbed or developed” used in the CE B5.23 at 10 CFR 1021.410(g)(1).

The DOE CE also includes additional conditions referred to as integral elements at 10 CFR part 1021, subpart D, appendix B that should be considered in order to apply the CE.

Proposed DTRA Category of Actions

DTRA intends to apply this CE to any DTRA EV charging station project undertaken directly by DTRA, to any EV charger action requiring an approval by DTRA, or to any project that is financed in whole or in part through Federal funds made available by DTRA (including the National Electric Vehicle Infrastructure Formula Program or the Charging and Fueling Infrastructure Discretionary Grant Program).

The CE allows for the installation, modification, operation, and removal of EV charging stations. DTRA will consider each proposal for EV charging stations to ensure that the proposal is within the scope of the CE. DTRA intends to apply this CE in a manner consistent with DOE's application—to the same types of proposals (which have included a wide variety of locations on and off Federal property, differences in local conditions, various numbers of EV charging stations per proposal, and different types of equipment and technologies including Level 1, Level 2, and DC Fast Charging stations).

III. Consideration of Extraordinary Circumstances

When applying this CE, DTRA will evaluate the proposals to ensure evaluation of integral elements listed in the DOE's NEPA procedures at 10 CFR part 1021, subpart D, appendix B. In addition, when considering extraordinary circumstances, DTRA will consider whether the proposed action has the potential to result in significant effects as described at 10 CFR 1021.410(b)(2).

IV. Consultation With DOE and Determination of Appropriateness

DTRA and DOE consulted on the appropriateness of DTRA's adoption of the CE on September 26, 2023. DTRA and DOE's consultation included a review of DOE's experience developing

and applying the CE, as well as the types of actions for which DTRA plans to utilize the CE. These DTRA actions are very similar to the type of projects that DOE funds and therefore the impacts of DTRA projects will be very similar to the impacts of DOE projects, which are not significant, absent the existence of extraordinary circumstances that could involve potentially significant impacts. Therefore, DTRA has determined that its proposed use of the CE as described in this notice would be appropriate. Additional documentation of DOE and DTRA's consultation is available upon request.

V. Notice to the Public and Documentation of Adoption

This notice serves to identify to the public and document DTRA's adoption of DOE's CE for EV charging stations. The notice identifies the types of actions to which DTRA will apply the CE, as well as the considerations that DTRA will use in determining whether an action is within the scope of the CE.

Dated: July 2, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024-14911 Filed 7-5-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF ENERGY

RIN 1901-AB55

Request for Information Regarding the Advanced Technology Vehicles Manufacturing Loan Program; Reopening of Comment Period

AGENCY: Loan Programs Office, Department of Energy.

ACTION: Request for information ("RFI"); reopening of public comment period.

SUMMARY: The Loan Programs Office ("LPO") of the Department of Energy ("DOE") is seeking public input to inform its implementation of the Inflation Reduction Act of 2022 provisions relating to the Advanced Technology Vehicles Manufacturing Loan Program (the "ATVM Program"). On May 29, 2024, DOE published an RFI on these subjects. The RFI provided an opportunity for submitting written comments, data, and information no later than June 28, 2024. DOE received requests for an extension of the public comment period for an additional two weeks. DOE has reviewed these requests and is reopening the public comment period for 14 days to allow comments to be submitted.

DATES: The comment period for the RFI published on May 29, 2024 (89 FR 46378), which closed on June 28, 2024, is reopened. DOE will accept comments, data, and information regarding the RFI received no later than July 22, 2024.

ADDRESSES: Interested persons are encouraged to submit comments, identified by "ATVM Program RFI," by any of the following methods:

Email: lpofederalregistercomments@hq.doe.gov. Include "ATVM Program RFI" in the subject line of the message. Email attachments can be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, prepared in accordance with the detailed instructions in section III of the May 29, 2024 RFI, which can be found at: <https://www.federalregister.gov/d/2024-11723>.

Postal Mail: Loan Programs Office, Attn: LPO Legal Department, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585-0121. Please submit one signed original paper copy. Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT:

Steven Westhoff, Attorney-Adviser, Loan Programs Office, email: steven.westhoff@hq.doe.gov, or phone: (240) 220-4994.

SUPPLEMENTARY INFORMATION: On May 29, 2024, DOE published an RFI initiating a review to consider whether and how to amend DOE's ATVM Program regulations at 10 CFR part 611. 89 FR 46378. In the RFI, DOE identified certain programmatic and procedural issues on which it is interested in receiving comment. These issues include implementation of new categories of advanced technology vehicles and incorporation of community jobs and justice goals in the ATVM Program application process. The RFI set a comment period deadline of June 28, 2024.

Certain interested parties requested a two-week extension of the public comment period to respond appropriately to the RFI with considered comments regarding future implementation and administration of the ATVM Program. DOE anticipates that reopening the public comment period will enable additional stakeholders to submit valuable comments in response to the RFI.

DOE has determined that reopening the public comment period is appropriate to allow interested parties additional time to submit comments for

DOE's consideration. Thus, DOE is reopening the comment period for 14 days.

Signing Authority

This document of the Department of Energy was signed on July 1, 2024, by Jigar Shah, Executive Director, Loan Programs Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 1, 2024.

Treena V. Garrett,

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

[FR Doc. 2024-14778 Filed 7-5-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, July 31, 2024; 1-5 p.m. MDT.

ADDRESSES: Ohkay Owingeh Conference Center, 68 New Mexico 291, San Juan, New Mexico 87566. This hybrid meeting will be open to the public in person and via WebEx. To attend virtually, please contact the Northern New Mexico Citizens Advisory Board (NNMCAB) Executive Director (below) no later than 5 p.m. MDT on Friday, July 26, 2024.

FOR FURTHER INFORMATION CONTACT: Bridget Maestas, NNMCAB Executive Director, by Phone: (505) 709-7466 or Email: bridget.maestas@em.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and

recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on any EM program components.

Tentative Agenda:

- Presentations
- Agency Updates

Public Participation: The in-person/online virtual hybrid meeting is open to the public in person or virtually, via WebEx. Written statements may be filed with the Board no later than 5 p.m. MDT on Friday, July 26, 2024, or within seven days after the meeting by sending them to the NNM CAB Executive Director at the aforementioned email address. Written public comments received prior to the meeting will be read into the record. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit public comments should follow as directed above.

Minutes: Minutes will be available by emailing or calling Bridget Maestas, NNM CAB Executive Director, at bridget.maestas@em.doe.gov or at (505) 709-7466.

Signing Authority: This document of the Department of Energy was signed on July 1, 2024, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 2, 2024.

Treena V. Garrett,

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

[FR Doc. 2024-14850 Filed 7-5-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of an open virtual meeting.

SUMMARY: This notice announces an online virtual open meeting of the Environmental Management Advisory Board (EMAB). The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Tuesday, July 30, 2024; 2-4 p.m. EDT.

ADDRESSES: This meeting will be held virtually via Zoom. To attend, please register at: <https://www.energy.gov/em/listings/emab-meetings> and select "EMAB Meeting—July 2024."

FOR FURTHER INFORMATION CONTACT:

Kelly Snyder, Designated Federal Officer (DFO); email: kelly.snyder@em.doe.gov; telephone: (702) 918-6715.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of EMAB is to provide the Assistant Secretary for Environmental Management (EM) with independent advice and recommendations on corporate issues confronting the EM program. EMAB's membership reflects a diversity of views, demographics, expertise, and professional and academic experience. Individuals are appointed by the Secretary of Energy to serve as either special Government employees or representatives of specific interests and/or entities.

Tentative Agenda:

- Remarks from EM leadership
- Charge discussion and vote
- Reading of public comment
- Board business

Public Participation: The online virtual meeting is open to the public. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to provide a written public comment can email the comment to Kelly Snyder at Kelly.Snyder@em.doe.gov in advance of the meeting or up to three days after the meeting. If you require special accommodations due to a disability, please contact Kelly Snyder at least seven days in advance of the meeting at the email address listed above.

Minutes: Minutes will be available at the following website: <https://www.energy.gov/em/listings/emab-meetings>.

Signing Authority: This document of the Department of Energy was signed on July 1, 2024, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 2, 2024.

Treena V. Garrett,

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

[FR Doc. 2024-14841 Filed 7-5-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: The Department of Energy hereby publishes a notice of open meeting of the Secretary of Energy Advisory Board (SEAB). This meeting will be held virtually for members of the public and for SEAB members. The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, July 30, 2024; 12:30-2:45 p.m. EDT.

ADDRESSES: Virtual meeting for members of the public, Board members, Department of Energy (DOE) representatives, agency liaisons, and Board support staff. Registration is required by registering at the SEAB July 30 meeting page at: www.energy.gov/seab/seab-meetings.

FOR FURTHER INFORMATION CONTACT:

David Borak, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; email: seab@hq.doe.gov; telephone: (202) 586-5216.

SUPPLEMENTARY INFORMATION:

Background: The Board was established to provide advice and recommendations to the Secretary on the Administration's energy policies; the Department's basic and applied research and development activities; economic and national security policy;

and other activities as directed by the Secretary.

Purpose of the Meeting: SEAB will provide advice and recommendations to the Secretary of Energy on the Administration's energy policies.

Tentative Agenda: The tentative meeting agenda includes: roll call; remarks from the Department of Energy; discussion of a recommendation concerning powering Artificial Intelligence (AI) and data center infrastructure, discussion of a recommendation concerning the role of DOE in AI, and public comments. The meeting will conclude at approximately 2:45 p.m. Meeting materials can be found here: <https://www.energy.gov/seab/seab-meetings>.

Public Participation: The meeting is open to the public via a virtual meeting option. Individuals who would like to attend must register for the meeting here: <https://www.energy.gov/seab/seab-meetings>.

Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 15 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed three minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so via email, seab@hq.doe.gov, no later than 5:00 p.m. on Monday, July 29, 2024.

Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to David Borak, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, or email to: seab@hq.doe.gov.

Minutes: The minutes of the meeting will be available on the SEAB website or by contacting Mr. Borak. He may be reached at the postal address listed or email address, or by visiting SEAB's website at www.energy.gov/seab.

Signing Authority: This document of the Department of Energy was signed on July 1, 2024, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This

administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 2, 2024.

Treena V. Garrett,

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

[FR Doc. 2024-14843 Filed 7-5-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES:

Monday, July 29, 2024; 1–4:15 p.m. EDT.

Tuesday, July 30, 2024; 9 a.m.–4 p.m. EDT.

ADDRESSES: North Augusta Municipal Building, 100 Georgia Avenue, North Augusta, South Carolina 29841. The meeting will also be streamed on YouTube, no registration is necessary; links for the livestream can be found on the following website: <https://cab.srs.gov/srs-cab.html>.

FOR FURTHER INFORMATION CONTACT:

Amy Boyette, Office of External Affairs, U.S. Department of Energy (DOE), Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952-6120; or Email: amy.boyette@srs.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on any EM program components.

Tentative Agenda:

Monday, July 29, 2024:

Chair Update

Agency Updates

Subcommittee Updates

Program Presentations

Board Business
Public Comments

Tuesday, July 30, 2024:

Program Presentations

Public Comments

Board Business and Voting

Public Participation: The meeting is open to the public. To register for in-person attendance, please send an email to srscitizensadvisoryboard@srs.gov no later than 4 p.m. EDT on Thursday, July 25, 2024. The EM SSAB, Savannah River Site, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Amy Boyette at least seven days in advance of the meeting at the telephone number listed. Written statements may be filed with the Board via email either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should submit their request to srscitizensadvisoryboard@srs.gov. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. Comments will be accepted after the meeting, by no later than 4 p.m. EDT on Tuesday, August 6, 2024. Please submit comments to srscitizensadvisoryboard@srs.gov. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make oral public comments will be provided a maximum of five minutes to present their comments. Individuals wishing to submit written public comments should email them as directed above.

Minutes: Minutes will be available by emailing or calling Amy Boyette at the email address or telephone number listed above. Minutes will also be available at the following website: <https://cab.srs.gov/srs-cab.html>.

Signing Authority: This document of the Department of Energy was signed on July 1, 2024, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters

the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 2, 2024.

Treena V. Garrett,

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

[FR Doc. 2024-14842 Filed 7-5-24; 8:45 am]

BILLING CODE 6450-01-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: PR24-79-000.

Applicants: Atmos Energy Corporation, Kentucky/Mid-States Division (Tennessee).

Description: § 284.123(g) Rate Filing: Re-Filed Baseline and Updated Rates to be effective 6/27/2024.

Filed Date: 6/27/24.

Accession Number: 20240627-5176.

Comment Date: 5 p.m. ET 7/18/24.

§ 284.123(g) Protest: 5 p.m. ET 8/26/24.

Docket Numbers: PR24-80-000.

Applicants: Atmos Energy Corporation.

Description: Tariff Amendment: Notice of Cancellation of Statement of Operating Conditions to be effective 6/28/2024.

Filed Date: 6/27/24.

Accession Number: 20240627-5214.

Comment Date: 5 p.m. ET 7/18/24.

§ 284.123(g) Protest: 5 p.m. ET 8/26/24.

Docket Numbers: PR24-81-000.

Applicants: Columbia Gas of Ohio, Inc.

Description: § 284.123 Rate Filing: COH SOC Rates effective May 30 2024 to be effective 5/30/2024.

Filed Date: 6/27/24.

Accession Number: 20240627-5238.

Comment Date: 5 p.m. ET 7/18/24.

Docket Numbers: RP24-287-000.

Applicants: Northern Border Pipeline Company.

Description: Motion Filing: NBPL Rate Case—610 Motion to Place Suspended Records Into Effect July 1, 2024 to be effective 7/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5095.

Comment Date: 5 p.m. ET 7/10/24.

Docket Numbers: RP24-850-000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Volume No. 2—Venture Global Plaquemines LNG, LLC to be effective 7/1/2024.

Filed Date: 6/27/24.

Accession Number: 20240627-5225.

Comment Date: 5 p.m. ET 7/9/24.

Docket Numbers: RP24-851-000.

Applicants: MountainWest Overthrust Pipeline, LLC.

Description: § 4(d) Rate Filing: MWOP Operational Gas Sales and Purchases to be effective 8/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5031.

Comment Date: 5 p.m. ET 7/10/24.

Docket Numbers: RP24-852-000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agreements Update (Hartree 614700 615843 610670 July 2024) to be effective 7/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5070.

Comment Date: 5 p.m. ET 7/10/24.

Docket Numbers: RP24-853-000.

Applicants: Rockies Express Pipeline LLC.

Description: § 4(d) Rate Filing: REX 2024-06-28 Negotiated Rate Agreements to be effective 7/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5081.

Comment Date: 5 p.m. ET 7/10/24.

Docket Numbers: RP24-854-000.

Applicants: Wyoming Interstate Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (CLR TSA) to be effective 8/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5089.

Comment Date: 5 p.m. ET 7/10/24.

Docket Numbers: RP24-856-000.

Applicants: Natural Gas Pipeline Company of America LLC.

Description: § 4(d) Rate Filing: Amendment to Negotiated Rate Agreement—ConocoPhillips Company to be effective 7/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5139.

Comment Date: 5 p.m. ET 7/10/24.

Docket Numbers: RP24-857-000.

Applicants: Nautilus Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rates—Ridgewood KMS Holdings to be effective 7/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5142.

Comment Date: 5 p.m. ET 7/10/24.

Docket Numbers: RP24-858-000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Permanent Capacity Release—7/1/2024 to be effective 7/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5157.

Comment Date: 5 p.m. ET 7/10/24.

Docket Numbers: RP24-860-000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Non-Conforming—REA Project In-Service to be effective 7/30/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5169.

Comment Date: 5 p.m. ET 7/10/24.

Docket Numbers: RP24-861-000.

Applicants: Mountain Valley Pipeline, LLC.

Description: § 4(d) Rate Filing: Permanent Capacity Release—7/1/2024 to be effective 7/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5176.

Comment Date: 5 p.m. ET 7/10/24.

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: PR24-69-001.

Applicants: Intermountain Gas Company.

Description: § 284.123 Rate Filing: Amendment to Revised Statement of Operating Conditions to be effective 6/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5035.

Comment Date: 5 p.m. ET 7/12/24.

Docket Numbers: RP22-501-007.

Applicants: ANR Pipeline Company.

Description: Compliance filing: ANR Rate Case Motion to Place Period 2 Settlement Rates Into Effect to be effective 8/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5062.

Comment Date: 5 p.m. ET 7/10/24.

Docket Numbers: RP24-287-002.

Applicants: Northern Border Pipeline Company.

Description: Compliance filing: NBPL Rate Case—580 Compliance to Place Rates Into Effect to be effective 7/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5102.

Comment Date: 5 p.m. ET 7/10/24.

Any person desiring to protest in any of 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: June 28, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-14779 Filed 7-5-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01-5-000]

Electronic Tariff Filings; Notice of Deployment of eTariff Test Sandbox

Take notice that on June 28, 2024, the sandbox to make test filings under the new Version 2 XML schema as described in the June 11, 2024 Notice¹ was deployed. The test sandbox may be accessed by going to the current eTariff Sandbox page (<https://etariff.ferc.gov/TariffSandbox.aspx>) and clicking the Open Test Sandbox link at the top of the page. To access the test site directly go to <https://etariff.ferc.gov/TariffSandbox2.aspx>.

As described in the June 11 Notice, the test sandbox will allow eTariff filers to test filings with the applicant's name and tariff records submitted in Microsoft Word and Excel formats.

Dated: June 28, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-14776 Filed 7-5-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24-1676-001.

Applicants: MEMS Industrial Supply LLC.

Description: Tariff Amendment: Amendment to 1 to be effective 4/2/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5092.

Comment Date: 5 p.m. ET 7/19/24.

Docket Numbers: ER24-2292-001.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Amendment: Errata Filing to Correct Effective Date for Rate Schedule FERC No. 372 to be effective 5/30/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5069.

Comment Date: 5 p.m. ET 7/19/24.

Docket Numbers: ER24-2394-000.

Applicants: Cataract Coast, LLC, Aurora Trading Company, LLC, Venturi Asset Management, LLC.

Description: Baseline eTariff Filing: Cataract Coast, LLC submits tariff filing per 35.12: Cataract Coast LLC MBR Application Filing to be effective 6/28/2024.

Filed Date: 6/27/24.

Accession Number: 20240627-5237.

Comment Date: 5 p.m. ET 7/18/24.

Docket Numbers: ER24-2395-000.

Applicants: Aurora Trading Company, LLC.

Description: Tariff Amendment: EnerPenn USA LLC Notice of MBR Cancellation Filing to be effective 6/28/2024.

Filed Date: 6/27/24.

Accession Number: 20240627-5240.

Comment Date: 5 p.m. ET 7/18/24.

Docket Numbers: ER24-2396-000.

Applicants: Venturi Asset Management, LLC.

Description: Baseline eTariff Filing: Venturi Asset Management MBR Application Filing to be effective 6/28/2024.

Filed Date: 6/27/24.

Accession Number: 20240627-5243.

Comment Date: 5 p.m. ET 7/18/24.

Docket Numbers: ER24-2397-000.
Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Add the Winter Season Resource Adequacy Requirement to be effective 1/1/2025.

Filed Date: 6/28/24.

Accession Number: 20240628-5005.

Comment Date: 5 p.m. ET 7/19/24.

Docket Numbers: ER24-2398-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: GDECS Revisions to Tariff, OA and RAA re: Generation Interconnection Process to be effective 8/28/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5013.

Comment Date: 5 p.m. ET 7/19/24.

Docket Numbers: ER24-2399-000.

Applicants: Aurora Trading Company, LLC.

Description: Baseline eTariff Filing: Aurora Trading Company MBR Application Filing to be effective 6/28/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5037.

Comment Date: 5 p.m. ET 7/19/24.

Docket Numbers: ER24-2400-000.

Applicants: New York State Electric & Gas Corporation.

Description: § 205(d) Rate Filing: Rate Schedule FERC No. 87 Supplement to be effective 9/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5056.

Comment Date: 5 p.m. ET 7/19/24.

Docket Numbers: ER24-2401-000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of ISA, SA No. 5863; Queue No. AE2-249 to be effective 6/22/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5064.

Comment Date: 5 p.m. ET 7/19/24.

Docket Numbers: ER24-2402-000.

Applicants: MATL LLP.

Description: § 205(d) Rate Filing: Concurrence in NorthernGrid Funding Agreement to be effective 1/1/2024.

Filed Date: 6/28/24.

Accession Number: 20240628-5066.

Comment Date: 5 p.m. ET 7/19/24.

Docket Numbers: ER24-2403-000.

Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2024-06-28 SA 4305 ATC-City of Negunee CFA to be effective 8/28/2024.

¹ Electronic Tariff Filings, Docket No. RM01-5-000 (Jun. 11, 2024), <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=9182EDBA-3B38-CB62-9787-9008C6200000>.

Filed Date: 6/28/24.
Accession Number: 20240628–5068.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2404–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Notice of Cancellation of Rate Schedule No. 367 to be effective 5/30/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5072.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2405–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: RS 188—Revised Colstrip 1 & 2 Transmission Agreement to be effective 9/1/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5107.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2406–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 40 to be effective 8/27/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5110.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2407–000.
Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2024–06–28 SA 4306 METC–DTE E&P (J2673) to be effective 8/28/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5112.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2408–000.
Applicants: Duke Energy Florida, LLC, Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: Duke Energy Florida, LLC submits tariff filing per 35.13(a)(2)(iii): DEF—Revisions to Attachment J to Joint OATT (LGIP/LGIA) to be effective 9/1/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5113.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2409–000.
Applicants: Midcontinent Independent System Operator, Inc., International Transmission Company.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2024–06–28 SA 4307 ITCTransmission–DTE E&P (J1917) to be effective 8/28/2024.
Filed Date: 6/28/24.

Accession Number: 20240628–5118.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2410–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Initial Filing of Rate Schedule FERC No. 375 to be effective 5/30/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5137.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2411–000.
Applicants: Vermont Transco LLC.
Description: § 205(d) Rate Filing: 2024 Annual Exhibit A Information Filing for the 1991 Transmission Agreement to be effective 7/1/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5148.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2412–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: Tariff Amendment: Notice of Cancellation of Rate Schedule No. 355 to be effective 5/30/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5154.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2413–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 42 to be effective 8/27/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5158.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2414–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): Hawkinsville Solar LGIA Filing to be effective 6/14/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5177.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2415–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1276R34 Evergy Metro NITSA NOA to be effective 9/1/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5223.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2416–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: SA 968—Firm PTP TSA with Avista Corp. to be effective 8/30/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5226.

Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2417–000.
Applicants: New York Independent System Operator, Inc., Rochester Gas and Electric Corporation.
Description: § 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): NYISO–RG&E Joint 205: EPCA with Trelina Solar SA2844 to be effective 6/14/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5252.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2418–000.
Applicants: Sparta Energy, Inc.
Description: Baseline eTariff Filing: Sparta Energys MBR Application Filing to be effective 8/27/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5254.
Comment Date: 5 p.m. ET 7/19/24.
Docket Numbers: ER24–2424–000.
Applicants: Puget Sound Energy, Inc.
Description: § 205(d) Rate Filing: Service Agreement No. SA–5009 to be effective 6/1/2024.
Filed Date: 6/28/24.
Accession Number: 20240628–5274.
Comment Date: 5 p.m. ET 7/19/24.
 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: June 28, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-14773 Filed 7-5-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7153-018]

Consolidated Hydro New York, LLC; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 7153-018.

c. *Date filed:* April 29, 2022.

d. *Applicant:* Consolidated Hydro New York, LLC.

e. *Name of Project:* Victory Mills Hydroelectric Project (Victory Mills Project or project).

f. *Location:* On Fish Creek in Saratoga County in the Village of Victory, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Curtis Mooney, Manager, Regulatory Affairs, Patriot Hydro, LLC, 59 Ayers Island Road, Bristol, NH 03222, (603) 744-0846, or, Kevin Webb, Hydro Licensing Manager, Patriot Hydro, LLC, 670 N Commercial Street, Suite 204, Manchester, NH 03101, (603) 623-8222.

i. *FERC Contact:* Silvia Pineda-Munoz, silvia.pineda-munoz@ferc.gov, (202) 502-8388.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at <https://ferconline.ferc.gov/FEROnline.aspx>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866)

208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy via U. S. Postal Service to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Victory Mills Hydroelectric Project (P-7153-018).

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is ready for environmental analysis at this time.

l. *The Victory Mills Project consists of:*

(1) a dam that includes: (a) an approximately 150-foot-long concrete spillway varying in height from 4 to 6 feet with a crest elevation of 187.5 feet National Geodetic Vertical Datum of 1929 (NGVD29), and (b) a sluice gate section approximately 19 feet high and 40 feet long with four gated spillway bays, each with a sill elevation of 181 feet NGVD29 and containing a 7-foot-high by 8-foot-wide wooden timber gate; (2) a 4.3-acre reservoir with a gross storage capacity of approximately 18 acre-feet at the normal surface elevation of 187.5 feet NGVD29; (3) an intake channel feeding a 51-foot-long, 25-foot-high concrete intake structure; (4) an 8-foot-diameter, 300-foot-long steel penstock; (5) a 27-foot by 46-foot concrete powerhouse containing a single turbine-generator unit with an installed capacity of 1,656 kilowatts; (6) an approximately 30-foot-wide by 530-foot-long tailrace channel; (7) a 90-foot-long generator lead extending through the powerhouse to a transformer and then a 100-foot-long underground and a 20-foot-long aerial, 4.16-kilovolt transmission line to the point of interconnection; and (8) appurtenant facilities. There are no recreation facilities at the project. An average of 6,073 MWh is generated at the project annually.

The Victory Mills Project operates as a run-of-river facility with no storage or flood control capacity. A continuous

minimum bypassed reach flow of 36 cubic feet per second (cfs), or inflow, whichever is less, is maintained through operation of a sluice gate at the dam. The minimum hydraulic capacity for operating the turbine unit is 60 cfs, therefore, the minimum river flow needed for project operation is 96 cfs (36 cfs plus 60 cfs). When inflow at the project is less than 96 cfs, river flows are allowed to pass downstream through the bypassed reach. When the inflow exceeds the maximum hydraulic capacity of the project at 590 cfs, the impoundment level is permitted to rise over the spillway.

m. This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support.

All filings must (1) bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding in accordance with 18 CFR 4.34(b) and 385.2010.

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 at OPP@ferc.gov.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances

related to this or other pending projects. For assistance, contact FERC Online Support.

n. A license applicant must file no later than 60 days from the issuance date of this notice: (1) a copy of the

water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of a waiver of water quality certification.

o. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestones	Target date
Deadline for filing comments, recommendations, terms and conditions, and prescriptions	August 27, 2024.
Deadline for filing reply comments	October 11, 2024.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Dated: June 28, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-14777 Filed 7-5-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL24-114-000]

Mammoth North LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On June 28, 2024, the Commission issued an order in Docket No. EL24-114-000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Mammoth North LLC's (Mammoth North) proposed Rate Schedule is unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Mammoth North LLC*, 187 FERC ¶ 61,220 (2024).

The refund effective date in Docket No. EL24-114-000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register** or the date Mammoth North's proposed Rate Schedule becomes effective, whichever is later; provided, however, if the Rate Schedule does not become effective until after five months from the date of publication of the notice, the refund effective date shall be five months from the date of publication of the notice.

Any interested person desiring to be heard in Docket No. EL24-114-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2023), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

The Commission strongly encourages electronic filings of comments, protests, and interventions in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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: June 28, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-14775 Filed 7-5-24; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-11586-02-OW]

Deepwater Horizon Natural Resource Damage Assessment Florida Trustee Implementation Group Final Restoration Plan 3 and Environmental Assessment: Water Quality and Finding of No Significant Impact

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Deepwater Horizon (DWH) natural resource Trustees for the Florida Trustee Implementation Group (Florida TIG) have prepared the Final Restoration Plan 3 and Environmental Assessment: Water Quality (Final RP3/EA) and Finding of No Significant Impact (FONSI). The Final RP3/EA proposes alternatives to help restore water quality impacted by the DWH oil spill. The Final RP3/EA evaluates a reasonable range of thirteen project alternatives under the Oil Pollution Act (OPA), including criteria set forth in the OPA natural resource damage assessment (NRDA) regulations, and the National Environmental Policy Act (NEPA) and its implementing regulations. A no action alternative is also evaluated pursuant to the NEPA. In the Final RP3/EA the Florida TIG selects eleven project alternatives under the Water Quality Restoration Type for funding and implementation. The total estimated cost to implement the selected projects is approximately \$111.5 million. The purpose of this notice is to inform the public of the

availability of the Final RP3/EA and FONSI.

ADDRESSES: Obtaining Documents: You may view and download the Final RP3/EA and FONSI at <https://www.gulfspillrestoration.noaa.gov/restoration-areas/florida>. You may also request a flash drive containing the Final RP3/EA and FONSI (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT:

Sarah Ketron, Florida Department of Environmental Protection; telephone number: (850) 245-2167; email address: Sarah.Ketron@FloridaDEP.gov.

Tripp Boone, Environmental Protection Agency; telephone number: (228) 209-7555; email address: Boone.Tripp@epa.gov.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit Deepwater Horizon, which was drilling a well for BP Exploration and Production, Inc., experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in the release of millions of barrels of oil and other discharges into the Gulf. Under the authority of the OPA, designated Federal and State Trustees, acting on behalf of the public, assessed the injuries to natural resources and prepared the Deepwater Horizon Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), and the Record of Decision for the Deepwater Horizon Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement, which sets forth the governance structure and process for DWH restoration planning under the OPA NRDA regulations. On April 4, 2016, the United States District Court for the Eastern District of Louisiana entered a Consent Decree resolving civil claims by the trustees against BP.

The Florida TIG, which is composed of the State of Florida Department of Environmental Protection and the Fish and Wildlife Conservation Commission, the U.S. Environmental Protection Agency, the U.S. Department of the Interior, the National Oceanic and Atmospheric Administration, and the U.S. Department of Agriculture, selects and implements restoration projects under the Florida TIG's management authority in accordance with the Consent Decree. The Final PDARP/PEIS, Record of Decision, Consent Decree, and information on the DWH Trustees can

be found at <https://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>.

Background

On November 7, 2022, the Florida TIG issued a notice of solicitation on the Gulf Spill Restoration website requesting project ideas for the Water Quality Restoration Type as described in the Final PDARP/PEIS. On August 7, 2023, the Florida TIG announced on the Gulf Spill Restoration website that they reviewed project idea submissions and initiated drafting the RP3/EA which tiers from the Final PDARP/PEIS and would include a reasonable range of restoration project alternatives for the Water Quality Restoration Type.

The Florida TIG released the Draft RP3/EA for public review and comment on March 8, 2024, and published a Notice of Availability in the **Federal Register** (89 FR 16765). The comment period ran through April 8, 2024. To facilitate public understanding of the document, the Florida TIG held a webinar on March 27, 2024, during which public comments were solicited. After the public review period closed, the Florida TIG reviewed the comments received, prepared responses to those comments, finalized the RP3/EA, and prepared a FONSI.

Overview of the Florida TIG Final RP3/EA

In the Final RP3/EA, the Florida TIG analyzes a reasonable range of thirteen project alternatives and, pursuant to the NEPA, a no action alternative. Two of the alternatives analyzed are not preferred by the Florida TIG at this time. The eleven projects selected by the Florida TIG for funding and implementation are listed below:

1. Pensacola and Perdido Watersheds Microbial Source Tracking (Planning);
2. Pensacola Bay Unpaved Roads Initiative Phase 2 (Planning);
3. Carpenter Creek Hydrologic Restoration and Stormwater Improvements;
4. Hollice T. Williams Stormwater Park;
5. Gulf Breeze Septic to Sewer Conversion;
6. Santa Rosa County Septic to Sewer Conversion;
7. Choctawhatchee Bay Unpaved Roads Initiative;
8. Telogia Creek Watershed Water Quality Improvements;
9. Lower Suwannee National Wildlife Refuge Hydrologic Restoration Phase 2 (Planning);
10. Bond Farm Hydrologic Enhancement Impoundment; and

11. Bond Farm Hydrologic Enhancement Southwest Discharge Structure (Planning).

The total estimated cost to implement the eleven selected project alternatives is approximately \$111.5 million and will utilize funding from the Florida TIG's Water Quality Restoration Type. Additional restoration planning in the Florida TIG will continue.

Administrative Record

The Administrative Record for the Final RP3/EA can be viewed electronically at <https://www.doi.gov/deepwaterhorizon/adminrecord> under the folder 6.5.4.2.6.

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), its implementing NRDA regulations found at 15 CFR part 990, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), its implementing regulations found at 40 CFR parts 1500-1508.

Benita Best-Wong,

Deputy Assistant Administrator.

[FR Doc. 2024-14693 Filed 7-5-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPA-2008-0563; FRL 11803-01-OLEM]

Access by EPA Contractors to Information Claimed as Proprietary Business Information (PBI) Submitted Under the National Contingency Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of contractor access to proprietary business information.

SUMMARY: The Environmental Protection Agency (EPA) Office of Land and Emergency Management (OLEM), Office of Emergency Management (OEM) has authorized General Dynamics Information Technology, Inc. (GDIT) of Falls Church, VA to access information which has been submitted to EPA under the National Oil and Hazardous Substances Pollution Contingency Plan, and which may be claimed as proprietary business information (PBI). The information is related to the submission of an application for listing a product on the NCP Product Schedule or Sorbent Product List.

DATES: Comments must be received on or before August 7, 2024.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-

OPA–2008–0563, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.
- **Email:** Email your comments to a-and-r-Docket@epa.gov. Include Docket ID No. EPA–HQ–OPA–2008–0563 in the subject line of the message.
- **Mail:** U.S. Environmental Protection Agency, EPA Docket Center, Office of Land and Emergency Management Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- **Hand Delivery or Courier:** EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Beuthe, Office of Land and Emergency Management, Office of Emergency Management 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW; telephone number: (202) 566–1499; email address: beuthe.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OPA–2008–0563, at https://www.regulations.gov (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to

make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

II. General Information

A. Does this action apply to me?

This action is directed to the general public. This action may, however, be of interest to parties who submit an application for listing a product on the NCP Product Schedule or Sorbent Product List under subpart J of 40 CFR part 300.

Dated: June 12, 2024.

Patricia Gioffre,

Acting Deputy Director, Office of Emergency Management.

[FR Doc. 2024–14835 Filed 7–5–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX, OMB 3060–0636, OMB 3060–0804; FR ID 230199]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.” The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that

does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before August 7, 2024.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of

automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

OMB Control Number: 3060-xxxx.

Title: Section 9.10(s), Location-Based Routing for Wireless 911 Calls.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities.

Number of Respondents and

Responses: 59 respondents; 59 responses.

Estimated Time per Response: 40 hours.

Frequency of Response: One-time and on occasion reporting requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection is contained in sections 1, 2, 4(i), 4(j), 4(o), 251(e), 303(b), 303(g), 303(r), 316, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 154(o), 251(e), 303(b), 303(g), 303(r), 316, 403, and section 4 of the Wireless Communications and Public Safety Act of 1999, Public Law 106–81, sections 101 and 201 of the New and Emerging Technologies 911 Improvement Act of 2008, Public Law 110–283, and section 106 of the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, as amended 47 U.S.C. 615a, 615a–1, 615b, 615c.

Total Annual Burden: 2,360 hours.

Total Annual Cost: No Cost.

Needs and Uses: Technical limitations of legacy Enhanced 911 (E911) routing can result in a Commercial Mobile Radio Service (CMRS) provider routing a wireless 911 call to a Public Safety Answering Point (PSAP) other than the one designated by the relevant state or local 911 authority to receive calls from the actual location of the caller. To improve emergency response times, the Commission adopted rules and procedures to require CMRS providers to implement location-based routing (LBR) for wireless 911 voice calls and real-time text (RTT) communications to 911 nationwide. With location-based routing as implemented under the Commission’s rules, CMRS providers will use precise location information to route wireless 911 voice calls and RTT communications to 911 to the appropriate public safety answering point. To facilitate the implementation

of location-based routing for wireless 911 voice calls and RTT communications to 911, and to monitor compliance, promote transparency, and ensure accountability, the Commission adopted certain information collection requirements.

Certification and reporting. The Commission will use the information collected pursuant to section 9.10(s)(4) that is submitted by the CMRS providers in their compliance certifications, including technologies and methodologies used, and live call data reports to assess and monitor the implementation of LBR for wireless 911 voice calls and RTT communications to 911 call centers nationwide. Also, the Commission would use the data generated by the information collections to analyze the effectiveness of the LBR implementation at the benchmark dates set forth in the rules. In addition, it is imperative that CMRS providers ensure the privacy and security of location-based routing information.

Section 9.10(s)(4) requires that within 60 days after each benchmark specified in paragraphs (s)(1)(i), (ii), and (2) of section 9.10 of the rules, CMRS providers must comply with the following certification and reporting requirements.

Under section 9.10(s)(4)(i)(A), CMRS providers must certify that they are in compliance with the requirements specified in paragraphs (s)(1)(i), (ii), and (2) of this section applicable to them.

Under section 9.10(s)(4)(i)(B), CMRS providers must identify specific network architecture, systems, and procedures used to comply with paragraphs (s)(1)(i), (ii), and (2) of this section, including the extent to which the CMRS provider validates location information for routing purposes and the validation practices used in connection with this information.

Under section 9.10(s)(4)(i)(C), CMRS providers must certify that neither they nor any third party they rely on to obtain location information or associated data used for compliance with paragraphs (s)(1)(i), (ii), or (2) of this section will use such location information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law. The certification must state that the CMRS provider and any third parties it relies on to obtain location information or associated data used for compliance with paragraphs (s)(1)(i), (ii), or (2) of this section have implemented measures sufficient to safeguard the privacy and security of such location information or associated data.

Under section 9.10(s)(4)(ii)(A), CMRS providers must collect and report aggregate data on the routing technologies used for all live wireless 911 voice calls in the locations specified for live 911 call location data in paragraph (i)(3)(ii) of this section for a thirty-day period which begins on the compliance date(s) specified in paragraphs (s)(1)(i) and (ii) of this section. CMRS providers must retain live wireless 911 voice call data gathered pursuant to this section for a period of 2 years. CMRS providers must collect and report the following data, expressed as both a number and percentage of the total number of live wireless 911 voice calls for which data is collected pursuant to this section.

Under section 9.10(s)(4)(ii)(A)(1), CMRS providers must collect and report the data, expressed as both a number and percentage of the total number of live wireless 911 voice calls for which data is collected pursuant to this section, for live wireless 911 voice calls routed with location-based routing using location information that meets the timeliness and accuracy thresholds defined in paragraph (s)(3)(i)(A) and (B) of this section.

Under section 9.10(s)(4)(ii)(A)(2), CMRS providers must collect and report the data, expressed as both a number and percentage of the total number of live wireless 911 voice calls for which data is collected pursuant to this section, for live wireless 911 voice calls routed with location-based routing using location information that does not meet the timeliness or accuracy thresholds defined in paragraph (s)(3)(i)(A) and (B) of this section.

Under section 9.10(s)(4)(ii)(A)(3), CMRS providers must collect and report the data, expressed as both a number and percentage of the total number of live wireless 911 voice calls for which data is collected pursuant to this section, for live wireless 911 voice calls routed using tower-based routing.

Modification of deadlines by agreement. To monitor compliance dates agreed to between CMRS providers and PSAPs that are different from the compliance dates established by the new rules, section 9.10(s)(5) establishes notification requirements for CMRS providers related to any modification of deadlines between the PSAPs and CMRS providers by mutual agreement. Nothing in this section of the rules shall prevent PSAPs and CMRS providers from establishing, by mutual consent, deadlines different from those established for CMRS provider compliance in paragraphs (s)(1)(i), (ii), and (2) of this section. The CMRS provider must notify the Commission of

the dates and terms of the alternate time frame within 30 days of the parties' agreement or by June 12, 2024, whichever is later. The CMRS provider must subsequently notify the Commission of the actual date by which it comes into compliance with the location-based routing requirements in paragraphs (s)(1)(i), (ii), or (2) of section 9.10 within 30 days of that date or by June 12, 2024, whichever is later. The CMRS providers must file any such notifications pursuant to this paragraph (s)(5) in PS Docket No. 18–64.

OMB Control Number: 3060–0636.

Title: Sections 2.906, 2.909, 2.1071, 2.1074, 2.1077 and 15.37, Equipment Authorizations—Supplier's Declaration of Conformity (SDoC).

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 8,500 respondents; 17,000 responses.

Estimated Time per Response: 1–18 hours (average).

Frequency of Response: One-time reporting requirement, recordkeeping requirement and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 301, 302a, 303, 309(j), 312, 403, 503, and the Secure Equipment Act of 2021, Public Law 117–55, 135 Stat. 423.

Total Annual Burden: 161,500 hours.

Total Annual Cost: \$17,000,000.

Needs and Uses: The Commission will submit this revised information collection to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the full three year clearance from them.

In 2022, the Supplier's Declaration of Conformity (SDOC) procedure were revised in a Report and Order, FCC 22–84 (88 FR 7592, February 6, 2023). Revisions to the information collection included amendments to rule sections 2.906 and 2.909 as reported herein, therefore, the eligibility restrictions resulted in fewer applicants but the continued growth in participation in the program resulted in a re-adjustment of applicants which supports program changes and adjustments.

§ 2.906 Supplier's Declaration of Conformity

(a) Supplier's Declaration of Conformity (SDoC) is a procedure where the responsible party, as defined in § 2.909, makes measurements or completes other procedures found

acceptable to the Commission to ensure that the equipment complies with the appropriate technical standards and other applicable requirements. Submittal to the Commission of a sample unit or representative data demonstrating compliance is not required unless specifically requested pursuant to § 2.945.

(b) Supplier's Declaration of Conformity is applicable to all items subsequently marketed by the manufacturer, importer, or the responsible party that are identical, as defined in § 2.908, to the sample tested and found acceptable by the manufacturer.

(c) The responsible party may, if it desires, apply for Certification of a device subject to the Supplier's Declaration of Conformity. In such cases, all rules governing certification will apply to that device.

(d) Notwithstanding other parts of this section, equipment otherwise subject to the Supplier's Declaration of Conformity process that is produced by any entity identified on the Covered List, established pursuant to § 1.50002 of this chapter, as producing covered communications equipment is prohibited from obtaining equipment authorization through that process. The rules governing certification apply to authorization of such equipment.

§ 2.909 Responsible Party

(a) In the case of equipment that requires the issuance of a grant of certification, the party to whom that grant of certification is issued is responsible for the compliance of the equipment with the applicable technical and other requirements. If any party other than the grantee modifies the radio frequency equipment and that party is not working under the authorization of the grantee pursuant to § 2.929(b), the party performing the modification is responsible for compliance of the product with the applicable administrative and technical provisions in this chapter.

(b) For equipment subject to Supplier's Declaration of Conformity the party responsible for the compliance of the equipment with the applicable standards, who must be located in the United States (see § 2.1077), is set forth as follows:

(1) The manufacturer or, if the equipment is assembled from individual component parts and the resulting system is subject to authorization under Supplier's Declaration of Conformity, the assembler.

(2) If the equipment by itself, or, a system is assembled from individual parts and the resulting system is subject

to Supplier's Declaration of Conformity and that equipment or system is imported, the importer.

(3) Retailers or original equipment manufacturers may enter into an agreement with the responsible party designated in paragraph (b)(1) or (b)(2) of this section to assume the responsibilities to ensure compliance of equipment and become the new responsible party.

(4) If the radio frequency equipment is modified by any party not working under the authority of the responsible party, the party performing the modifications, if located within the U.S., or the importer, if the equipment is imported subsequent to the modifications, becomes the new responsible party.

(c) If the end product or equipment is subject to both certification and Supplier's Declaration of Conformity (*i.e.*, composite system), all the requirements of paragraphs (a) and (b) apply.

(d) If, because of modifications performed subsequent to authorization, a new party becomes responsible for ensuring that a product complies with the technical standards and the new party does not obtain a new equipment authorization, the equipment shall be labeled, following the specifications in § 2.925(d), with the following: "This product has been modified by [insert name, address and telephone number or internet contact information of the party performing the modifications]."

(e) In the case of transfer of control of equipment, as in the case of sale or merger of the responsible party, the new entity shall bear the responsibility of continued compliance of the equipment.

OMB Control Number: 3060–0804.

Title: Universal Service—Rural Health Care Program.

Form Numbers: FCC Forms 460, 461, 462, 463, 465, 466, 467, and 469.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal governments.

Number of Respondents and Responses: 12,854 unique respondents; 117,071 responses.

Estimated Time per Response: 0.30–17 hours.

Frequency of Response: On occasion, one-time, annual, and monthly reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in sections 1–4, 201–205, 214, 254, 303(r), and 403 of the Communications Act of 1934, as

amended, 47 U.S.C. 151–154, 201–205, 214, 254, 303(r), and 403, unless otherwise noted.

Total Annual Burden: 442,389 hours.

Total Annual Cost: No Cost.

Needs and Uses: The Commission seeks OMB approval of a revision of this information collection as a result of the *2023 Promoting Telehealth Third Report and Order*, FCC 23–110, rel. December 14, 2023 (*2023 Third Report and Order*) (89 FR 1834, January 11, 2024). This collection is utilized for the RHC support mechanism of the Commission's universal service fund (USF). The collection of this information is necessary so that the Commission and the Universal Service Administrative Company (USAC) will have sufficient information to determine if entities are eligible for funding pursuant to the RHC universal service support mechanism, to determine if entities are complying with the Commission's rules, and to promote program integrity. This information is also necessary in order to allow the Commission to evaluate the extent to which the RHC Program is meeting the statutory objectives specified in section 254(h) of the 1996 Act, and the Commission's performance goals for the RHC Program.

This information collection is being revised to: (1) extend some of the existing information collection requirements for the Healthcare Connect Fund and Telecom Programs; (2) revise some of the information collection requirements for the Healthcare Connect Fund and Telecom Programs as a result of the *2023 Third Report and Order*; and (3) add a new information collection requirement for the Healthcare Connect Fund and Telecom Programs as a result of the *2023 Third Report and Order*. As part of this information collection, the Commission is also revising the FCC Form 460 Template, the FCC Form 461 Template, the FCC Form 465 Template, the FCC Form 466 Template, and the Post-Commitment Template. We propose to make changes to the Post-Commitment Template effective funding year 2024. We propose to make changes to the FCC Form 460 Template, the FCC Form 461 Template, the FCC Form 465 Template, and the FCC Form 466 Template effective funding year 2025. The FCC Form 467 and Telecom Invoice Form will not be used after funding year 2023.

As part of this information collection, the Commission is harmonizing the RHC Program eligibility determination process by using the FCC Form 460 for eligibility determinations in both the Telecom Program and the HCF Program, eliminating the eligibility determination

portion from FCC Form 465, which was previously used for eligibility determinations in the Telecom Program. The FCC Form 460 will also be amended to seek information applicable to conditional approvals of eligibility, which will enable health care providers to engage in competitive bidding and request funding (but not receive disbursements) before they become eligible. Additionally, the FCC Form 466 will be amended effective to reflect a streamlined process for calculating urban rates. Finally, the information collection will be updated to allow health care providers to update the time period covered by evergreen contract designations.

The Healthcare Connect Fund Program currently includes FCC Forms 460, 461, 462, and 463. Effective funding year 2024, the Telecom Program includes FCC Forms 465, 466, and 469 and will include the FCC Form 460 starting in funding year 2025. The information on the FCC Form templates is a representative description of the information to be collected via an online portal and is not intended to be a visual representation of what each applicant or service provider will see, the order in which they will see information, or the exact wording or directions used to collect the information. Where possible, information already provided by applicants from previous filing years or that was pre-filed in the system portal will be carried forward and auto-generated into the form to simplify the information collection for applicants.

Federal Communications Commission.

Aleta Bowers,

Information Management Specialist, Office of the Secretary.

[FR Doc. 2024–14852 Filed 7–5–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0149; FR ID 230200]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (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. 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.

DATES: Written PRA comments should be submitted on or before September 6, 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.

OMB Control Number: 3060–0149.

Title: Part 63, Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17–84, FCC 18–74.

Form Number(s): N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents and Responses: 80 respondents; 88 responses.

Estimated Time per Response: 6–62 hours.

Frequency of Response: One-time reporting requirement and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 214 and section 402 of the

Communications Act of 1934, as amended.

Total Annual Burden: 1,096 hours.
Total Annual Cost: \$27,900.

Needs and Uses: The Commission is seeking the Office of Management and Budget (OMB) approval for an extension of a currently approved collection to OMB. The Commission will submit this information collection to OMB after this 60-day comment period. Section 214 of the Communications Act of 1934, as amended, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communications; or (2) discontinue, reduce or impair service over a line of communications. Part 63 of title 47 of the Code of Federal Regulations (CFR) implements section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video which was approved under this OMB Control Number 3060–0149. In 2009, the Commission modified part 63 to extend to providers of interconnected Voice of internet Protocol (VoIP) service the discontinuance obligations that apply to domestic non-dominant telecommunications carriers under section 214 of the Communications Act of 1934, as amended. In 2014, the Commission adopted improved administrative filing procedures for domestic transfers of control, domestic discontinuances and notices of network changes, and among other adjustments, modified part 63 to require electronic filing for applications for authorization to discontinue, reduce, or impair service under section 214(a) of the Act.

In July 2016, the Commission concluded that applicants seeking to discontinue a legacy time division multiplexing (TDM)-based voice service as part of a transition to a new technology, whether internet Protocol (IP), wireless, or another type (technology transition discontinuance application) must demonstrate that an adequate replacement for the legacy service exists in order to be eligible for streamlined treatment and revised part 63 accordingly. The Commission concluded that an applicant for a technology transition discontinuance may demonstrate that a service is an adequate replacement for a legacy voice service by certifying or showing that one or more replacement service(s) offers all of the following: (i) Substantially similar levels of network infrastructure and service quality as the applicant service; (ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications

for individuals with disabilities remain available; and (iii) interoperability and compatibility with an enumerated list of applications and functionalities determined to be key to consumers and competitors (the “adequate replacement test”).

In June 2018, the Commission further modified the rules applicable to section 214(a) discontinuance applications. First, all carriers, whether dominant or non-dominant, that seek approval to grandfather data services below speeds of 25 Mbps download speed and 3 Mbps upload speed are now subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days. Second, all carriers, whether dominant or nondominant, seeking authorization to discontinue data services below speeds of 25 Mbps download speed and 3 Mbps upload speed that have previously been grandfathered for a period of at least 180 days are subject to a uniform reduced public comment period of 10 days and an automatic grant period of 31 days, provided they submit a statement as part of their discontinuance application that they have received Commission authority to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application. This statement must reference the file number of the prior Commission authorization to grandfather the services the carrier now seeks to permanently discontinue. Third, carriers are no longer required to file an application to discontinue, reduce, or impair any service for which it has had no customers and no request for service for at least a 30-day period immediately preceding the discontinuance. Fourth, all carriers, whether dominant or nondominant, that seek approval to discontinue legacy voice service can obtain further streamlined processing with a public comment period of 15 days and an automatic grant period of 31 days, provided (1) they offer a standalone interconnected VoIP service throughout the service area, and (2) at least one alternative stand-alone, facilities-based voice service is available from an unaffiliated provider throughout the affected service area (the “alternative options test”). Finally, all carriers, whether dominant or nondominant, that seek approval to grandfather legacy voice service are now subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days.

Federal Communications Commission.

Aleta Bowers,

Information Management Specialist, Office of the Secretary.

[FR Doc. 2024–14845 Filed 7–5–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, July 11, 2024, 10:00 a.m.

PLACE: Hybrid meeting: 1050 First Street NE, Washington, DC (12th Floor) and virtual.

STATUS: The July 11, 2024 Open Meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer. Telephone: (202) 694–1220.

Individuals who plan to attend in person and who require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Laura E. Sinram, Secretary and Clerk, at (202) 694–1040 or secretary@fec.gov, at least 72 hours prior to the meeting date.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2024–14979 Filed 7–3–24; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Performance Review Board Members

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The Federal Maritime Commission is hereby giving notice of the names of the members appointed to the Commission’s Performance Review Board. The function of the Board is to make recommendations to the appropriate appointing authority relating to the performance of senior executives in the agency.

FOR FURTHER INFORMATION CONTACT: Courtney Killion, Director, Office of Human Resources, Chief Human Capital Officer, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573; Phone: (202) 523–5773.

SUPPLEMENTARY INFORMATION: Sections 4314(c)(1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards.

The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

The members of the Performance Review Board are:

1. Carl W. Bentzel, Commissioner
2. Mary T. Hoang, Chief of Staff
3. Lucille L. Marvin, Managing Director
4. Phillip C. Hughey, General Counsel
5. John G. Crews, Director, Bureau of Enforcement, Investigations & Compliance
6. Cindy R. Hennigan, Deputy Managing Director
7. Mohammad A. Usman, Chief Information Officer

David Eng,
Secretary.

[FR Doc. 2024-14876 Filed 7-5-24; 8:45 am]

BILLING CODE 6730-02-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than July 23, 2024.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521. Comments can also be sent electronically to Comments.applications@phil.frb.org:

1. *Kenneth R. Lehman, Fort Lauderdale, Florida*; to retain voting shares of Freedom Financial Holdings, Inc., and thereby indirectly retain voting shares of The Freedom Bank of Virginia, both of Fairfax, Virginia.

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2024-14909 Filed 7-5-24; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-1696]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice, correction.

SUMMARY: On June 25, 2024, CMS published a notice in the **Federal Register** that sought comment on a collection of information concerning CMS-1696 (OMB control number 0938-0950) entitled "Appointment of Representative and Supporting Regulations in 42 CFR 405.910." The CMS number identifying the aforementioned information collection request in incorrectly listed in the Document Identifier section of the notice. This document corrects the error.

FOR FURTHER INFORMATION CONTACT: William N. Parham, III, (410) 786-4669.

SUPPLEMENTARY INFORMATION:

I. Background

In the June 25, 2024, issue of the **Federal Register** (89 FR 53107), we published a Paperwork Reduction Act notice requesting a 30-day public comment period for the information

collection request identified under CMS-1696, OMB control number 0938-0950, and titled "Appointment of Representative and Supporting Regulations in 42 CFR 405.910."

II. Explanation of Error

In the June 25, 2024, notice, the CMS number is incorrect. The incorrect language is on located at the bottom of the right column on page 53107, beginning of the **Federal Register** notice "Document Identifiers: CMS-1694." All of the other information contained in the June 25, 2024, notice is correct and remains unchanged. The related public comment period remains in effect and ends July 25, 2024.

III. Correction of Error

In FR Doc. 2024-13891 of June 25, 2024 (89 FR 53107), page 53107, the language at the bottom of the right column beginning with "[Document Identifiers: CMS-1694" and ending "and CMS-R-246]", is corrected to read as follows:

[Document Identifiers: CMS-1696 and CMS-R-246]

William N. Parham, III,
Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024-14772 Filed 7-5-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS-10137, CMS-10170 and CMS-10156]

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 September 6, 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-10137 Solicitation for Applications for Medicare Prescription Drug Plan 2026 Contracts
CMS-10170 Retiree Drug Subsidy Payment Request and Instructions
CMS-10156 Retiree Drug Subsidy (RDS) Application and Instructions
Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain

approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection*
Request: Revision of a currently approved collection; *Title of Information Collection:* Solicitation for Applications for Medicare Prescription Drug Plan 2026 Contracts; *Use:* Coverage for the prescription drug benefit is provided through contracted prescription drug plans (PDPs) or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA-PD plans). Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Waiver Plans (EGWP) may also provide a Part D benefit. Organizations wishing to provide services under the Prescription Drug Benefit Program must complete an application, negotiate rates, and receive final approval from CMS. Existing Part D Sponsors may also expand their contracted service area by completing the Service Area Expansion (SAE) application.

Collection of this information is mandated in Part D of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) in Subpart 3. The application requirements are codified in Subpart K of 42 CFR 423 entitled "Application Procedures and Contracts with PDP Sponsors."

The information will be collected under the solicitation of proposals from PDP, MA-PD, Cost Plan, Program of All-Inclusive Care for the Elderly (PACE), and EGWP applicants. The collected information will be used by CMS to: (1) ensure that applicants meet CMS requirements for offering Part D plans (including network adequacy, contracting requirements, and compliance program requirements, as described in the application), (2) support the determination of contract awards. *Form Number:* CMS-10137

(OMB control number: 0938-0936); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other for-profits and Not for profits institution; *Number of Respondents:* 821; *Number of Responses:* 424; *Total Annual Hours:* 1,809. (For policy questions regarding this collection contact April Forsythe at 410-786-8493.)

2. *Type of Information Collection*
Request: Revision of a currently approved collection; *Title of Information Collection:* Retiree Drug Subsidy Payment Request and Instructions; *Use:* Under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and implementing regulations at 42 CFR part 423 subpart R plan sponsors (e.g., employers, unions) who offer prescription drug coverage meeting specified criteria to their qualified covered retirees are eligible to receive a 28% subsidy for allowable drug costs, through the Retiree Drug Subsidy (RDS) Program. Section 423.886 describes the payment methods, including the provision of necessary information. The information provided in the payment request provides CMS with the information needed to pay RDS sponsors the subsidy.

The application process for the RDS is a completely electronic process (100%). The basis for the decision for adopting this means of collection was to maximize efficiency. The only instance when hard copy/paper applications can be submitted is when the RDS Center is experiencing technical difficulties. The Plan Sponsor completes and submits the RDS application (including the Plan Sponsor's Authorized Representative's electronic signature) on-line, via the secure RDS Secure website, which is accessed at <https://www.rds.cms.hhs.gov>. *Form Number:* CMS-10170 (OMB control number: 0938-0977); *Frequency:* Yearly; *Affected Public:* Private; Business or other for-profits, and Not-for Profits; *Number of Respondents:* 1,245; *Number of Responses:* 1,245; *Total Annual Hours:* 187,995. (For questions regarding this collection, contact Ivan Iveljic at 410-786-3312 or Ivan.iveljic@cms.hhs.gov.)

3. *Type of Information Collection*
Request: Revision of a currently approved collection; *Title of Information Collection:* Retiree Drug Subsidy (RDS) Application and Instructions; *Use:* Under § 1860D-22 of the Social Security Act (Act), added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) and implementing regulations at 42 CFR part 423 subpart R, Plan Sponsors (e.g., employers or unions) who offer prescription drug

coverage to their qualified covered retirees are eligible to receive a 28% subsidy for allowable drug costs.

CMS has contracted with an outside vendor to assist in the administration of the RDS program; this effort is called the RDS Center. Plan Sponsors will apply on-line for the retiree drug subsidy by logging on to the RDS Secure website. 42 CFR 423.844 describes the requirement for qualified retiree prescription drug plans who want to receive the retiree drug subsidy. Once the Plan Sponsor submits the RDS application via the RDS Secure website (and a valid initial retiree list) CMS, using its contractor, will analyze the application to determine whether the Plan Sponsor qualifies for the RDS. To qualify for the subsidy, the Plan Sponsor must show that its coverage is as generous as, or more generous than, the defined standard coverage under the Medicare Part D prescription drug benefit. The information within the application includes sponsor account registration information, plan information, benefit options under the plan, actuarial information and actuarial attestation. The RDS center has various checks within each section of the application. Applications can be denied if issues cannot be resolved.

Form Number: CMS–10170 (OMB control number: 0938–0977); *Frequency:* Yearly; *Affected Public:* Private Sector; Business or other for-profits, and Not-for Profits; *Number of Respondents:* 1,245; *Number of Responses:* 1,245; *Total Annual Hours:* 79,680. (For questions regarding this collection, contact Ivan Iveljic at 410–786–3312 or Ivan.iveljic@cms.hhs.gov.)

William N. Parham, III,
Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.
[FR Doc. 2024–14825 Filed 7–5–24; 8:45 am]
BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: State Maternal Health Innovation Maternal Health Annual Report

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than September 6, 2024.

ADDRESSES: Submit your comments to paperwork@hrsa.gov or mail the HRSA Information Collection Clearance Officer, Room 14N39, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email paperwork@hrsa.gov or call Joella Roland, the HRSA Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: State Maternal Health Innovation Maternal Health Annual Report, OMB No. 0906–xxxx–New.

Abstract: The State Maternal Health Innovation (MHI) program is authorized by 42 U.S.C. 701(a)(2) (title V, sec. 501(a)(2) of the Social Security Act), which authorizes awards for special projects of regional and national significance in maternal and child health. Special projects of regional and national significance support HRSA’s mission to improve the health and well-being of America’s mothers, children, and families. HRSA directly funds states to implement maternal health innovation projects. The Maternal Health Annual Report will be completed by all grantees who receive funding under the program.

Need and Proposed Use of the Information: HRSA will use the information to monitor grantees’ progress in accessing, analyzing, and using state-level maternal health data and to summarize the data focused work that grantees accomplish.

Likely Respondents: Recipients of the HRSA State MHI grants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, and provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information. It also includes training personnel to be able to respond to the information collection, to search data sources, to complete and review, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Maternal Health Annual Report (MHAR): Respondents (Medical and Health Services Managers)	30	1	30	12	360
Total	30	.....	30	.....	360

HRSA specifically requests comments on: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024-14790 Filed 7-5-24; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Human Research Protections

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP) will hold a meeting that will be open to the public. Information about SACHRP, the full meeting agenda, and instructions for linking to public access will be posted on the SACHRP website at <https://www.hhs.gov/ohrp/sachrp-committee/meetings/index.html>.

DATES: The meeting will be held on Tuesday, July 23, 2024 from 11:00 a.m. until 4:00 p.m., and Wednesday, July 24, 2024, from 11:00 a.m. until 4:00 p.m. (times are tentative and subject to change). The confirmed times and agenda will be posted on the SACHRP website as this information becomes available.

ADDRESSES: This meeting will be held via webcast. Members of the public may also attend the meeting via webcast. Instructions for attending via webcast will be posted at least one week prior to the meeting at <https://www.hhs.gov/ohrp/sachrp-committee/meetings/index.html>.

FOR FURTHER INFORMATION CONTACT: Julia Gorey, J.D., Executive Director, SACHRP; U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852; telephone: 240-453-8141; fax: 240-453-6909; email address: SACHRP@hhs.gov.

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services, through the Assistant Secretary for Health, on issues and topics pertaining to or associated with the protection of human research subjects.

The Subpart A Subcommittee (SAS) was established by SACHRP in October 2006 and is charged with developing recommendations for consideration by SACHRP regarding the application of subpart A of 45 CFR part 46 in the current research environment.

The Subcommittee on Harmonization (SOH) was established by SACHRP at its July 2009 meeting and charged with identifying and prioritizing areas in which regulations and/or guidelines for human subjects research adopted by various agencies or offices within HHS would benefit from harmonization, consistency, clarity, simplification and/or coordination.

The SACHRP meeting will open to the public at 11:00 a.m., on Tuesday, July 23, 2024, followed by opening remarks from Julie Kaneshiro, Acting Director of OHRP and Dr. Douglas Diekema, SACHRP Chair. The meeting will begin with a discussion of the draft recommendation, Ethical and Regulatory Considerations for the Inclusion of LGBTQI+ Populations in HHS Human Subjects Research. This topic is a continuation of the discussion and speaker panel presented at the October 2023 SACHRP. This will be followed by discussion of Considerations for Uninformative Research. OHRP will also provide an update on planned changes to the structure and operation of SACHRP's subcommittees. The first day will adjourn at approximately 4:00 p.m. The second day of the meeting, July 24, will begin at 11:00 with a continued discussion of the previous day's topics. Other topics may be added; for the full and updated meeting agenda, see <http://www.dhhs.gov/ohrp/sachrp-committee/meetings/index.html>. The meeting will adjourn by 4:00 p.m., July 24, 2024.

Time will be allotted for public comment on both days of the meeting. SACHRP materials will be publicly posted at <https://www.regulations.gov/>, docket # HHS-OASH-2024-0008. The public may submit written public comment in advance to SACHRP@hhs.gov no later than midnight July 19th, 2024, ET. Written comments will be shared with SACHRP members and may read aloud during the meeting. Comments which are read aloud are

limited to three minutes each. Public comment must be relevant to topics currently being addressed by the SACHRP.

Dated: July 2, 2024.

Yvonne Lau,

Acting Director, Office for Human Research Protections.

[FR Doc. 2024-14865 Filed 7-5-24; 8:45 am]

BILLING CODE 4150-36-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA-K Alternate SEP.

Date: August 1, 2024.

Time: 12:00 p.m. to 12:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Contact Person: Marisa Srivareerat, Ph.D., Scientific Review Officer, Scientific Review Branch, Office of Extramural Policy, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 435-1258, marisa.srivareerat@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: July 2, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-14870 Filed 7-5-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****Center for Scientific Review; Notice of Closed Meetings**

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Social and Community Influences Across the Lifecourse.

Date: July 30, 2024.

Time: 10:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joshua Jason Matacotta, Psy.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-7498, josh.matacotta@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ReWARD: Research With Activities Related to Diversity (PAR-23-122).

Date: August 1, 2024.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Eileen Marie Moore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-8928, eileen.moore@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 1, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-14815 Filed 7-5-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting**

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; P01 Review.

Date: August 1-5, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Li Jia, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/HHS, 6001 Executive Boulevard, Rockville, MD 20852, 301-451-2854, li.jia@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: July 1, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-14817 Filed 7-5-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-4783-DR; Docket ID FEMA-2024-0001]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA-4783-DR), dated May 22, 2024, and related determinations.

DATES: The declaration was issued May 22, 2024.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 22, 2024, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of West Virginia resulting from severe storms, straight-line winds, tornadoes, flooding, landslides, and mudslides during the period of April 2 to April 6, 2024, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance under section 408 will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jeffrey L. Jones, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of West Virginia have been designated as adversely affected by this major disaster:

Boone, Cabell, Fayette, Kanawha, Lincoln, Marshall, Nicholas, Ohio, Putnam, Wayne, and Wetzel Counties for Individual Assistance.

Brooke, Hancock, Marshall, Ohio, Preston, Tyler, and Wetzel Counties for Public Assistance.

All areas within the State of West Virginia are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14892 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4733–DR; Docket ID FEMA–2024–0001]

Burns Paiute Tribe; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Burns Paiute Tribe (FEMA–4733–DR), dated August 28, 2023, and related determinations.

DATES: This change occurred on June 20, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Catharine O. Fan, of

FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Toney L. Raines as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14885 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4784–DR; Docket ID FEMA–2024–0001]

Iowa; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa (FEMA–4784–DR), dated May 24, 2024, and related determinations.

DATES: This amendment was issued June 24, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 24, 2024.

Adams, Cedar, and Jasper Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14895 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4781–DR; Docket ID FEMA–2024–0001]

Texas; Amendment No. 11 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–4781–DR), dated May 17, 2024, and related determinations.

DATES: This amendment was issued June 12, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 17, 2024.

Bell and Terrell Counties for Public Assistance (already designated for Individual Assistance.)

Collin, Denton, and Montague Counties for emergency protective measures (Category B), limited to direct federal assistance under the Public Assistance program (already designated for Individual Assistance).

Robertson County for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14886 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4786–DR; Docket ID FEMA–2024–0001]

Nebraska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA–4786–DR), dated May 24, 2024, and related determinations.

DATES: The declaration was issued May 24, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 24, 2024, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of Nebraska resulting from a severe winter storm and straight-line winds during the period of April 6 to April 7, 2024, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance

Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Nebraska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Andrew P. Meyer, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Nebraska have been designated as adversely affected by this major disaster:

Banner, Cheyenne, Dawes, Garden, Kimball, Morrill, Scotts Bluff, and Sioux Counties for Public Assistance.

All areas within the State of Nebraska are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14897 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4788–DR; Docket ID FEMA–2024–0001]

Arkansas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–4788–DR), dated May 30, 2024, and related determinations.

DATES: This amendment was issued June 12, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 30, 2024.

Baxter, Benton, Boone, and Marion Counties for permanent work [Categories C–G] (already designated for Individual Assistance and assistance for debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).

Carroll, Fulton, Madison, Nevada, Randolph, and Sharp Counties for Public Assistance.

Fulton, Greene, Madison, and Randolph Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14901 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4787–DR; Docket ID FEMA–2024–0001]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–4787–DR), dated May 24, 2024, and related determinations.

DATES: The declaration was issued May 24, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 24, 2024, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of West Virginia resulting from severe storms, flooding, landslides, and mudslides during the period of April 11 to April 12, 2024, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jeffrey L. Jones, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of West Virginia have been designated as adversely affected by this major disaster:

Boone, Brooke, Doddridge, Gilmer, Hancock, Lincoln, Marshall, Ohio, Tyler, and Wetzel Counties for Public Assistance.

All areas within the State of West Virginia are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14898 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4781–DR; Docket ID FEMA–2024–0001]

Texas; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–4781–DR), dated May 17, 2024, and related determinations.

DATES: This amendment was issued June 4, 2024.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 17, 2024.

Austin, Dallas, Hockley, Kaufman, and Newton Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14875 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4781–DR; Docket ID FEMA–2024–0001]

Texas; Amendment No. 10 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–4781–DR), dated May 17, 2024, and related determinations.

DATES: This amendment was issued June 8, 2024.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the

State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 17, 2024.

Ellis, Navarro, and Terrell Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14879 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4768–DR; Docket ID FEMA–2024–0001]

Oregon; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oregon (FEMA–4768–DR), dated April 13, 2024, and related determinations.

DATES: This change occurred on June 20, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Catharine O. Fan, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Yolanda J. Jackson as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14883 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4784–DR; Docket ID FEMA–2024–0001]

Iowa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA–4784–DR), dated May 24, 2024, and related determinations.

DATES: The declaration was issued May 24, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 24, 2024, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in the State of Iowa resulting from severe storms, tornadoes, and flooding during the period of May 20 to May 21, 2024, is of sufficient

severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance under section 408 will be limited to 75 percent of the total eligible cost.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, DuWayne Tewes, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Iowa have been designated as adversely affected by this major disaster:

Adair, Montgomery, Polk, and Story Counties for Individual Assistance.

Adair County for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program.

All areas within the State of Iowa are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals

and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14893 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4776–DR; Docket ID FEMA–2024–0001]

Oklahoma; Amendment No. 12 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–4776–DR), dated April 30, 2024, and related determinations.

DATES: This amendment was issued June 12, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 30, 2024.

Seminole and Wagner Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14891 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4724–DR; Docket ID FEMA–2024–0001]

Hawaii; Amendment No. 9 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Hawaii (FEMA–4724–DR), dated August 10, 2023, and related determinations.

DATES: This amendment was issued June 5, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 5, 2024, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), in a letter to Deanne Criswell, Administrator, Federal Emergency Management Agency, Department of Homeland Security, under Executive Order 12148, as follows:

I have determined that the damage in certain areas of the State of Hawaii resulting from wildfires and high winds during the period of August 8 to September 30, 2023, is of sufficient severity and magnitude that special cost sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”).

Therefore, I amend my declarations of August 10, 2023, August 18, 2023, September 8, 2023, and September 22, 2023, to authorize Federal funds for emergency protective measures, including direct Federal assistance at 100 percent of the total eligible costs for an additional 90-day period for a total of 180 days from the start of the incident period.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora

Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14878 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4781–DR; Docket ID FEMA–2024–0001]

Texas; Amendment No. 8 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–4781–DR), dated May 17, 2024, and related determinations.

DATES: This amendment was issued June 6, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 17, 2024.

Coryell, Falls, Leon, Smith, and Van Zandt Counties for Individual Assistance.

Austin, Calhoun, Cooke, Eastland, Hardin, Hockley, Jasper, Lamar, Newton, Tyler, and Waller Counties for Public Assistance (already designated for Individual Assistance).

Bosque, Brown, Caldwell, Clay, Coleman, Concho, Coryell, Falls, Freestone, Grimes, Hamilton, Houston, Lampasas, Lee, Leon, Limestone, Madison, Mills, San Saba, and Washington Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used

for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14881 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

[Docket ID FEMA–2014–0022]

Technical Mapping Advisory Council; Meeting

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The Federal Emergency Management Agency (FEMA) Technical Mapping Advisory Council (TMAC) will hold an in-person public meeting with a virtual option on Monday, July 29, 2024; Tuesday, July 30, 2024; and Wednesday, July 31, 2024. The meeting will be open to the public in-person and via a Microsoft Teams Video Communications link.

DATES: The TMAC will meet on Monday, July 29, 2024; Tuesday, July 30, 2024; and Wednesday, July 31, 2024, from 8:00 a.m. to 5:00 p.m. Eastern Time (ET). Please note that the meeting will close early if the TMAC has completed its business.

ADDRESSES: The meeting will be held in person at 400 C Street SW, Washington, DC 20472 and virtually using the following Microsoft Teams Video Communications link (Monday Link: <https://tinyurl.com/mr2mcxm9>; Tuesday Link: <https://tinyurl.com/4ce3pr7b>; Wednesday Link: <https://tinyurl.com/57k466zx>). Members of the public who wish to attend the in-person or virtual meeting must register in advance by sending an email to FEMA-TMAC@fema.dhs.gov (Attn: Brian

Koper) by 5:00 p.m. ET on Wednesday, July 24, 2024.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered by the TMAC, as listed in the **SUPPLEMENTARY INFORMATION** caption below. Associated meeting materials will be available upon request after Wednesday, July 24, 2024. To receive a copy of any relevant materials, please send the request to: FEMA-TMAC@fema.dhs.gov (Attn: Brian Koper). Written comments to be considered by the committee at the time of the meeting must be submitted and received by Thursday, July 25, 2024, 5:00 p.m. ET identified by Docket ID FEMA–2014–0022, and submitted by the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Email:** Address the email to FEMA-TMAC@fema.dhs.gov. Include the docket number in the subject line of the message. Include your name and contact information in the body of the email.

Instructions: All submissions received must include the words “Federal Emergency Management Agency” and the docket number for this action. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. You may wish to review the Privacy and Security Notice via a link on the homepage of <http://www.regulations.gov>.

Docket: For docket access to read background documents or comments received by the TMAC, go to <http://www.regulations.gov> and search for the Docket ID FEMA–2014–0022.

A public comment period will be held on Monday, July 29, 2024, from 3:30 p.m. to 4:00 p.m. ET; Tuesday, July 30, 2024, from 3:30 p.m. to 4:00 p.m. ET; and Wednesday, July 31, 2024, from 11:30 a.m. to 12:00 p.m. ET. The public comment period will not exceed 30 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact the individual listed below to register as a speaker by Friday, July 26, 2024, 5:00 p.m. ET. Please be prepared to submit a written version of your public comment.

FEMA is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodation to fully participate due to a disability, please contact the individual listed in

the **FOR FURTHER INFORMATION CONTACT** caption as soon as possible.

FOR FURTHER INFORMATION CONTACT:

Brian Koper, Designated Federal Officer for the TMAC, FEMA, 400 C Street SW, Washington, DC 20472, telephone 202–646–3085, and email brian.koper@fema.dhs.gov. The TMAC website is: <https://www.fema.gov/flood-maps/guidance-partners/technical-mapping-advisory-council>.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act*, Public Law 117–286, 5 U.S.C. ch. 10.

In accordance with the *Biggert-Waters Flood Insurance Reform Act of 2012*, the TMAC makes recommendations to the FEMA Administrator on: (1) how to improve, in a cost-effective manner, the (a) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and (b) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States; (2) mapping standards and guidelines for (a) flood insurance rate maps, and (b) data accuracy, data quality, data currency, and data eligibility; (3) how to maintain, on an ongoing basis, flood insurance rate maps and flood risk identification; (4) procedures for delegating mapping activities to State and local mapping partners; and (5) (a) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination, and (b) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies. Furthermore, the TMAC is required to submit an annual report to the FEMA Administrator that contains: (1) a description of the activities of the Council; (2) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update Flood Insurance Rate Maps; and (3) a summary of recommendations made by the Council to the FEMA Administrator.

Agenda: The purpose of this meeting is for the TMAC members to discuss and deliberate on the content of the 2024 TMAC Annual Report. Any related materials will be available upon request prior to the meeting to provide the public with an opportunity to review the materials. The full agenda and related meeting materials will be available upon request by Wednesday, July 24, 2024. To receive a copy of any relevant materials, please send the

request to: FEMA-TMAC@fema.dhs.gov
(Attn: Brian Koper).

Nicholas A. Shufro,
*Acting Assistant Administrator, Risk
Analysis, Planning & Information Directorate,
Resilience, Federal Emergency Management
Agency.*

[FR Doc. 2024–14857 Filed 7–5–24; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4781–
DR; Docket ID FEMA–2024–0001]

Texas; Amendment No. 12 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency
Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice
of a major disaster declaration for the
State of Texas (FEMA–4781–DR), dated
May 17, 2024, and related
determinations.

DATES: This amendment was issued
June 24, 2024.

FOR FURTHER INFORMATION CONTACT:
Dean Webster, Office of Response and
Recovery, Federal Emergency
Management Agency, 500 C Street SW,
Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice
of a major disaster declaration for the
State of Texas is hereby amended to
include the following areas among those
areas determined to have been adversely
affected by the event declared a major
disaster by the President in his
declaration of May 17, 2024.

Coke, Fannin, Lynn, Panola, San
Augustine, Shelby, and Sterling Counties for
Public Assistance.

The following Catalog of Federal Domestic
Assistance Numbers (CFDA) are to be used
for reporting and drawing funds: 97.030,
Community Disaster Loans; 97.031, Cora
Brown Fund; 97.032, Crisis Counseling;
97.033, Disaster Legal Services; 97.034,
Disaster Unemployment Assistance (DUA);
97.046, Fire Management Assistance Grant;
97.048, Disaster Housing Assistance to
Individuals and Households In Presidentially
Declared Disaster Areas; 97.049,
Presidentially Declared Disaster Assistance—
Disaster Housing Operations for Individuals
and Households; 97.050 Presidentially
Declared Disaster Assistance to Individuals
and Households—Other Needs; 97.036,
Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039,
Hazard Mitigation Grant.

Deanne Criswell,
*Administrator, Federal Emergency
Management Agency.*
[FR Doc. 2024–14884 Filed 7–5–24; 8:45 am]
BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4781–
DR; Docket ID FEMA–2024–0001]

Texas; Amendment No. 9 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency
Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice
of a major disaster declaration for the
State of Texas (FEMA–4781–DR), dated
May 17, 2024, and related
determinations.

DATES: This amendment was issued
June 6, 2024.

FOR FURTHER INFORMATION CONTACT:
Dean Webster, Office of Response and
Recovery, Federal Emergency
Management Agency, 500 C Street SW,
Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is
hereby given that the incident period for
this disaster is closed effective June 5,
2024.

The following Catalog of Federal Domestic
Assistance Numbers (CFDA) are to be used
for reporting and drawing funds: 97.030,
Community Disaster Loans; 97.031, Cora
Brown Fund; 97.032, Crisis Counseling;
97.033, Disaster Legal Services; 97.034,
Disaster Unemployment Assistance (DUA);
97.046, Fire Management Assistance Grant;
97.048, Disaster Housing Assistance to
Individuals and Households In Presidentially
Declared Disaster Areas; 97.049,
Presidentially Declared Disaster Assistance—
Disaster Housing Operations for Individuals
and Households; 97.050, Presidentially
Declared Disaster Assistance to Individuals
and Households—Other Needs; 97.036,
Disaster Grants—Public Assistance
(Presidentially Declared Disasters); 97.039,
Hazard Mitigation Grant.

Deanne Criswell,
*Administrator, Federal Emergency
Management Agency.*
[FR Doc. 2024–14877 Filed 7–5–24; 8:45 am]
BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4795–
DR]; Docket ID FEMA–2024–0001

New Mexico; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency
Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice
of a major disaster declaration for the
State of New Mexico (FEMA–4795–DR),
dated June 20, 2024, and related
determinations.

DATES: This amendment was issued
June 23, 2024.

FOR FURTHER INFORMATION CONTACT:
Dean Webster, Office of Response and
Recovery, Federal Emergency
Management Agency, 500 C Street, SW,
Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice
of a major disaster declaration for the
State of New Mexico is hereby amended
to include the following areas among
the areas determined to have been
adversely affected by the event declared
a major disaster by the President in his
declaration of June 20, 2024.

Otero County, including the Mescalero
Apache Tribe for Individual Assistance.
Otero County, including the Mescalero
Apache Tribe for debris removal and
emergency protective measures (Categories A
and B), including direct federal assistance,
under the Public Assistance program.

The following Catalog of Federal Domestic
Assistance Numbers (CFDA) are to be used
for reporting and drawing funds: 97.030,
Community Disaster Loans; 97.031, Cora
Brown Fund; 97.032, Crisis Counseling;
97.033, Disaster Legal Services; 97.034,
Disaster Unemployment Assistance (DUA);
97.046, Fire Management Assistance Grant;
97.048, Disaster Housing Assistance to
Individuals and Households In Presidentially
Declared Disaster Areas; 97.049,
Presidentially Declared Disaster Assistance—
Disaster Housing Operations for Individuals
and Households; 97.050, Presidentially
Declared Disaster Assistance to Individuals
and Households—Other Needs; 97.036,
Disaster Grants—Public Assistance
(Presidentially Declared Disasters); 97.039,
Hazard Mitigation Grant.

Deanne Criswell,
*Administrator, Federal Emergency
Management Agency.*
[FR Doc. 2024–14889 Filed 7–5–24; 8:45 am]
BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-4784-DR; Docket ID FEMA-2024-0001]

Iowa; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa (FEMA-4784-DR), dated May 24, 2024, and related determinations.

DATES: This amendment was issued June 14, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now May 20 to May 31, 2024.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024-14894 Filed 7-5-24; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-4789-DR; Docket ID FEMA-2024-0001]

Arkansas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA-4788-DR), dated May 30, 2024, and related determinations.

DATES: This amendment was issued June 5, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 30, 2024.

Baxter County for Individual Assistance. Baxter County for debris removal and emergency protective measures (Categories A and B), including direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024-14900 Filed 7-5-24; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-4789-DR; Docket ID FEMA-2024-0001]

Idaho; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Idaho (FEMA-

4789-DR), dated June 10, 2024, and related determinations.

DATES: The declaration was issued June 10, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 10, 2024, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of Idaho resulting from a severe storm, flooding, landslides, and mudslides on during the period of April 14 to April 15, 2024, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Idaho.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Theresa Y. Serata, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Idaho have been designated as adversely affected by this major disaster:

Idaho, Lewis, and Shoshone Counties for Public Assistance.

All areas within the State of Idaho are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to

Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14887 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4785–DR; Docket ID FEMA–2024–0001]

Maine; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maine (FEMA–4785–DR), dated May 24, 2024, and related determinations.

DATES: The declaration was issued May 24, 2024.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 24, 2024, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of Maine resulting from a severe winter storm during the period of April 3 to April 5, 2024, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Maine.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Robert V. Fogel, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Maine have been designated as adversely affected by this major disaster:

Cumberland and York Counties for Public Assistance.

All areas within the State of Maine are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14896 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4788–DR; Docket ID FEMA–2024–0001]

Arkansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–4788–DR), dated May 30, 2024, and related determinations.

DATES: The declaration was issued May 30, 2024.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 30, 2024, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from severe storms, straight-line winds, tornadoes, and flooding during the period of May 24 to May 27, 2024, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance under section 408 will be limited to 75 percent of the total eligible cost.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Roland W. Jackson, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Arkansas have been designated as adversely affected by this major disaster:

Benton, Boone, and Marion Counties for Individual Assistance.

Benton, Boone, and Marion Counties for debris removal and emergency protective measures (Categories A and B), including direct federal assistance under the Public Assistance program.

All areas within the State of Arkansas are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14899 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4795–DR; Docket ID FEMA–2024–0001]

New Mexico; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Mexico (FEMA–4795–DR), dated June 20, 2024, and related determinations.

DATES: The amendment was issued June 23, 2024.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident for this declared disaster has been changed to South Fork Fire, Salt Fire, and Flooding.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling;

97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–14888 Filed 7–5–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Docket No. CISA–2024–0019]

Agency Information Collection Activities: Statewide Communication Interoperability Plan Template and Progress Report

AGENCY: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

ACTION: 60-Day notice and request for comments.

SUMMARY: The Emergency Communications Division (ECD) within Cybersecurity and Infrastructure Security Agency (CISA) submits the following Information Collection Request (ICR) renewal to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted until September 6, 2024.

ADDRESSES: You may submit comments, identified by docket number Docket #CISA–2024–0019, by following the instructions below for submitting comment via the Federal eRulemaking Portal at <http://www.regulations.gov>.

Instructions: All comments received must include the agency name and docket number Docket #CISA–2024–0019. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Heather Dalton, 202–809–2747
heather.dalton@cisa.dhs.gov.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security, Cybersecurity and Infrastructure Security Agency (CISA), formerly known as the National Protection and Programs Directorate, Emergency Communications Division (ECD), formed under title XVIII of the Homeland Security Act of 2002, 6 U.S.C. 571 *et seq.*, is required, pursuant to 6 U.S.C. 572, to develop the National Emergency Communications Plan (NECP), which includes identification of goals, timeframes, and appropriate measures to achieve interoperable communications capabilities. The Statewide Communication Interoperability Plan (SCIP) Template and Annual SCIP Snapshot Report are designed to meet and support these statutory requirements. The ECD SCIP Team will hold webinars and a workshop with the State Statewide Interoperability Coordinator (SWIC) and their stakeholders to review the states goals and objectives in becoming more interoperable over the next two to three years. The SCIP Team then puts the information collected from the webinars and workshops with the SWIC and stakeholders into the SCIP template. The SWIC governance body reviews and approves the documents before it is then signed by the state and becomes a state document. CISA does not own this document. CISA archives the information collected in a tracking system called the CommsCollab until it is time for the state to update this document in two to three years as mandated by Congress.

ECD will use the information from the SCIP Template and Annual SCIP Snapshot to track the progress States are making in implementing milestones and demonstrating goals of the NECP, as required through the Homeland Security Act of 2002, 6 U.S.C. 572. The SCIP Template and Annual SCIP Snapshot will provide ECD with broader capability data across the lanes of the Interoperability Continuum, which are key indicators of consistent success in response-level communications.

In addition, the SCIP Template and the SCIP Snapshot will assist States in their strategic planning for interoperable and emergency communications while demonstrating each State's achievements and challenges in accomplishing optimal interoperability for emergency responders. Moreover, certain government grants may require States to update their SCIP Templates and SCIP Snapshot to include

broadband efforts to receive funding for interoperable and emergency communications.

Statewide Interoperability Coordinators (SWICs) will be responsible for collecting this information from their respective stakeholders and governance bodies and will complete and submit the SCIP Snapshots directly to ECD through unclassified electronic submission.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Analysis

Agency: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

Title: Statewide Communication Interoperability Plan (SCIP) Template and Annual SCIP Snapshot.

OMB Number: 1670–0017.

Frequency: Annually.

Affected Public: State, local, Tribal, and Territorial governments.

Number of Respondents: 56.

Estimated Time per Respondent: 6.

Total Burden Hours: 336.

Annualized Respondent Cost: \$29,950.

Total Annualized Government Cost: \$18,208.

Robert J. Costello,

Chief Information Officer, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency.

[FR Doc. 2024–14922 Filed 7–5–24; 8:45 am]

BILLING CODE 9111-LF-P

DEPARTMENT OF HOMELAND SECURITY

Agency Information Collection Activities: Safety Act Collection of Qualitative Feedback

AGENCY: Science and Technology Directorate (S&T), DHS.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security Science and Technology Directorate (S&T), DHS will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this information collection request (ICR) in the **Federal Register** on September 14, 2023, for a 60-day public comment period. Two comments were received by DHS. The purpose of this notice is to allow additional 30-days for public comments.

DATES: Comments are encouraged and will be accepted until August 7, 2024. This process is conducted in accordance with 5 CFR 1320.10.

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.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

FOR FURTHER INFORMATION CONTACT: If additional information is required contact:

S&T/OIC/SAFETY Act, Project Manager,
Luz Irazabal, Email Address,
luz.irazabal@hq.dhs.gov, Phone
Number: 202–913–4926

SUPPLEMENTARY INFORMATION: This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.*, chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a S&T collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

S&T invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, S&T would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency.

This information collection was previously published September 14, 2023 at 88 FR 62585. In response to your comments, we may revise this ICR. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, DHS–2023–0031 SAFETY Act, and must be received by August 7, 2024.

Analysis

Agency: DHS/Science and Technology.

Title: Safety Act.

OMB Number: 1640–0001.

Frequency: Once.

Affected Public: Individuals.

Number of Respondents: An estimated 330 respondents will take the survey.

Estimated Time per Respondent: 56 hours.

Total Burden Hours: 18,500 hours.

Total Burden Cost (capital/startup): There is no cost to participants other than their time.

Total Burden Cost (operating/maintaining): There is no cost to participants other than their time.

Dated: June 18, 2024.

Jon J. Robinson,

Deputy Chief Information Officer, Science and Technology Directorate, Department of Homeland Security.

[FR Doc. 2024-14122 Filed 7-5-24; 8:45 am]

BILLING CODE 9910-9F-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6331-N-02D]

Extension of Public Interest, General Applicability Tribal Consultation Waiver of Build America, Buy America Provisions as Applied to Tribal Recipients of HUD Federal Financial Assistance

AGENCY: Office of the Secretary, U.S. Department of Housing and Urban Development (HUD or the Department).

ACTION: Final notice.

SUMMARY: In accordance with the Build America, Buy America Act (BABA or the Act), this Final Notice advises that HUD is extending the previously issued public interest, general applicability Tribal Consultation waiver of the Build America, Buy America Act (BABA) Domestic Content Procurement Preference (the Buy America Preference or the BAP) as applied to Federal Financial Assistance (FFA) provided to Tribes, Tribally Designated Housing Entities (TDHEs), and other Tribal Entities (hereinafter collectively, Tribal Recipients) until September 30, 2024. This limited waiver extension is critical in keeping with the Federal Government's commitment to consult with Tribes and build Tribal capacity as established through Executive order before applying the Buy America preference to programs that affect Tribal communities.

DATES: HUD published this Final Notice of a limited waiver extension on its website on July 1, 2024. The limited waiver extension applies to awards obligated or incrementally funded on or after the effective date of the Final Notice and until September 30, 2024. In the case of awards obligated prior to the effective date of the Final Notice, the limited waiver applies to expenditures

on or after the effective date of this Final Notice.

FOR FURTHER INFORMATION CONTACT:

Faith Rogers, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10126, Washington, DC 20410-5000, at (202) 402-7082 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. HUD encourages submission of questions about this document be sent to BuildAmericaBuyAmerica@hud.gov.

SUPPLEMENTARY INFORMATION:

I. Build America, Buy America

The Build America, Buy America Act was enacted on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58). The Act establishes a domestic content procurement preference, the BAP, for Federal infrastructure programs. Section 70914(a) of the Act establishes that no later than 180 days after the date of enactment, HUD must ensure that none of the funds made available for infrastructure projects may be obligated by the Department unless it has taken steps to ensure that the iron, steel, manufactured products, and construction materials used in a project are produced in the United States. In section 70912, the Act further defines a project to include "the construction, alteration, maintenance, or repair of infrastructure in the United States" and includes within the definition of infrastructure those items traditionally included along with buildings and real property. Thus, starting May 14, 2022, new awards of HUD FFA, and any of those funds newly obligated by HUD then obligated by the grantee for infrastructure projects, are covered under BABA provisions of the Act, 41 U.S.C. 8301 note, unless covered by a waiver.

II. HUD's Progress in Implementation of the Act Generally

Since the enactment of the Act, HUD has worked diligently to develop a plan to fully implement the BAP across its FFA programs awarding funds to non-Tribal Recipients. HUD understands that advancing Made in America objectives is a continuous effort and believes setting forth a transparent schedule of future implementation in those programs provides industry

partners and non-Tribal Recipients with the time and notice necessary to efficiently and effectively implement the BAP. HUD has announced detailed plans for the implementation of the new BAP requirements in connection with its award of FFA to non-Tribal Recipients in a manner designed to maximize coordination and collaboration to support long-term investments in domestic production. HUD continues its efforts to implement the Act in those programs consistent with the guidance and requirements of the Made in America Office of the Office of Management and Budget, including guidance concerning appropriate compliance with the BAP.

III. Waivers

Under section 70914(b), HUD and other Federal agencies have authority to waive the application of a domestic content procurement preference when (1) application of the preference would be contrary to the public interest, (2) the materials and products subject to the preference are not produced in the United States at a sufficient and reasonably available quantity or satisfactory quality, or (3) inclusion of domestically produced materials and products would increase the cost of the overall project by more than 25 percent. Section 70914(c) provides that a waiver under section 70914(b) must be published by the agency with a detailed written explanation for the proposed determination and provide a public comment period of not less than 15 days. Pursuant to section 70914(d)(2), when seeking to extend a waiver of general applicability, HUD is required to provide for a public comment period of not less than 30 days on the continued need such waiver.

In order to ensure orderly implementation of the BAP across HUD's FFA programs awarding funds to non-Tribal Recipients, HUD has provided public interest, general applicability phased implementation waivers and announced a corresponding implementation plan for all non-Tribal Recipients. As part of those efforts, HUD has published two general applicability, public interest waivers covering Exigent Circumstances and De Minimis and Small Grants, which can be found at https://www.hud.gov/program_offices/general_counsel/build_america_buy_america/waiver.

Additionally, HUD previously published two general applicability, public interest waivers of the BAP in connection with FFA provided to Tribal

Recipients¹ through May 22, 2024, to provide the agency with sufficient time to complete the Tribal consultation process regarding implementation of the BAP in connection with infrastructure projects, both generally and specifically in connection with FFA received from HUD. This waiver extension is critical in keeping with the Federal Government's commitment to follow consultation policies established through Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, before applying the Buy America Preference to programs that affect Tribes.

IV. Tribal Infrastructure and HUD Programs

Many Tribal communities are without basic infrastructure such as roads, running water, and indoor plumbing. Critical infrastructure in many Tribal communities is severely deficient and in need of repair and modernization. Addressing infrastructure needs is especially difficult for Tribes due to challenges faced with locating available supplies, suppliers, and construction labor necessary for development.

Some Alaska Native villages are located off the road system, have short construction seasons because of extreme weather, and must grapple with unique transportation limitations, including having to ship basic construction materials twice per year by barge or air freight at extremely elevated costs. These Tribes often report to HUD that it can be a major challenge to secure space on a barge for construction materials. At times, even when space is secured, any unexpected setbacks faced, such as loss of cargo, materials damaged through shipping, or miscalculation of the appropriate amount or quality of materials needed, can result in infrastructure and housing projects being delayed an entire construction season. A project can be delayed for six months or longer until the next barge or carrier can arrive, which results in significant cost overruns.

Annually, HUD provides over \$1 billion in FFA to 574 Federally recognized Tribal Nations. The Indian Housing Block Grant and the Indian Community Development Block Grant programs are critical funding sources that allow the Federal Government to carry out its trust responsibilities and support affordable housing and infrastructure development in Tribal communities. Under these programs, HUD provides block grants to Tribal Recipients to address housing and infrastructure needs—particularly for the benefit of low- and moderate-income families. HUD anticipates that the BAP will apply to some projects funded under these programs. Accordingly, HUD must ensure that Tribal Recipients are able to effectively implement the BAP and transition to compliance.

V. HUD's Consultation Policy

HUD's "Tribal Government-to-Government Consultation Policy," adopted in compliance with Executive Order 13175, "Consultation with Indian Tribal Governments," outlines the internal procedures and principles HUD must follow when communicating and coordinating on HUD programs and activities that affect Native American Tribes. HUD's Tribal Consultation policy recognizes the right of Tribes to self-government and facilitates Tribal participation and input in HUD's implementation of programs and FFA directed to Tribal communities.

Consistent with its Tribal Government-to-Government Consultation Policy, HUD has actively participated in consultation efforts with respect to the applicability of the BAP to Tribal Recipients. Initially, on September 21, 2022, eight agencies participated in a joint consultation hosted by the White House Council on Native American Affairs to consult with Tribal Nations on discretionary BAP provisions and the waiver categories characterized in OMB initial implementation guidance M–22–11. Tribes were initially requested to provide written comments and feedback by October 20, 2022 for Federal agency consideration. The resulting comments were received by the White House Council and distributed to agencies on October 25, 2022.

Since that time, and in light of the comments received from the Tribal leaders and the progress the Department has made implementing the BAP in other FFA programs, HUD engaged in consultation with respect to specific plans for implementation of the BAP in HUD's FFA provided to Tribal Recipients consistent with HUD's Tribal Government-to-Government

Consultation Policy² and with President Biden's "Tribal Consultation and Strengthening Nation-to-Nation Relationships" Memorandum³.

During the past year, HUD held a series of Tribal consultation sessions across the country to obtain feedback from Tribes on the likely impact of employing the BAP in HUD's Tribal programs. As a result, HUD received over 100 comments from Tribes throughout the nation. Consultation sessions were held at the following events:

- National Congress of American Indians Mid-Year session, Prior Lake, Minnesota, June 7, 2023;
- Southern Plains Indian Housing Association session, Durant, Oklahoma, July 11, 2023;
- Nevada/California Indian Housing Association, Sparks, Nevada, August 13–16, 2023;
- United Native American Housing Association conference, Salt Lake City, Utah, August 22–24, 2023;
- Northwest Indian Housing Association, Coeur d'Alene, Idaho, September 12–14, 2023;
- Affiliated Tribes of Northwest Indians Annual Meeting, Chehalis, Washington, September 18–21, 2023;
- HUD ONAP National Tribal Housing Summit, Saint Paul, Minnesota, October 31–November 2, 2023;
- National Congress of American Indians Conference, New Orleans, Louisiana, November 12–17, 2023;
- Alaska BIA Provider's Conference, Anchorage, AK, November 29, 2023.

In addition to conducting in-person Tribal consultation sessions, HUD invited Tribes to submit written comments to HUD. HUD received written comments from HUD's Tribal Intergovernmental Advisory Committee and other Tribal grantees. HUD continues to process and evaluate the comments received throughout this process.

VI. Public Interest in an Extension of HUD's General Applicability Waiver of the BAP for FFA Provided to Tribal Recipients

This limited waiver extension permits the use of non-domestic iron, steel, manufactured products, and construction materials in such projects that may otherwise be prohibited under section 70914(a) of BABA for HUD

² https://www.hud.gov/program_offices/public_indian_housing/ih/regs/govtogov_tcp. See also 81 FR 40893.

³ <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>.

¹ For purposes of this waiver, the term "Tribal Recipients" includes all recipients of grants or loan guarantees administered by HUD's Office of Native American Programs. This includes Indian tribes and TDHEs receiving grants and loan guarantee assistance under the Native American Housing Assistance and Self-Determination Act's (NAHASDA's) Indian Housing Block Grant Program and Title VI Loan Guarantee Program, and Indian tribes and Tribal Organizations receiving Indian Community Development Block Grant funds under the Housing and Community Development Act of 1974. It also includes Federal Financial Assistance provided by HUD to the Department of Hawaiian Home Lands (DHHL) which receives annual grant funding under the Native Hawaiian Housing Block Grant (NHHBG) program.

Federal financial assistance agreements with Tribal Recipients. This limited waiver extension applies to awards obligated or incrementally funded on or after the effective date of this Final Notice and until September 30, 2024. In the case of awards obligated prior to the effective date of this Final Notice, the limited waiver applies to expenditures on or after the effective date of this Final Notice. As such, HUD is issuing a limited waiver extension to allow the Department sufficient time to both complete its own evaluation of comments received through the consultations described above consistent with HUD's Tribal Government-to-Government Consultation Policy and provide clear guidance and technical assistance to recipients so that they understand expectations for the conclusion of the limited waiver extension, as HUD transitions to full BABA compliance in a timely manner. This approach is consistent with the policy of Executive Order 13175.

During the limited waiver extension period, HUD intends to complete its analysis of comments received during its own Tribal consultation sessions with Tribes concerning the application of the BAP and fully brief the Office of Management and Budget on all Tribal feedback received. After considering all Tribal feedback, HUD intends to publish additional programmatic guidance. The guidance will provide Tribal Recipients with additional information including how the BAP will apply to HUD's various Tribal programs, ways that Tribal Recipients can comply with the BAP, and the process that Tribal Recipients must follow to request BAP waivers. HUD will provide training resources to ensure that Tribal Recipients are in a good position to implement the BAP under HUD's Tribal programs. HUD will also use this limited extension period to provide additional technical assistance resources to ensure that Tribal Recipients can build capacity and be in a better position to comply with the BAP.

HUD intends to implement the BAP in a manner that advances the Made in America objectives while also ensuring that Tribal Sovereignty and Self-Determinations are respected and the treaty and trust obligations of the United States are honored. At the conclusion of this limited waiver extension, Tribal recipients will be expected to transition to full compliance with BABA requirements.

VII. Assessment of Cost Advantage of a Foreign-Sourced Product

Under OMB Memorandum M-24-02, "Implementation Guidance on Application of the Buy America Preference in Federal Financial Assistance Programs for Infrastructure," published on October 25, 2023, agencies are expected to assess "whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products" as appropriate and in compliance with applicable law, before granting a public interest waiver. HUD's analysis has concluded that this assessment is not applicable to this waiver, as this waiver is not based on the cost of foreign-sourced products.

VIII. Limited Duration of the Waiver

HUD remains committed to the successful implementation of the important BAP across its programs providing covered FFA for public infrastructure projects, while recognizing the unique government-to-government relationship it has with Tribal Recipients receiving HUD FFA for public infrastructure projects and the new directives set forth in Executive Order 14112. HUD is committed to engaging its Federal agency partners in a timely manner as noted above to further this goal.

IX. Solicitation of Comments

As required under section 70914 of the Act, HUD solicited comments from the public on the proposed limited waiver extension for a period of 30 days. Eight comments were submitted through the **Federal Register** during this comment period. HUD thoroughly reviewed and considered them along with the six previously submitted public comments and additional written comments in support of a waiver extension that Tribal leaders and stakeholders submitted during the current comment period. All eight comments supported a BABA waiver for Tribal Recipients as long as possible and seven, including a resolution submitted by the National Congress of American Indians, urged a permanent blanket waiver for all HUD-funded awards for Tribal Recipients. Of the six previously submitted public comments, two are supportive of an extension, one is not related to the Tribal waiver extension, but rather construction materials including cast lampposts and related LED fixtures, and three opposed an extension of the waiver. Although previous comments opposed a waiver

extension, HUD appreciates all the submitted public comments. As such, HUD believes the limited waiver extension of the application of the BAP as set forth in this Final Notice is appropriate and in the public interest considering the importance of HUD's Tribal consultation and subsequent development of implementation guidance. HUD will continue to monitor the implementation of the BAP across its programs to ensure the most robust application possible due to the important public interests discussed above.

Adrianne R. Todman,

Acting Secretary.

[FR Doc. 2024-14837 Filed 7-5-24; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

**[FWS-HQ-OC-2024-N033;
FXGO16600926000-245-FF09X60000]**

Hunting and Wildlife Conservation Council Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of virtual meeting.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a virtual meeting of the Hunting and Wildlife Conservation Council (Council), in accordance with the Federal Advisory Committee Act.

DATES:

Meeting: The Council will meet on Tuesday, July 23, 2024, from 1 p.m. to 3 p.m. (eastern time).

Registration: Registration to attend or participate in the meeting is required. The registration deadline is Tuesday, July 16, 2024. To register, please contact the Designated Federal Officer (DFO) (see **FOR FURTHER INFORMATION CONTACT**).

Public Comment: If you wish to provide oral public comment or provide a written comment for the Council to consider, contact the DFO (see **FOR FURTHER INFORMATION CONTACT**) no later than Tuesday, July 16, 2024.

Accessibility and Other

Accommodations: The deadline for accommodation requests is Tuesday, July 16, 2024. For more information, please see "Requests for Accommodations," below.

ADDRESSES: The meeting will be held via a virtual meeting platform. To register and receive the web address and telephone number for virtual participation, contact the DFO (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT:

Douglas Hobbs, DFO, by email at doug_hobbs@fws.gov, or by telephone at 703–358–2336. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:**Background**

Under the authority of the Federal Advisory Committee Act (5 U.S.C. Chapter 10), the Hunting and Wildlife Conservation Council (Council) was established to further the provisions of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a *et seq.*), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701–1785), the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–ee), other statutes applicable to specific Department of the Interior bureaus, and Executive Order 13443 of August 16, 2007, “Facilitation of Hunting Heritage and Wildlife Conservation” (72 FR 46537, August 20, 2007). The Council’s purpose is to provide recommendations to the Federal Government, through the Secretary of the Interior and the Secretary of Agriculture, regarding policies and endeavors that (a) benefit wildlife resources; (b) encourage partnership among the public, sporting conservation organizations, and Federal, State, Tribal, and territorial governments; and (c) benefit fair-chase recreational hunting and safe recreational shooting sports.

Meeting Agenda

Among other business to be addressed by the Council, the meeting will include a discussion and further consideration of the Council recommendations related to the management and future use of lead and non-lead ammunition on National Wildlife Refuge System (Refuge System) lands, including discussion of establishing pilot hunting projects using lead-free ammunition.

The Council will also hear public comment if members of the public make such requests. The final agenda and other related meeting information will be available on the Council website, <https://www.fws.gov/program/hwcc>.

Public Input

Depending on the number of people who want to comment and the time available, the amount of time for individual oral comments may be

limited. Interested parties should contact the DFO in writing (see **FOR FURTHER INFORMATION CONTACT**) for placement on the public speaker list for this meeting. Requests to address the Council during the meeting will be accommodated in the order the requests are received. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the DFO up to 30 days following the meeting.

Requests for Accommodations

Please make requests in advance for sign language interpreter services, assistive listening devices, language translation services, or other reasonable accommodations. We ask that you contact the DFO in the **FOR FURTHER INFORMATION CONTACT** section of this notice by July 16, 2024, to give the U.S. Fish and Wildlife Service sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information on any comments you might have about this notice, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. ch. 10.

Lesli Gray,

Assistant Director, Office of Communications.

[FR Doc. 2024–14849 Filed 7–5–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR**Geological Survey****Call for Nominations to the National Geospatial Advisory Committee**

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Call for nominations.

SUMMARY: The Department of the Interior (DOI) is seeking nominations to serve on the National Geospatial Advisory Committee (NGAC). The NGAC is a Federal Advisory Committee authorized through the Geospatial Data Act of 2018 (GDA), which operates in accordance with the Federal Advisory

Committee Act (FACA). The Committee provides advice and recommendations to the Secretary of the Interior through the Federal Geographic Data Committee (FGDC) related to management of Federal geospatial programs, development of the National Spatial Data Infrastructure, and the implementation of the GDA. The Committee reviews and comments on geospatial policy and management issues and provides a forum for views of non-Federal stakeholders in the geospatial community.

DATES: Nominations to participate on this Committee must be received by August 7, 2024.

ADDRESSES: Send nominations by email to ngacnominations@fgdc.gov, or by mail to Joshua Delmonico, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 590, Reston, VA 20192. Nominations may come from employers, associations, professional organizations, or other geospatial organizations. Nominations should include a resume providing an adequate description of the nominee’s qualifications, including information that would enable the DOI to make an informed decision regarding meeting the membership requirements of the Committee and permit the DOI to contact a potential member. Nominees are strongly encouraged to include supporting letters from employers, associations, professional organizations, and/or other organizations that indicate support by a meaningful constituency for the nominee.

FOR FURTHER INFORMATION CONTACT:

Joshua Delmonico, FGDC, USGS by phone at 703–648–5752 and by email at ngacnominations@fgdc.gov. Additional information about the NGAC and the nomination process is posted on the NGAC web page at www.fgdc.gov/ngac.

SUPPLEMENTARY INFORMATION: The Committee conducts its operations in accordance with the provisions of the GDA and the FACA. It reports to the Secretary of the Interior through the FGDC and functions solely as an advisory body. The Committee provides recommendations and advice to the DOI and the FGDC on policy and management issues related to the effective operation of Federal geospatial programs.

The NGAC includes up to 30 members, selected to generally achieve a balanced representation of the viewpoints of the various stakeholders involved in national geospatial activities. NGAC members are appointed for staggered terms, and nominations received through this call for nominations may be used to fill vacancies on the Committee that will

become available in 2025 and 2026. Nominations will be reviewed by the FGDC and additional information may be requested from nominees. Final selection and appointment of Committee members will be made by the Secretary of the Interior.

The Committee meets approximately 3–4 times per year. Committee members will serve without compensation, but travel and per diem costs will be provided by the USGS. The USGS will also provide necessary support services to the Committee. Committee meetings are open to the public. Notice of committee meetings are published in the **Federal Register** at least 15 days before the date of the meeting. The public will have an opportunity to provide input at these meetings.

Authority: 5 U.S.C. ch. 10.

Kenneth M. Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2024–14904 Filed 7–5–24; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/
A0A501010.999900]

Notice of Availability of a Draft Environmental Impact Statement and Draft Conformity Determination for the Koi Nation of Northern California's Proposed Shiloh Resort and Casino Project, Sonoma County, California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Availability.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), as lead agency, with the National Indian Gaming Commission (NIGC) and United States Environmental Protection Agency (EPA) serving as cooperating agencies, has filed a Draft Environmental Impact Statement (DEIS) with the EPA in connection with the Koi Nation of Northern California's (Koi Nation) application for acquisition in trust by the United States of approximately 68.60 acres adjacent to the Town of Windsor, Sonoma County, California for gaming and other purposes. This notice also announces that the DEIS is now available for public review and that a public hearing will be held to receive comments on the DEIS. In accordance with section 176 of the Clean Air Act and the EPA's general conformity regulations, a Draft Conformity Determination (DCD) has been prepared for the Shiloh Resort and Casino Project.

The DCD is contained within appendix F–2 of the DEIS.

DATES: Comments on the DEIS or DCD must arrive no later than 45 days after publication of Notice of Availability by the EPA in the **Federal Register**. The time and date of the virtual public hearing will be announced at least 15 days in advance through a notice to be published in a local newspaper (The Press Democrat) and online at <https://www.shilohresortenvironmental.com/>.

ADDRESSES: You may send written comments by any of the following methods:

- *Mail or Hand-Delivery:* Amy Dutschke, Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return address, and “DEIS Comments, Shiloh Resort and Casino Project” on the first page of your written comments.

- *Email:* chad.broussard@bia.gov. Please use “DEIS Comments, Shiloh Resort and Casino Project” as the subject of your email.

The DEIS is available for public review at the following locations:

- Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California 95825 (with advance notice and during regular business hours).
- Windsor Regional Library located at 9291 Old Redwood Hwy. #100, Windsor, CA 95492, telephone (707) 838–1020 (during regular business hours).
- <https://www.shilohresortenvironmental.com/>.

FOR FURTHER INFORMATION CONTACT:

Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, Pacific Regional Office, 2800 Cottage Way, Room W–2820, Sacramento, California 95825; telephone: (916) 978–6165; email: chad.broussard@bia.gov. Information is also available online at <https://www.shilohresortenvironmental.com/>.

SUPPLEMENTARY INFORMATION: Public review of the DEIS is part of the administrative process for the evaluation of the Koi Nation's application to the BIA for the placement of approximately 68.60 acres of fee land in trust by the United States. The proposed trust property is Sonoma County assessor's parcels number 059–300–003 and is located adjacent to the Town of Windsor, Sonoma County, California. The Koi Nation proposes to construct a casino resort on the property.

The BIA previously prepared an EA that analyzed the potential environmental effects of the proposed action. The EA was made available for

public comments and was the subject of a public meeting. Upon consideration of the public and agency comments received, the BIA has decided to prepare an EIS to further analyze the environmental effects which may result from the proposed action. A Notice of Intent (NOI) to prepare an EIS was published in the **Federal Register** and *The Press Democrat* on March 8, 2024.

Background: The Koi Nation's proposed project consists of the following components: (1) transfer of the 68.6-acre Project Site into federal trust status for the benefit of the Koi Nation for gaming purposes (Proposed Action); and (2) the subsequent development by the Koi Nation of a resort facility that includes a casino, hotel, ballroom/meeting space, event center, spa, and associated parking and infrastructure on the Project Site (Proposed Project). The following alternatives are considered in the DEIS: (A) Proposed Project; (B) Reduced Intensity Alternative; (C) Non-Gaming Alternative; and (D) No Action Alternative. Environmental issues addressed in the DEIS include land resources; water resources; air quality and climate change; noise; biological resources; cultural and paleontological resources; transportation and circulation; land use; hazardous materials and hazards; public services and utilities; socioeconomic; environmental justice; visual resources; and cumulative, indirect, and growth-inducing effects.

Public Comment Availability: Comments, including names and addresses of respondents, will be included as part of the administrative record and will be available for review at the BIA Pacific Regional Office by appointment by contacting Chad Broussard, Bureau of Indian Affairs, Pacific Regional Office (see contact information listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice). Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment that your personal identifying information be withheld from public review, the BIA cannot guarantee that this will occur.

Authority: This notice is published pursuant to section 1503.1 of the Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508) and section 46.305 of the Department of the Interior Regulations (43 CFR part 46), implementing the

procedural requirements of the NEPA, as amended (42 U.S.C. 4371, *et seq.*), and in accordance with the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8. This notice is also published in accordance with 40 CFR 93.155, which provides reporting requirements for conformity determinations.

Wizipan Garriott,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising by Delegation the Authority of the Assistant Secretary—Indian Affairs.

[FR Doc. 2024-14783 Filed 7-5-24; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/
A0A51010.999900]

Proclaiming Certain Lands as Reservation for Kootenai Tribe of Idaho

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 1073.41 acres, more or less, an addition to the reservation of Kootenai Tribe of Idaho.

DATES: This proclamation was made on June 25, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Carla H. Clark, Bureau of Indian Affairs, Acting Division of Real Estate Services, Office of Trust Services, 1001 Indian School Road NW, Box #44, Albuquerque, New Mexico 87104, Carla.Clark@bia.gov, (702) 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 was 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 Kootenai Reservation for the Kootenai Tribe of Idaho in Boundary County, Idaho.

Kootenai Tribe of Idaho, 16 Parcels, Boundary County, Idaho, Legal Descriptions Containing 1073.41 Acres, More or Less

188-T1041 Trout Creek Property

Lot 4, Section 6, Township 63 North, Range 1 East, and Lots 1, 7, 9, and 12, Section 1, Township 63 North, Range 1 West, all Boise Meridian, Boundary County, Idaho, containing 112.86 acres, more or less.

188-1040 Parking Lot Property

Parcel 1

Lots Seven (7) through Ten (10), Block 11, Eaton Addition, less the Northwesternly One (1) foot of Lots Seven (7) through Ten (10), Block Eleven (11), Eaton Addition to the City of Bonners Ferry, according to the plat thereof on file with the Boundary County, Idaho, Recorder.

Parcel 2

Lots Eleven (11) and Twelve (12), Block Eleven (11), Eaton Addition to the City of Bonners Ferry, according to the plat thereof on file with the Boundary County, Idaho, Recorder less the Northernly one (1) foot thereof, for a combined acreage of 0.484, more or less.

Parcel 3

Lots Thirteen (13) and Fourteen (14), Block Eleven (11), Eaton addition to the City of Bonners Ferry, according to the plat thereof, recorded in book 1 of plats, page 7, records of Boundary County, Idaho less the northwesterly one (1) foot of lots Thirteen (13) and Fourteen (14), Block Eleven (11), Eaton addition to the City of Bonners Ferry, containing 0.194 acre, more or less.

Parcel 4

Parts of Lots One (1), Two (2) and Three (3), Block Fourteen (14), Eaton addition to the City of Bonners Ferry, Idaho, more particularly described as follows:

Commencing at the southeasterly corner of Lot One (1); thence north a distance of 60.00 feet along the eastern boundary line of Lots One (1), Two (2) and Three (3); thence westerly a distance of 30.00 feet; thence southerly 60.00 feet on a line parallel with the eastern boundary line of Lots One (1), Two (2) and Three (3); thence easterly 30.00 feet to the point of beginning, now a part of the City of Bonners Ferry, according to the plat thereof on file with the Boundary County, Idaho, recorder, containing 0.041 acre, more or less.

Parcel 5

Commencing at the southwest corner of Lot One (1), Block Fourteen (14),

Eaton addition; thence north along the west line of Block Fourteen (14) a distance of 62.50 feet to a point; thence east a distance of 70.00 feet to a point; thence south a distance of 62.50 feet to the south line of Lot One (1), Block Fourteen (14), Eaton addition; thence west a distance of 70.00 feet to the point of beginning, containing 0.100 acre, more or less.

Parcel 6

That part of Lots Three (3) and Four (4), Block Fourteen (14), Eaton addition to the City of Bonners Ferry, according to the plat thereof on file with the Boundary County, Idaho, recorder, more particularly described as follows; to-wit:

Commencing at the northwest corner of said Lot Four (4); thence south along the west line of Lots Three (3) and Four (4), 37.50 feet, thence easterly and parallel to the north line of said Lot Four (4), 70 feet, thence south and parallel to the east line of lot three (3), 2.50 feet; thence east and parallel to the north line of Lot Four (4), 30 feet to the east line of Lot Three (3); thence north along the east line of Lots Three (3) and Four (4), 40 feet to the northeast corner of Lot Four (4); thence west along the north line of Lot Four (4), 100 feet, more or less, to the place of beginning; together with a Two (2) foot wide easement for pedestrian walkway purposes, along a line commencing at the northwest corner of said Lot Four (4), thence south along the west line of Lots Three (3) and Four (4), 37.50 feet to the true point of beginning, thence east and parallel to the north line of Lot Three (3), 70 feet to a point; thence south and parallel to the east line of Lot Three (3), 2 feet, thence west and parallel to the north line of Lot Three (3), 70 feet to the west line of Lot Three (3), 2 feet to the place of beginning; reserving unto the adjoining land on the south a one foot (1') wide pedestrian walkway commencing at the northwest corner of said Lot Four (4), thence south along the west line of Lots Three (3) and Four (4), 37.50 feet to the true point of beginning, thence north along the west line of said Lot Three (3), 2 feet; thence east and parallel to the north line of Lot Three (3), 70 feet to a point; thence south and parallel to the east line of Lot Three (3), 2 feet; thence west and parallel to the north line of Lot Three (3), 70 feet, to a point on the west line of Lot Three (3); thence north along the west line of Lot Three (3), 2 feet to the place of beginning; and further reserving unto Gottlieb Fruck and Ethel Fruck, husband and wife, an easement to use the east 22.50 feet of the above described tract for the purposes of wood storage and access; provided however,

this easement is personal to Gottlieb Fruck and Ethel Fruck, husband and wife, shall not run with the land and shall expire with the termination of occupancy by Gottlieb Fruck and Ethel Fruck, husband and wife, of the house located on the west 70 feet of Lots One (1), Two (2) and Three (3); provided further, that Gottlieb Fruck and Ethel Fruck, husband and wife, and Nelson M. Warner and Denise B. Warner, husband, and wife, hereto shall jointly maintain the walkway on the above described pedestrian easement, containing 0.088 acre, more or less.

Parcel 7

Lots Five (5) and Six (6), Block Fourteen (14), Eaton addition to the City of Bonners Ferry, according to the plat thereof on file with the Boundary County, Idaho, recorder, containing 0.115 acre, more or less. The foregoing parcels containing a combined acreage of 1.022 acres, more or less.

188-T1032 Mullis Property

That property lying within Section 26, T.62N., R.1E., Boundary County, Boise Meridian, Idaho, described as follows: Lots 3, 4, 5 and 6, Block 11, Eaton addition to Bonners Ferry, Idaho, according to the plat thereof recorded in Book 1 of plats, page 7, of official records, except the northwesterly one (1) foot thereof, containing, after said exception, 0.287 acres, more or less.

183-T1014 Upper Twin Rivers Property

All that part of Section 15 lying east of Moyie River and west of old highway no. 2 (as it existed July 1, 1991) in Township 62 North, Range 2 East Boise Meridian, Boundary County Idaho; less a tract of land in the Southeast Quarter of Section 15, Township 62 North, Range 2 East Boise Meridian, Boundary County, Idaho, more particularly described as follows: beginning at a point on the South line of the Southeast Quarter of said Section 15 that is North 89°52'41" West, 975.72 feet from the Southeast corner of said Southeast Quarter, being the true point of beginning; thence North 13°44'33" West, 303.71 feet; thence North 24°27'42" West, 47.42 feet thence North 36°09'04" West, 206.70 feet; thence North 26°05'46" West, 328.08 feet; thence North 30°04'46" West, 346.34 feet; thence North 35°00'09" West, 98.76 feet; thence North 18°32'36" West, 165.79 feet; thence North 10°11'41" West, 180.48 feet; thence North 03°18'59" East, 183.11 feet; thence North 29°33'46" East, 134.20 feet; thence North 50°26'39" East, 58.82 feet; thence North 56°15'06" East, approximately 112 feet to the ordinary

high water mark of the Moyie River; thence along said ordinary high water mark in a southwesterly direction to the intersection with the South line of said Southeast Quarter; thence along said South line, South 89°52'41" East, approximately 1339 feet to the true point of beginning. Subject to and together with a 60 foot easement for ingress and egress over the existing road in Section 15, lying east of the Moyie River and West of Old Highway No. 2 as it existed July 1, 1991, in Township 62 North, Range 2 East, W.M., Boundary County Idaho, containing 87.00 acres more or less.

183-T1013 Comanche Property

The North 105 feet of the West Half of Lot 1, Block 4, O'Callaghan's acre tracts, as shown on the plat recorded in Book 1 of plats, page 33, on file with the Boundary County, Idaho recorder, containing 0.261 acre, more or less.

183-T1011 Nimz Ranch Property

A parcel of land being portions of Sections 7, 8, 17, 18 and 19, Township 63 North, Range 1 East, Boise Meridian, Boundary County, Idaho, and being more particularly described as follows:

Commencing at the Southwest corner of Section 8, monumented by a lead tablet in concrete, from which the Northwest corner of said Section 8, monument by a lead tablet in concrete, bears North 00°00'59" East a distance of 5285.17 feet;

Thence along the East line of Section 18, South 00°10'00" East a distance of 546.38 feet to a 5/8 inch rebar with plastic cap marked PLS 12832 at the intersection with the Westerly line of the abandoned Kootenai Valley Railroad, thence continuing along said East section line, South 00°10'00" East a distance of 141.13 feet to a 5/8 inch rebar with plastic cap marked PLS 12832 at the intersection with the Easterly line of said abandoned Kootenai Valley Railroad, said point being the TRUE POINT OF BEGINNING; Thence continuing along said East section line, South 00°10'00" East, a distance of 1936.48 feet to an aluminum cap on drill steel marking the East Quarter Corner thereof; Thence continuing along said East section line, South 00°07'18" East a distance of 2654.44 feet to an aluminum cap on iron rod marking the Southeast Corner thereof; Thence along the East line of said Section 19, South 00°23'43" West a distance of 2638.85 feet to a USDA Brass Cap on a 2" iron pipe marking the East Quarter Corner thereof; Thence along the South line of the North Half of said Section 19, North 89°59'41" West a distance of 885.19 feet to a USDA Brass

Cap on a 2" iron pipe; Thence continuing along said South line, South 89°59'41" West a distance of 195.60 feet to the Easterly ordinary high water line of the Kootenai River;

Thence along said Easterly ordinary high water line the following 35 courses:

- (1) North 15°37'14" East a distance of 466.97 feet to a point;
- (2) North 10°58'58" East a distance of 1039.30 feet to a point;
- (3) North 06°32'32" West a distance of 1085.80 feet to a point;
- (4) North 08°13'25" East a distance of 259.60 feet to a point;
- (5) North 19°15'10" West a distance of 437.08 feet to a point;
- (6) North 29°27'53" West, a distance of 177.51 feet to a point;
- (7) North 19°30'28" West a distance of 221.08 feet to a point;
- (8) North 09°12'12" West a distance of 234.90 feet to a point;
- (9) North 37°39'44" West a distance of 463.77 feet to a point;
- (10) North 13°33'36" West a distance of 269.43 feet to a point;
- (11) North 36°00'02" West a distance of 684.21 feet to a point;
- (12) North 44°40'42" West a distance of 519.86 feet to a point;
- (13) North 50°43'14" West a distance of 296.10 feet to a point;
- (14) North 58°46'59" West a distance of 639.59 feet to a point;
- (15) North 65°29'16" West a distance of 707.33 feet to a point;
- (16) North 64°09'05" West a distance of 258.32 feet to a point;
- (17) North 59°15'13" West a distance of 211.48 feet to a point;
- (18) North 39°00'47" West a distance of 135.11 feet to a point;
- (19) North 22°17'18" West a distance of 273.01 feet to a point;
- (20) North 07°26'18" West a distance of 457.27 feet to a point;
- (21) North 02°07'50" East a distance of 353.80 feet to a point;
- (22) North 09°51'40" East a distance of 211.27 feet to a point;
- (23) North 15°25'24" East a distance of 240.94 feet to a point;
- (24) North 21°02'13" East a distance of 248.67 feet to a point;
- (25) North 29°34'48" East a distance of 1007.97 feet to a point;
- (26) North 35°20'15" East a distance of 304.03 feet to a point;
- (27) North 52°22'59" East a distance of 417.67 feet to a point;
- (28) North 63°17'14" East a distance of 186.46 feet to a point;
- (29) North 67°12'16" East a distance of 1399.23 feet to a point;
- (30) North 59°06'58" East a distance of 226.76 feet to a point;
- (31) North 50°35'06" East a distance of 529.28 feet to a point;
- (32) North 31°21'06" East a distance of 833.59 feet to a point;
- (33) North 00°02'37" East a distance of 220.31 feet to a point;
- (34) North 16°22'16" West a distance of 234.77 feet to a point;

(35) North 31°27'21" West a distance of 38.38 feet to a point at the intersection of the Easterly ordinary high water line and the South line of Government Lot 1, said Section 7;

Thence along said South line, South 89°47'55" East a distance of 773.94 feet to a 5/8 inch rebar with plastic cap marked PLS 12832 at the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section 8; Thence along the South line of said Northwest Quarter of the Northwest Quarter of said Section 8, North 88°30'22" East a distance of 250.41 feet to a 5/8 inch rebar with plastic cap marked PLS 12832 on the centerline of the abandoned Kootenai Valley Railroad; Thence along said centerline, North 22°54'4+1" West a distance of 287.04 feet to a 5/8 inch rebar with plastic cap marked PLS 7163 at the intersection with the Southwesterly right of way of Turner Hill Road;

Thence along the Southwesterly right of way the following 20 courses:

(1) Along the arc of a non-tangent curve to the left, with a length of 23.99 feet, a radius of 114.37 feet, a delta angle of 12°01'02", and a chord bearing and distance of North 81°21'20" East, 23.94 feet to a point

(2) Thence North 75°20'49" East a distance of 140.45 feet to a point;

(3) Thence along the arc of a curve to the right, with a length of 128.76 feet, a radius of 200.52 feet, a delta angle of 36°47'25", and a chord bearing and distance of South 86°15'29" East, 126.56 feet to a point;

(4) Thence South 67°51'46" East a distance of 142.00 feet to a point;

(5) Thence along the arc of a curve to the right, with a length of 97.52 feet, a radius of 226.30 feet, a delta angle of 24°41'27", and a chord bearing and distance of South 55°31'03" East, 96.77 feet to a point;

(6) Thence South 43°10'19" East a distance of 48.17 feet to a point;

(7) Thence along the arc of a curve to the left, with a length of 146.43 feet, a radius of 490.27 feet, a delta angle of 17°06'44", and a chord bearing and distance of South 51°43'41" East, 145.88 feet to a point;

(8) Thence South 60°17'03" East a distance of 47.69 feet to a point;

(9) Thence along the arc of a curve to the right, with a length of 34.43 feet, a radius of 111.97 feet, a delta angle of 17°36'58", and a chord bearing and distance of South 51°28'34" East, 34.29 feet to a 5/8" rebar with plastic cap marked PLS 7163;

(10) Thence South 42°40'03" East a distance of 1.07 feet to a point at the intersection with the South line of the

Northwest Quarter of the Northwest Quarter of said Section 8;

(11) Thence continuing South 42°40'03" East a distance of 670.12 feet to a 5/8" rebar with plastic cap marked PLS 7163;

(12) Thence along the arc of a curve to the right, with a length of 1.99 feet, a radius of 612.91 feet, a delta angle of 0°11'09", and a chord bearing and distance of South 42°34'29" East, 1.99 feet to a point at the intersection with the East line of the Southwest Quarter of the Northwest quarter of said Section 8;

(13) Thence continuing along the arc of a curve to the right, with a length of 260.12 feet, a radius of 612.91 feet, a delta angle of 24°18'59", and a chord bearing and distance of South 30°19'25" East, 258.17 feet to a point;

(14) Thence South 18°09'55" East a distance of 145.22 feet to a point;

(15) Thence along the arc of a curve to the left, with a length of 159.07 feet, a radius of 333.75 feet, a delta angle of 27°18'25", and a chord bearing and distance of South 31°49'08" East, 157.56 feet to a point;

(16) Thence South 45°28'20" East a distance of 44.98 feet to a point;

(17) Thence along the arc of a curve to the right, with a length of 119.78 feet, a radius of 338.16 feet, a delta angle of 20°17'43", and a chord bearing and distance of South 35°19'28" East, 119.46 feet to a point;

(18) Thence South 25°10'37" East a distance of 31.29 feet to a point;

(19) Thence along the arc of a curve to the left, with a length of 168.39 feet, a radius of 383.83 feet, a delta angle of 25°08'12", and a chord bearing and distance of South 37°44'43" East, 167.05 feet to a point;

(20) Thence South 50°18'50" East a distance of 24.44 feet to a point on the South line of the Southeast Quarter of the Northwest Quarter of said Section 8;

Thence along said South line, South 88°24'59" West a distance of 490.59 feet to a 5/8" rebar with plastic cap marked PLS 12832 marking the Southeast corner of the Southwest Quarter of the Northwest Quarter of said Section 8; Thence along the South line of said Southwest Quarter of the Northwest Quarter, South 88°24'59" West a distance of 908.54 feet to a 5/8" rebar with plastic cap marked PLS 12832 at the intersection with the Easterly line of the abandoned Kootenai Valley Railroad right of way; Thence along said Easterly line South 21°55'38" West a distance of 257.15 feet to a 5/8" rebar with plastic cap marked PLS 7163; Thence continuing said Easterly line, along the arc of a curve to the left, with a length of 619.80 feet, a radius of 1254.27 feet,

a delta angle of 28°18'46", and a chord bearing and distance of South 07°46'15" West, 613.51 feet to a 5/8" rebar with plastic cap marked PLS 7163; Thence continuing along said Easterly line, South 06°23'08" East a distance of 1812.90 feet to a 5/8" rebar with plastic cap marked PLS 12832 on the South line of said Section 8; Thence along said South line South 89°14'20" West a distance of 51.33 feet to a 5/8" rebar with plastic cap marked PLS 12832 on the Easterly line of the abandoned Kootenai Valley Railroad right of way; Thence along said Easterly line, along the arc of a non-tangent curve to the right, with a length of 568.42 feet, a radius of 677.22 feet, a delta angle of 48°05'27", and a chord bearing and distance of South 20°54'21" West, 551.88 feet to a 5/8" rebar with plastic cap marked PLS 7163; Thence continuing along said Easterly line, South 44°57'04" West a distance of 250.03 feet to the TRUE POINT OF BEGINNING.

Less

A parcel of land being portions of Section 17, Township 63 North, Range 1 East, Boise Meridian, Boundary County, Idaho, and being more particularly described as follows:

Beginning at the Southwest corner of Section 8, monumented by a lead tablet in concrete, from which the Northwest corner of said Section 8, monumented by a lead tablet in, bears North 00°00'59" East a distance of 5285.17 feet, said point being the TRUE POINT OF BEGINNING; Thence along the West line of said Section 17, South 00°10'00" East a distance of 546.38 feet to a 5/8" rebar with plastic cap marked PLS 12832 at the intersection with the Westerly line of the abandoned Kootenai Valley Railroad;

Thence along said Westerly line, North 44°57'04" East a distance of 150.44 feet to a 5/8" rebar with plastic cap marked PLS 7163; Thence continuing along said Westerly line, along the arc of a curve to the left; with a length of 488.64 feet, a radius of 577.22 feet, a delta angle of 48°30'11", and a chord bearing and distance of North 20°41'58" East, 474.18 feet to a 5/8" rebar with plastic cap marked PLS 12832 on the North line of said Section 17; Thence along said North line, South 89°14'20" West a distance of 275.51 feet to the TRUE POINT OF BEGINNING. Containing 655.148 acres, more or less.

183-T1010 Twin Rivers Canyon Resort Property

Government Lot 2 of Section 22, Township 62 North, Range 2 East, Boise Meridian, Boundary County, Idaho. Together with a 60 foot easement for

ingress and egress over the existing road in Section 15, lying east of the Moyie River and west of Old Highway No. 2 as it existed July 1, 1991, in Township 62 North, Range 2 East, Boise Meridian, Boundary County, Idaho, as set forth in the deed recorded July 18, 2005, as instrument No. 221539 and a tract of land in the SE Quarter of Section 15, Township 62 North, Range 2 East, Boise Meridian, Boundary County, Idaho, more particularly described as follows: Beginning at a point on the south line of the SE Quarter of said Section 15 that is N89°52'41" W, 975.72 feet from the SE corner of said SE Quarter, being the true point of beginning; thence N13°44'33" W, 303.71 feet; thence N24°27'42" W, 47.42 feet; thence N36°09'04" W, 206.70 feet; thence N26°05'46" W, 328.08 feet; thence N30°04'46" W, 346.34 feet; thence N35°00'09" W, 98.76 feet; thence N18°32'36" W, 165.79 feet; thence N10°11'41" W, 180.48 feet; thence N03°18'59" E, 183.11 feet; thence N29°33'46" E, 134.20 feet; thence N50°26'39" E, 58.82 feet; thence N56°15'06" E, approximately 112 feet to the ordinary high water mark of the Moyie River; thence along said ordinary high water mark in a southwesterly direction to the intersection with the south line of said SE quarter; thence along said south line, thence S89°52'41" E, approximately 1339 feet the true point of beginning, containing 45.39 acres, more or less.

183-T1009 Kings House Property

Lots 1 and 2, less the northwesterly one foot thereof, Block 11, Eaton addition the city of Bonners Ferry, according to the plat thereof recorded in Book 1 of plats, page 7, on file with the Boundary County, Idaho recorder containing .156 acres, more or less.

183-T1008 Perkins Lake Property

Parcel A: The E½ of the SE¼ of the SW¼ of Section 32, Township 63 North, Range 3 East, Boise Meridian, Boundary County, Idaho.

Parcel B: The W½ of Lot 2 of Section 32, Township 63 North, Range 3 East, Boise Meridian, Boundary County, Idaho.

Parcel C: The W½ of the E½ of the SW¼ of Section 32, Township 63 North, Range 3 East, Boise Meridian, Boundary County, Idaho, less rights of way.

Parcel D: The S½ of the NW¼ of the SW¼ of Section 32, Township 63 North, Range 3 East, Boise Meridian, Boundary County, Idaho, containing 98.64 acres, more or less.

183-T1007 Farnsworth 2 Property

A tract of land situated in the South half of the Northwest quarter of Section 14, Township 62 North, Range 1 East, Boise Meridian, Boundary County, Idaho, more particularly described as follows:

Beginning at a point on the South line of the South half of the Northwest quarter of said Section 14 which is North 89°48'07" West 278.38 feet from the southeast corner of said South half of the Northwest quarter, said corner being also the northeasterly corner of that parcel as shown and described on record of survey, Book 3 of surveys, page 136, as instrument no. 177957; thence continuing along the South line of the South half of the Northwest Quarter and the North line of said parcel North 89°48'07" West, 436.36 feet; thence leaving the South line of the South Half of the Northwest quarter and continuing along the northerly boundary of said parcel the following two courses: on a curve to the left (radial bearing= South 36°46'15" West) having a central angle of 36°34'22", a radius of 330.00 feet, for an arc length of 210.64 feet (chord = North 71°30'56" West, 207.09 feet); thence North 89°48'07" West, 566.36 feet to the Northwest corner of said parcel and the Easterly right-of-way U.S. Highway No. 95; thence along said right-of-way North 22°58'36" East, 412.64 feet; thence leaving said right-of-way South 89°42'52" East, 753.46 feet to the Southwesterly corner of that parcel described in book 68 of instruments, page 325, as instrument no. 156829; thence South 61°24'04" East, 400.00 feet to the Southeasterly corner of said parcel; thence South 61°24'04" East, 108.56 feet to the Westerly boundary of the Boundary County Airport; thence along said Westerly boundary South 38°44'16" West 258.75 feet to the true point of beginning.

A tract of land situated in the Southeast Quarter of the Northwest Quarter of Section 14, Township 62 North, Range 1 East, Boise Meridian, Boundary County, Idaho, more particularly described as follows:

Beginning at a point on the East line of the Southwest Quarter of the Northwest Quarter of said Section 14 which is North 0°33'04" West 343.86 feet from the Southeast corner of said Southeast Quarter of the Northwest Quarter; thence continuing along said East line North 0°33'04" West, 465.20 feet to the Southeast corner of that parcel as described in book 105 of instruments, page 30, as instrument no. 179634; thence leaving the East line of the Southeast Quarter of the Northwest

Quarter and along the South line of said parcel North 89°42'52" West, 1153.98 feet to the Southwest corner of said parcel and the Easterly right-of-way of U.S. Highway 95; thence along said right-of-way South 22°58'36" West, 396.22 feet; thence leaving said right-of-way South 89°42'52" East, 753.46 feet to the Southwesterly corner of that parcel described in Book 68 of instruments, page 325, as instrument No. 156829; thence along the boundary of said parcel the following three courses; North 28°36'56" East, 230.00 feet; thence South 61°24'04" East, 400 feet; thence South 28°36'56" West, 230.00 feet; thence leaving said boundary South 61°24'04" East 108.56 feet to the Westerly boundary of the Boundary County Airport; thence along said boundary North 38°44'16" East, 180.82 feet to the true point of beginning, containing 20.26 acres, more or less.

183-T1006 Farnsworth I Property

A tract of land in the East half of the Northwest Quarter of Section 14, Township 62 North, Range 1 East, Boise Meridian, Boundary County, Idaho, more particularly described as follows: Beginning at a point on the East line of the Northwest Quarter of said Section 14, which is South 0°33'04" East, 1394.41 feet from the North Quarter corner of Section 14; thence along the South line of Instrument No. 178624, North 89°42'52" West, 977.08 feet to the Easterly right-of-way of U.S. Highway 95; thence along said right-of-way, South 22°58'36" West 443.11 feet; thence leaving said right-of-way, South 89°42'52" East, 1153.98 feet to the East line of the Northwest Quarter of Section 14; thence along said East line, North 0°33'04" West, 408.85 feet to the true point of beginning, containing 10.00 acres, more or less.

183-T1005 Frontier Village Property

A parcel of land lying in a portion of Section 23, Township 60 North, Range 1 West, Boise Meridian, Boundary County, Idaho, more particularly described as follows: Beginning at the West ¼ corner of said Section 23, a found BLM brass cap, monumenting said corner which bears S0°18'50"E, 2649.28 feet from the NW corner of said section 23, a found BLM brass cap, monumenting said NW corner, thence S0°14'23"W, 1325.64 feet, along the west line of said Section 23, to a found 5/8" rebar, monumenting the South 1/16 corner of said Section 23; thence leaving said west line, N89°54'55"E, 653.91 feet along the east-west south 1/16 line of said Section 23 to a point; thence leaving said east-west south 1/16 line north 1306.56 feet, to a point in the

centerline of a 60 foot wide road and utility easement; thence leaving said centerline, N0°59'56"E, 43.65 feet; thence S87°44'49"W, 649.62 feet to the pob, containing 20.00 acres, more or less.

183-T1004 Roman Catholic Diocese Property

Commencing at the northwest corner of the NE¼SW¼, Section 20, Township 62 North, Range 1 East, Boise Meridian, Boundary County, Idaho more particularly described as follows: A tract of land described as beginning at the northwest corner of the NE¼SW¼ Section 20 aforesaid; thence South 700 feet to the true point of beginning; thence East 148.5 feet; thence South 100 feet; thence West 148.5 feet to a point on the West line of lot 5 aforesaid; thence North 100 feet, more or less, to the true point of beginning, containing 0.34 acres, more or less.

183-T1002 River Inn Parcel

A part of Lot 3, Section 26, Lot 7, Section 27; a part of an accreted river channel in Sections 26 and 27, Township 62 North, Range 1 East, Boise Meridian and a part of Lots 1–14 inc., Block 11 in the Eaton townsite according to the official plats in Bonner and Boundary County; more particularly described as follows: Commencing at the witness corner to the quarter section corner between Section 26 and 27, said Township and Range, which is 17.82 feet North 0°20'58" East, of the quarter section corner position of said Section 26 and 27, monumented with a rebar, 5/8 inches in diameter, with an aluminum cap marked ls 820; thence North 10°04'00" West, 229.36 feet to a concrete monument 4 inches in diameter, with a brass cap, 2 inches in diameter marked, Idaho State Highway Department, which is 99.42 feet right of center line station 27+65.08 of project f-fg5116(8); thence North 18°27'24" East, 49.37 feet along the easterly boundary of the State Highway 95 right-of-way (of record as North 18°23'45" East, on the Highway plans) to a rebar, 30 inches long, 5/8 inches in diameter, with a plastic cap marked ls 832; thence North 88°31'00" East, 15.47 feet along the southeasterly boundary of the State Highway 95 right-of-way to a rebar, 30 inches long, 5/8 inches in diameter, with a plastic cap marked ls 832 (of record as a meander cor. on the line between Sections 26 and 27 on the state highway plans); thence North 0°05'45" West, 13.46 feet along the easterly boundary of the State Highway 95 right-of-way (of record as the section line on the Highway plans) to the intersection of the projected northerly boundary of the Eaton

townsite, monumented with a rebar, 30 inches long, 5/8 inches in diameter, with a plastic cap marked ls 832, the real point of beginning; thence continuing North 0°05'45" West, 135.7 feet along the easterly boundary of the state highway 95 right-of-way (of record as to a meander cor. on the section line according to the Highway plans) to a rebar 30 inches long 5/8 inches in diameter, with a plastic cap marked ls 832; thence North 81°03'45" West, 21.94 feet along the easterly boundary of the State Highway 95 right-of-way to a point 75.00 feet right of center line station 29+31.85; thence 357.63 feet along the arc of a 515.74 feet radius curve left on the easterly boundary of said State Highway 95 right-of-way, said curve having a central angle of 39°43'51" and a chord bearing North 21°11'24" West, 350.51 feet to a chiseled "x" on a rock; thence along the mean high water line of the left limit of the Kootenai River, the meanders of which are as follows: North 90°00'00" East, 64.17 feet to a rebar, 30 inches long, 5/8 inches in diameter, with a plastic cap marked ls 832; thence South 89°22'16" East, 100.63 feet to a rebar, 30 inches long, 5/8 inches in diameter, with a plastic cap marked ls 832; thence South 78°35'00" East, 111.34 feet to a rebar, half inch in diameter, with a plastic cap marked ls 820; thence South 58°01'05" East, 352.36 feet to a rebar, 30 inches long, 5/8 inches in diameter, with a plastic cap marked ls 832; thence South 78°30'00" East, 103.52 feet to a rebar, 30 inches long, 5/8 inches in diameter, with a plastic cap marked ls 832; thence South 0°23'18" East, 35.45 feet, partially along the boundary shown on the Charles Eddleman survey (of record as South 1° east, on book 1 at page 210); thence South 62°47'43" West, 50.69 feet; thence continuing South 62°47'43" West, 368.04 feet parallel with and 1.00 feet southeasterly from the northwesterly boundary of Lots 1–14 inc., Block 11 of the Eaton townsite, according to the plat on file in Book 1 of plat at page 8 in office of the recorder of Bonner County and at Book 1 of plats at page 7 in Boundary County; thence North 34°35'08" West, 1.00 feet to the northwesterly corner of Lot 14, Block 11 of Eaton townsite; thence South 62°47'43" West, 31.26 feet along northwesterly boundary of Eaton townsite; thence North 87°47'26" West, 124.88 feet along the northwesterly boundary of Lot 7 and 8, Block 14 of Eaton townsite; thence continuing North 87°47'26" West, 0.36 feet along a projection of the northwesterly boundary of the Eaton townsite, returning to the real point of beginning,

situated within Sections 26 and 27, Township 62 North, Range 1 East, Boise meridian, Idaho, containing 3.869 acres, more or less.

183-T1001 Mission Site Property

Lots 12 and 13 of Section 20, Township 62 North, Range 1 East, Boise Meridian, Boundary County, Idaho, containing 12.47 acres, more or less.

183-T1000 Roman Catholic Diocese Property

Lots 9, 10, and 16 of Section 20, Township 62 North, Range 1 East, Boise Meridian, Boundary County, Idaho; said lots per BLM survey approved February 14, 1995, being the west 148.5 feet of the E½ SW¼ said Section 20 north of the north bank of the Kootenai River except the south 100 feet of the north 800 feet thereof, containing 5.71 acres, more or less, after the above exception.

The above described lands contain a total of 1073.41 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. 2024–14863 Filed 7–5–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

**[245A2100DD/AAKC001030/
A0A501010.999900]**

Land Acquisitions; Timbisha Shoshone Tribe, County Land Parcel, Kern County, California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary—Indian Affairs made a final agency determination to acquire in trust 20.03 acres, more or less, of land known as the County Land Parcel in Kern County, California, for the Timbisha Shoshone Tribe for gaming and other purposes.

DATES: This final determination was made on July 1, 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: On the date listed in the **DATES** section of this notice, the Assistant Secretary—Indian Affairs made a final agency determination to acquire the County Land Parcel (Site), consisting of 20.03 acres, more or less, in trust for the Timbisha Shoshone Tribe under the authority of the Timbisha Shoshone Homeland Act, Public Law 106-423, 114 Stat. 1875 (2000).

The Assistant Secretary—Indian Affairs, on behalf of the Secretary of the Interior, will immediately acquire the title to the Site in the name of the United States of America in trust for the Timbisha Shoshone Tribe upon fulfillment of all Departmental requirements. The legal description for the County Land Parcel is as follows:

Legal Land Description of Property

- Parcel 1 of Parcel Map 4949, in the unincorporated area of the County of Kern State of California, as per map recorded April 19, 1979, in Book 22, page 142 of parcel maps, in the Office of the County recorder of said County.

Authority: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1 and is published to comply with the requirements of 25 CFR 151.13 (c)(2)(ii) that notice of the decision to acquire land in trust be promptly provided in the **Federal Register**.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024-14784 Filed 7-5-24; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/
A0A501010.999900]

Land Acquisitions; Redding Rancheria, California, Strawberry Fields Site, Shasta County, California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary—Indian Affairs made a final agency determination to acquire 226.226 acres, more or less, of land in trust for the Redding Rancheria, California, (Tribe) for gaming and other purposes.

DATES: This final determination was made on July 1, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Bureau of Indian Affairs, Mail Stop 3543, 1849 C Street NW, Washington, DC 20240, *paula.hart@bia.gov*, (202) 219-4066.

SUPPLEMENTARY INFORMATION: On the date listed in the **DATES** section of this notice, the Assistant Secretary—Indian Affairs made a final agency determination to acquire the site, consisting of 226.226 acres, more or less, in trust for the Tribe, under the authority of the Indian Reorganization Act of June 18, 1934, 25 U.S.C. 5108.

The Assistant Secretary—Indian Affairs, on behalf of the Secretary of the Interior, will immediately acquire title to the site in the name of the United States of America in Trust for the Tribe upon fulfillment of Departmental requirements. The 226.226 acres, more or less, are described as follows:

Legal Land Description of Property

[GRANT DEED RECORDED MARCH 31, 2004, DOCUMENT NO. 2004-0017674]

All that certain real property situate in the unincorporated area, county of Shasta, State of California, described as follows:

Parcel 1

- All that portion of the northeast one-quarter and the north one-half of the north one-half of the north one-half of the southeast one-quarter of section 19, township 31 north, range 4 west, M.D.B. & M., according to the official plat thereof lying easterly of the Sacramento River.

Parcel 2

- All that portion of the following described parcel lying westerly of interstate route #5, as described in the final order of condemnation recorded in the office of the county recorder, December 18, 1963, in book 769 of official records at page 108, Shasta County records.

- Beginning at the section corner common to sections 17, 18, 19 and 20, township 31 north, range 4 west, M.D.B. & M.; thence south 89°41'44" east on and along the section line common to said sections 17 and 20, a distance of 2640.35 feet to the one-quarter section corner common to said sections 17 and 20; thence south 0°30'26" east 3002.71 feet to a 3/4" galvanized iron pin marked r. C. E. 8700, set in a fence corner; thence north 89°34'03" west along existing fence to the intersection with the west line of the northwest one-quarter of said section 20; thence northerly along said west line to the point of beginning of this description.

- APN NO'S: 055-010-011, 055-010-012, 055-010-014, 055-010-015 & 055-020-001

[GRANT DEED RECORDED APRIL 2, 2010, DOCUMENT NO. 2010-0009576]

The land described herein is situated in the State of California, county of Shasta, unincorporated area, and is described as follows:

Parcel 1

- A portion of the southwest quarter of section 20 and a portion of the southeast quarter of fractional section 19, township 31 north, range 4 west of Mount Diablo Base and Meridian, Shasta County, California. Commencing at a buried rock with a chiseled cross at the center of section 20, township 31 north, range 4 west, M.D.M., as shown on that map recorded in book 27 of land surveys, at page 15, Shasta County records; thence, along the east line of the southwest quarter of said section 20, S 0 degrees 13'10" E, 332.19 feet to a point marked by an iron pin stamped LS 2656; thence, leaving said east line parallel with the north line of the southwest quarter of said section 20, N 89 degrees 43'40" W, 1239.16 feet to a point on the westerly right of way line of proposed state highway US 99 freeway, said point being marked by an iron pin with 3" brass cap stamped RCE 5438, the true point of beginning of this parcel; thence, from said point of beginning, continuing N 89 degrees 43'40" W, 1409.65 feet to a point on the west line of said section 20, from whence an iron pin stamped RCE 8700 bears S 4 degrees E, 5.11 feet; thence, continuing N 89 degrees 43'40" W, 1809.51 feet to an iron pin witness corner with a 3" brass cap, stamped RCE 5438; thence, continuing N 89 degrees 43'40" W, 265 feet more or less to a point on the waters edge at the left bank of the Sacramento River as it was December 5, 1962; thence, following the left bank of the Sacramento River, southeasterly to a point on the centerline of that certain 60 foot wide parcel recorded in book 470 at page 490, official records of Shasta County, said point bears S 0 degrees 13'10" E, 1336.90 feet and N 89 degrees 47'12" W, 4533 feet more or less from the center of said section 20; thence, along said centerline S 89 degrees 47'12" E, 304 feet, more or less, to a point which bears N 11 degrees 01'40" W, 30.59 feet from an iron pin stamped LS 2656; thence, continuing along said centerline S 89 degrees 47'12" E, 3223.52 feet to a point on the westerly right of way line of proposed state highway US 99 freeway which bears N 13 degrees 19'10" W, 30.86 feet from an iron pin with a

3" brass cap stamped RCE 5438; thence, along said westerly right of way line N 13 degrees 19'10" W, 1,003.89 feet to the point of beginning.

- Excepting therefrom the south 30 feet.

- APN: 055-020-004.

Parcel 2

- Removed (contained an undivided ½ interest).

Parcel 3

- A right of way for road purposes to be used in common with others over the following described property:

- Commencing at the southwest corner of section 20, township 31 north, range 4 west, M.D. B. & M.; thence along the south line of said section 20, S 89 degrees 53'17" E, 1325.40 feet; thence leaving said section line N 0 degrees 28'17" W, 20.00 feet to the true point of beginning of this description; thence continuing N 0 degrees 28'17" W, 1300.00 feet to the south boundary of the Anderson Cottonwood irrigation district canal right of way; thence along said south boundary S 89 degrees 53'17" E, 60.00 feet; thence S 0 degrees 28'17" E, 1300.00 feet; thence N 89 degrees 53'17" W, 60.00 feet to the true point of beginning.

- Being a portion of the southwest quarter of section 20, township 31 north, range 4 west, M.D.B. & M.

Authority: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1 and is published to comply with the requirements of 25 CFR 151.12(c)(2)(ii) that notice of the decision to acquire land in trust be promptly provided in the **Federal Register**.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024-14781 Filed 7-5-24; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/
A0A501010.999900]

Notice of Intent To Prepare an Environmental Impact Statement for the Nisqually Indian Tribe's Proposed Fee-To-Trust and Casino Project, City of Lacey, Thurston County, Washington

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), as lead agency, intends to gather information necessary for preparing an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) in connection with the Nisqually Indian Tribe (Tribe) proposed Fee-to-Trust and Casino Project in the City of Lacey, Thurston County, Washington for gaming and other purposes (Quiemuth Casino-Resort Property). This notice also opens public scoping to identify potential issues, concerns, and alternatives to be considered in the EIS.

DATES: To ensure consideration during the development of the EIS, written comments on the scope of the EIS should be sent as soon as possible and no later than 30 days after publication of this Notice of Intent (NOI) in the **Federal Register**. The time and date of the public scoping meeting will be announced at least 15 days in advance through a notice to be published in the local newspaper and online.

ADDRESSES: You may mail written comments to Bryan Mercier, Regional Director, Bureau of Indian Affairs, Northwest Region, 911 NE 11th Avenue, Portland, Oregon 97232. Please include your name, return address, and "NOI Comments, Nisqually Indian Tribe Fee-to-Trust and Casino Project" on the first page of your written comments. You may also submit comments through email to Tobiah Mogavero, NEPA Coordinator, Bureau of Indian Affairs, at: tobiah.mogavero@bia.gov, using "NOI Comments, Nisqually Indian Tribe Fee-to-Trust and Casino Project" as the subject of your email.

FOR FURTHER INFORMATION CONTACT: Mr. Tobiah Mogavero, NEPA Coordinator, Bureau of Indian Affairs, Northwest Region, (435) 210-0509, tobiah.mogavero@bia.gov.

SUPPLEMENTARY INFORMATION: The Nisqually Indian Tribe submitted a Fee-to-Trust application to the Bureau of Indian Affairs (BIA) requesting the placement of approximately 74.2 acres of fee land in trust by the United States upon which the Nisqually Indian Tribe would construct a casino resort. The Tribe proposes to develop a casino-resort with an event/multi-purpose center, cultural center/museum with Tribal lawn, and associated infrastructure. The proposed fee-to-trust property is located within the boundaries of the City of Lacey, Thurston County, Washington. The proposed trust property is comprised of tax parcels numbers 11810101100 and 11810101102. The purpose of the proposed action is to improve the

economic status of the Tribal government so that it can provide comprehensive services and ensure the continued social and economic independence and well-being of its Tribal members.

The proposed action encompasses the various federal approvals that may be required to implement the Nisqually Tribe's proposed project, including approval of the Nisqually Tribe's Fee-to-Trust application and Secretarial Determination pursuant to section 20(b)(1)(A) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(A)). The EIS will identify and evaluate issues related to these approvals and will also evaluate a range of reasonable alternatives. Possible alternatives currently under consideration include: (1) a reduced-intensity casino alternative, and (2) an alternate-use (non-gaming) alternative. The range of alternatives evaluated in the EIS may be expanded based on comments received during the scoping process.

Areas of environmental concern preliminarily identified for analysis in the EIS include land resources; water resources; air quality; noise; biological resources; cultural/historic/archaeological resources; resource use patterns; traffic and transportation; public health and safety; hazardous materials and hazardous wastes; public services and utilities; socioeconomic; environmental justice; visual resources/aesthetics; and cumulative, indirect, and growth-inducing effects. The range of issues to be addressed in the EIS may be expanded or reduced based on comments received in response to this notice and at the public scoping meeting. Additional information, including a map of the proposed trust property, is available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Public Comment Availability

Comments, including names and addresses of respondents, will be included as part of the administrative record and Scoping Report for the EIS. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment that your personal identifying information be withheld from public review, the BIA cannot guarantee that this will occur.

Authority

This notice is published pursuant to section 1503.1 of the Council of Environmental Quality Regulations (40 CFR part 1500 through 1508) and section 46.305 of the Department of the Interior Regulations (43 CFR part 46), implementing the procedural requirements of the NEPA of 1969, as amended (42 U.S.C. 4371, *et seq.*), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8. This notice is also published in accordance with 40 CFR 93.155, which provides reporting requirements for conformity determinations.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–14816 Filed 7–5–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[BLM_NV_FRN_MO#4500179326]

Notice of Segregation of Public Land for the Samantha Solar Project, White Pine County, Nevada

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of segregation.

SUMMARY: Through this notice the Bureau of Land Management (BLM) is segregating public lands for the Samantha Solar project right-of-way application from appropriation under the public land laws, including the Mining Law, but not the Mineral Leasing or Material Sales Acts, for a period of 2 years from the date of publication of this notice, subject to valid existing rights. This segregation is to allow for the orderly administration of the public lands to facilitate consideration of development of renewable energy resources. The public lands segregated by this notice total 4,810.00 acres.

DATES: This segregation for the lands identified in this notice is effective on July 8, 2024.

FOR FURTHER INFORMATION CONTACT:

Jared Bybee, Field Manager, at telephone (775) 289–1847; address 702 N Industrial Way, Ely, NV 89301 or email jbybee@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 Mr. Collins. 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:

Regulations found at 43 CFR 2091.3–1(e) and 2804.25(f) allow the BLM to temporarily segregate public lands within a right-of-way application area for solar energy development from the operation of the public land laws, including the Mining Law, by publication of a **Federal Register** notice. The BLM uses this temporary segregation authority to preserve its ability to approve, approve with modifications, or deny proposed rights-of-way, and to facilitate the orderly administration of the public lands. This temporary segregation is subject to valid existing rights, including existing mining claims located before this segregation notice. Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature that would not impact lands identified in this notice may be allowed with the approval of an authorized officer of the BLM during the segregation period. The lands segregated under this notice are legally described as follows:

Mount Diablo Meridian, Nevada

- T. 16 N., R. 60 E.,
 Sec. 1, lots 1, 2, 7 thru 11, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 2, S $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 11, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 12, lots 1 thru 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 13, lots 1 thru 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 14, W $\frac{1}{2}$ NE, W $\frac{1}{2}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 15, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 23, W $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$;
 Sec. 24, lots 1 thru 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 25, lots 1 thru 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 T. 17 N., R. 60 E.,
 Sec. 36, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 T. 16 N., R. 61 E.,
 Sec. 18, lots 3 and 4;
 Sec. 19, lots 1 thru 4;
 Sec. 30, lots 1 thru 4.

The area described contains 4,810.00 acres, according to the official protraction diagrams and the official plats of the surveys of the said lands, on file with the BLM.

As provided in the regulations, the segregation of lands in this notice will not exceed 2 years from the date of publication unless extended for an additional 2 years through publication

of a new notice in the **Federal Register**. The segregation period will terminate and the land will automatically reopen to appropriation under the public land laws, including the Mining Law, at the earliest of the following dates: upon issuance of a decision by the authorized officer granting, granting with modifications, or denying the application for a right-of-way; automatically at the end of the segregation; or upon publication of a **Federal Register** notice terminating the segregation.

Upon termination of the segregation of these lands, all lands subject to this segregation would automatically reopen to appropriation under the public land laws, including the Mining Law.

Authority: 43 CFR 2091.3–1(e) and 43 CFR 2804.25(f).

Tiera Arbogast,

Acting Deputy District Manager—Ely District.

[FR Doc. 2024–14906 Filed 7–5–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[BLM_NV_FRN_MO# 4500178790; NVNV–106316914]

Notice of Proposed Withdrawal Revocation; Proposed Restoration of Public Lands; Proposed Transfer Into Trust; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation (BOR) has submitted a notice of intent to relinquish its administration of certain lands withdrawn by Secretary's Order dated November 26, 1906, which withdrew all lands within one mile of the highwater mark of Walker Lake in Mineral County, Nevada. These lands are no longer needed by BOR for project purposes. The Bureau of Land Management (BLM) has evaluated the lands and determined the lands are suitable for restoration to the public domain. In addition, the Western Regional Office, Bureau of Indian Affairs (BIA), has requested that the Secretary of the Interior permanently withdraw and transfer some of these relinquished lands, as well as other existing public lands, as an addition to the Walker River Paiute Reservation under the authority of the Act of June 22, 1936. This notice advises the public of a 30-day opportunity to comment on the proposed withdrawal revocation, restoration of relinquished lands to the

public domain, and withdrawal and transfer of public land into trust.

DATES: Comments must be received by August 7, 2024.

ADDRESSES: All comments should be mailed to: Bureau of Land Management Stillwater Field Office, Attn: Walker River Revocation, 5665 Morgan Mill Road, Carson City, NV 89701.

FOR FURTHER INFORMATION CONTACT: Joseph Palma, BLM Stillwater Field Office, (775) 885-6131 or jpalma@blm.gov during regular business hours, 8:00 a.m. to 4:30 p.m. Mountain Time, Monday through Friday, except holidays. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The BOR, Lahontan Basin Area Office, has submitted a notice of intent to relinquish administration of certain lands withdrawn for BOR Newlands Project purposes and described below. These lands were part of the larger Truckee-Carson Project withdrawal established by Secretary's Order dated November 26, 1906, which withdrew all lands within one mile of the highwater mark of Walker Lake in Mineral County, Nevada. The subject land was omitted from the legal description in a Secretary's Order dated May 25, 1942, that revoked the 1906 withdrawal order. These lands are no longer needed by the BOR for project purposes. The BLM has determined the lands are suitable for restoration to the public domain.

In addition, the Western Regional Office, BIA, has submitted an application for the BLM to process on behalf of the Secretary the permanent withdrawal and transfer of some of these relinquished lands into trust as an addition to the Walker River Paiute Reservation under the authority of Public Law 74-748 (49 Stat. 1806), dated June 22, 1936 (1936 Act). Once restored to the public domain, the lands would be identified as public land inholdings surrounded by Reservation lands that may be administratively transferred to the Walker River Paiute Tribe as an addition to the Reservation under the 1936 Act, upon approval by the Secretary of the Interior. Some acres identified for relinquishment by the BOR overlap with a previous withdrawal for the Reservation; these acres would transfer to Tribal management upon Secretarial

revocation of the BOR withdrawal. The BIA has also requested the withdrawal and transfer into trust of additional public lands, as described below.

BOR withdrawn lands identified for relinquishment are described as follows:

Mount Diablo Meridian, Nevada

T. 12 N., R. 28 E.,

Sec. 25, lot 4.

T. 11 N., R. 29 E.,

Sec. 9, NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 18, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

The areas described aggregate 109.60 acres.

Public lands subject to withdrawal and transfer as an addition to the Walker River Indian Reservation, to be held in trust for the benefit of the Walker River Paiute Tribe, under the 1936 Act, are described as follows:

Mount Diablo Meridian, Nevada

T. 12 N., R. 28 E.,

Sec. 25, lot 4.

T. 11 N., R. 29 E.,

Sec. 18, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 12 N., R. 29 E.,

Sec. 27, lots 1 and 2, and SE $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate 173.25 acres.

For a period until August 7, 2024, persons who wish to submit comments regarding the proposed action may present their views in writing to the address listed in the **ADDRESSES** section above.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask the BLM in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The BOR lands described in this notice will remain withdrawn from entry under the United States mining laws while the proposed action is being processed. All activities on the BLM managed lands currently consistent with the Carson City Field Office May 2001 Consolidated Resource Management Plan, as amended, are authorized to continue, including public recreation and other activities compatible with preservation of the character of the area, subject to BLM discretionary approval, until such time as the Secretary issues a decision on the proposed action.

(Authority: 43 U.S.C. 1714 and Pub. L. 74-748, June 22, 1936)

Jon K. Raby,

State Director.

[FR Doc. 2024-14913 Filed 7-5-24; 8:45 am]

BILLING CODE 4331-16-P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2024-0036]

Notice of Availability of a Joint Record of Decision for the Proposed Atlantic Shores Offshore Wind South Project

AGENCY: Bureau of Ocean Energy Management, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce; U.S. Army Corp of Engineers, Department of the Army.

ACTION: Record of decision; notice of availability.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) announces the availability of the joint record of decision (ROD) on the final Environmental Impact Statement (EIS) for the construction and operations plan (COP) submitted by Atlantic Shores Offshore Wind Project 1, LLC and Atlantic Shores Offshore Wind Project 2, LLC (Atlantic Shores) for its proposed Atlantic Shores Offshore Wind South Project (Project) offshore New Jersey. The joint ROD includes the Department of the Interior's (DOI) decision regarding the COP; National Marine Fisheries Service's (NMFS) decision, pending completion of all statutory processes, regarding Atlantic Shores' requested Incidental Take Regulations (ITR) and an associated Letter of Authorization (LOA) under the Marine Mammal Protection Act (MMPA); and the Department of the Army's (DA) decision regarding authorizations under sections 10 and 14 of the Rivers and Harbors Act of 1889 (RHA), section 404 of the Clean Water Act (CWA), and section 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA). NMFS has adopted the final EIS to support its decision about whether or not to promulgate the requested ITR and issue a LOA to Atlantic Shores under the MMPA. U.S. Army Corps of Engineers (USACE) has adopted the final EIS to support its decision to issue a DA permit under sections 10 and 14 of the RHA, section 404 of the CWA, and section 103 of the MPRSA. The joint ROD concludes the National Environmental Policy Act process for each agency.

ADDRESSES: The joint ROD and associated information are available on BOEM's website at <https://www.boem.gov/renewable-energy/state-activities/atlantic-shores-south>.

FOR FURTHER INFORMATION CONTACT: For information related to BOEM's action, please contact Kimberly Sullivan, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, VAM-OREP, Sterling, Virginia 20166, (702) 338-4766, or kimberly.sullivan@boem.gov. For information related to NMFS' action, contact Katherine Renshaw, NOAA Office of General Counsel, (302) 515-0324, katherine.renshaw@noaa.gov. For information related to USACE's action, please contact Stephen Rochette, (215) 656-6515, PDPA-NAP@usace.army.mil.

SUPPLEMENTARY INFORMATION: Atlantic Shores seeks approval to construct, operate, and maintain the Project: two wind energy facilities (Project 1 and Project 2) and the associated export cables on the Outer Continental Shelf (OCS) offshore New Jersey. The Project would be developed within the range of design parameters outlined in the COP, subject to applicable mitigation measures.

A notice of availability for the final EIS was published in the **Federal Register** on May 31, 2024. On June 25, 2024, BOEM published an errata on its website that included certain edits to Chapter 2, Chapter 3, and Appendix G: Mitigation and Monitoring Table G-2. None of these edits are substantive or affect the analysis or conclusions in the final EIS.

The Project as proposed in the COP would include up to 200 total wind turbine generators (WTGs) (between 105 and 136 WTGs for Project 1, and between 64 and 95 WTGs for Project 2), up to 10 offshore substations (OSSs) (up to 5 in each Project), up to 1 permanent meteorological (met) tower, up to 4 temporary meteorological and oceanographic (metocean) buoys (up to 3 metocean buoys in Project 1 and 1 metocean buoy in Project 2), interarray and interlink cables, up to 2 onshore substations, 2 points of interconnection, 1 operations and maintenance facility, and up to 8 transmission cables making landfall at 2 New Jersey locations.

The Atlantic Shores South Project is proposed to be located 8.7 statute miles (14 kilometers)¹ from the New Jersey shoreline at its closest point, within the area covered by Renewable Energy Lease Number OCS-A 0499 (Lease Area).

After carefully considering public comments on the draft EIS and the alternatives described and analyzed in the final EIS, DOI selected Alternative B, "Proposed Action," in combination with Alternative C4, "Habitat Impact Minimization/Fisheries Habitat Impact Minimization: Micrositing," Alternative D3, "No Surface Occupancy of Up to 10.8 Miles [17.4 Kilometers] from Shore: Removal of up to 6 Turbines," and Alternative E, "Wind Turbine Layout Modification to Establish a Setback between Atlantic Shores South and Ocean Wind 1," as well as the two proposed mitigation measures that require WTG removal:

- No permanent structures will be placed in a way that narrows any linear rows and columns to fewer than 0.6 nautical miles (1,100 meters) or in a layout that eliminates two distinct lines of orientation in a grid pattern. The Project's proposed OSSs, met tower, and WTGs will be aligned in a uniform grid with rows in an east-northeast to west-southwest direction spaced 1.0 nautical mile (1,900 meters) apart and rows in an approximately north to south direction spaced 0.6 nautical mile (1,100 meters) apart, with the exception of WTGs AX01, AZ08, BA09, BC07, BE10, BE12, BE14, BE15, BE16, BF14, BF15, and BG13; and
- Atlantic Shores must remove from its Project layout a single turbine position approximately 150 to 200 feet (45.8 to 61 meters) from the observed Fish Haven (Atlantic City Artificial Reef Site).

This combination is the Preferred Alternative identified in the final EIS. The anticipated mitigation, monitoring, and reporting requirements, which will be included in BOEM's COP approval as terms and conditions, are included in the ROD, which is available at: <https://www.boem.gov/renewable-energy/state-activities/atlantic-shores-south>.

NMFS has adopted BOEM's final EIS to support its decision about whether or not to promulgate the requested ITR and issue the associated LOA to Atlantic Shores. NMFS' final decision about whether or not to promulgate the requested ITR and issue the LOA will be documented in a separate Decision Memorandum prepared in accordance with internal NMFS policy and procedures. The final ITR and a notice of issuance of the LOA, if issued, will be published in the **Federal Register**. The LOA would authorize Atlantic Shores to take small numbers of marine mammals incidental to Project construction and would set forth permissible methods of incidental taking; means of affecting the least practicable adverse impact on the

species and their habitat; and requirements for monitoring and reporting. Pursuant to Section 7 of the Endangered Species Act (ESA), NMFS issued a final Biological Opinion to BOEM on December 18, 2023, evaluating the effects of the proposed action on ESA-listed species. The proposed action in the Biological Opinion includes the associated permits, approvals, and authorizations that may be issued.

USACE has decided to adopt BOEM's final EIS and issue permits to Atlantic Shores under sections 10 and 14 of the RHA, section 404 of the CWA, and section 103 of the MPRSA.

Authority: National Environmental Policy Act of 1969, as amended, (42 U.S.C. 4321 *et seq.*); 40 CFR 1505.2.

Walter Cruickshank,

Deputy Director, Bureau of Ocean Energy Management.

[FR Doc. 2024-14908 Filed 7-5-24; 8:45 am]

BILLING CODE 4340-98-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE-2024-0002; EEEE500000 245E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014-0017]

Agency Information Collection Activities; Safety and Environmental Management Systems

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 6, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE-2024-0002 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

- Email nikki.mason@bsee.gov, fax (703) 787-1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and

¹ Equates to 7.6 nautical miles. 1 nautical mile = 1.1508 statute miles.

Environmental Enforcement; Regulations and Standards Branch; ATTN: Nikki Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0017 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nikki Mason by email at nikki.mason@bsee.gov or by telephone at (703) 787–1607. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of

information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Regulations governing Safety and Environmental Management Systems (SEMS) are covered in 30 CFR 250, Subpart S and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NLTs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

We consider the information to be critical for us to monitor industry's operations record of safety and environmental management on the OCS. The Subpart S regulations hold the operator accountable for the overall safety of the offshore facility, including ensuring that all employees, contractors, and subcontractors have safety policies and procedures in place that support the implementation of the operator's SEMS program and align with the principles of managing safety. An operator's SEMS program must describe management's commitment to safety and the environment, as well as policies and procedures to assure safety and environmental protection while conducting OCS operations (including those operations conducted by all personnel on the facility). BSEE will use the information obtained by submittals and observed via SEMS audits to ensure that operations on the OCS are conducted safely, as they pertain to both human and environmental factors, and in accordance with BSEE regulations, including industry practices incorporated by reference within the regulations. Job Safety Analyses (JSA's) and other recordkeeping required by the SEMS regulation will be reviewed diligently by BSEE during inspections and other oversight activities and by SEMS auditors during regulatory required audits, to ensure that industry is using the documentation required by the SEMS regulation to manage their safety and environmental risks.

Information on Form BSEE–0131, which the SEMS regulation requires to be submitted to BSEE annually, includes company identification, number of company/contractor injuries and/or illnesses suffered, company/contractor hours worked, EPA National Pollutant Discharge Elimination System (NPDES) permit non-compliances, and oil spill volumes for spills less than 1 barrel. Such information is reported on a calendar year basis, with data broken out by calendar quarter. The information is used to develop industry average incident rates that help to describe how well the offshore oil and gas industry is performing. Operators use these incident rates to benchmark against their own performance, and to focus on areas that need improvement. Using the produced data allows BSEE to better focus our regulatory and research programs on areas where the performance measures indicate that operators are having difficulty meeting our expectations. BSEE will be more effective in leveraging resources by redirecting research efforts, promoting appropriate regulatory initiatives, and shifting inspection and Directed Audit program emphasis based on performance results.

Title of Collection: 30 CFR part 250, subpart S, Safety and Environmental Management Systems (SEMS).

OMB Control Number: 1014–0017.

Form Number: BSEE–0131, Performance Measures Data.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way and/or third-party personnel or organization.

Total Estimated Number of Annual Respondents: Currently there are approximately 555 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 686.

Estimated Completion Time per Response: Varies from 39 hours to 11,926 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 1,487,634.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Submissions are on occasion.

Total Estimated Annual Nonhour Burden Cost: \$3,259,727.

An agency may not conduct, or sponsor and a person is not required to

respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2024–14846 Filed 7–5–24; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2023–0009; EEEE500000 245E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0008]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Well Control and Production Safety Training

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 7, 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. Please provide a copy of your comments to Nikki Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to nikki.mason@bsee.gov. Please reference OMB Control Number 1014–0008 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nikki Mason at 703–787–1607 or by email at nikki.mason@bsee.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United

States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on June 16, 2023 [88 FR 39461]. No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying

information from public review, we cannot guarantee that we will be able to do so.

Abstract: BSEE uses the information collected under subpart O regulations to ensure that workers in the OCS are properly trained with the necessary skills to perform their jobs in a safe and pollution-free manner.

In some instances, we may conduct oral interviews of offshore employees to evaluate the effectiveness of a company’s training program. The oral interviews are used to gauge how effectively the companies are implementing their own training program.

Title of Collection: 30 CFR 250, Subpart O, Well Control and Production Safety Training.

OMB Control Number: 1014–0008.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 555 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 5.

Estimated Completion Time per Response: Varies from 4 hours to 69 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 148.

Respondent’s Obligation: Responses are mandatory.

Frequency of Collection: Submissions are generally on occasion.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2024–14854 Filed 7–5–24; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR**Bureau of Safety and Environmental Enforcement**

[Docket ID BSEE–2023–0008; EEEE500000 245E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0005]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Relief or Reduction in Royalty Rates

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 8, 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. Please provide a copy of your comments to Nikki Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to nikki.mason@bsee.gov. Please reference OMB Control Number 1014–0005 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nikki Mason at 703–787–1607 or by email at nikki.mason@bsee.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information

collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on June 16, 2023 [88 FR 39466]. No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The information collected under 30 CFR part 203, Relief or Reduction in Royalty Rates is used in our efforts to make decisions on the economic viability of leases requesting a suspension or elimination of royalty or net profit share. These decisions have enormous monetary impact on both the lessee and the Federal government. Royalty relief can lead to increased production of natural gas and oil, creating profits for lessees, and royalty and tax revenues for the Federal

government that they might not otherwise receive. We could not make an informed decision without the collection of information required by 30 CFR part 203.

Title of Collection: 30 CFR part 203, Relief or Reduction in Royalty Rates.

OMB Control Number: 1014–0005.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 555 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 28.

Estimated Completion Time per Response: Varies from 1 hour to 2,000 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 724.

Respondent’s Obligation: Some responses are mandatory; while others are required to obtain or retain a benefit.

Frequency of Collection: Submissions are generally on occasion.

Total Estimated Annual Nonhour Burden Cost: \$27,950.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2024–14853 Filed 7–5–24; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR**Bureau of Safety and Environmental Enforcement**

[Docket ID BSEE–2024–0003; EEEE500000 245E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0017]

Agency Information Collection Activities; Pollution Prevention and Control

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 6, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE–2024–0003 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

- Email nikki.mason@bsee.gov, fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nikki Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0023 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nikki Mason by email at nikki.mason@bsee.gov or by telephone at (703) 787–1607. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our

information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This authority and responsibility are among those delegated to BSEE. The regulations at 30 CFR 250, subpart C requirements concern pollution prevention and control and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NLTs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

The information collected under Subpart C is used in our efforts to:

- record the location of items lost overboard to aid in recovery during site clearance activities on the lease;
- conduct operations according to all applicable regulations, requirements, and in a safe and workmanlike manner;
- properly handle for the protection of OCS workers and the environment the discharge or disposal of drill cuttings, sand, and other well solids, including those containing naturally

occurring radioactive materials (NORM); and

- inspect facilities daily for the prevention of pollution and ensure that any observed problems are corrected.

Title of Collection: 30 CFR part 250, subpart C, Pollution Prevention and Control.

OMB Control Number: 1014–0023.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public:

Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 3,273.

Estimated Completion Time per Response: Varies from 1 hour to 134 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 137,940.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Submissions are generally on occasion, weekly, and daily.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2024–14848 Filed 7–5–24; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2023–0012; EEEE50000 245E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0016]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Pipelines and Pipeline Rights-of-Way

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 7, 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. Please provide a copy of your comments to Nikki Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to nikki.mason@bsee.gov. Please reference OMB Control Number 1014–0016 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nikki Mason at 703–787–1607 or by email at nikki.mason@bsee.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A Federal Register notice with a 60-day public comment period soliciting comments on this collection of information was published on June 16, 2023 [88 FR 39462]. No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other

Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Lessees and pipeline ROW holders design the pipelines that they install, maintain, and operate. To ensure those activities are performed in a safe manner, BSEE needs information concerning the proposed pipeline and safety equipment, inspections and tests, and natural and manmade hazards near the proposed pipeline route. BSEE uses the information to review pipeline designs prior to approving an application for an ROW or lease term pipeline to ensure that the pipeline, as constructed, will provide for safe transportation of minerals through the submerged lands of the OCS. BSEE reviews proposed pipeline routes to ensure that the pipelines would not conflict with any State requirements or unduly interfere with other OCS activities. BSEE reviews proposals for taking pipeline safety equipment out of service to ensure alternate measures are used that will properly provide for the safety of the pipeline and associated facilities (platform, etc.). BSEE reviews notifications of relinquishment of ROW grants and requests to decommission pipelines for regulatory compliance and

to ensure that all legal obligations are met. BSEE monitors the records concerning pipeline inspections and tests to ensure safety of operations and protection of the environment and to schedule witnessing trips and inspections. Information is also necessary to determine the point at which DOI or Department of Transportation (DOT) has regulatory responsibility for a pipeline and to be informed of the identified operator if not the same as the pipeline ROW holder.

BSEE–0149—Assignment of Federal OCS Pipeline Right-of-Way Grant

BSEE uses the information to track the holder-ship of pipeline ROWs; as well as use this information to update the corporate database that is used to determine what leases are available for a Lease Sale and the ownership of all OCS leases.

The form asks the pipeline ROW holder to provide:

- Part A—Assignment
 - the legal description of the pipeline ROW grant being assigned,
 - what specifically the pipeline ROW holder is selling, assigning, or transferring,
 - the company name and number of each assignor and assignee,
 - the percentage interest conveyed, and
 - the percentage interest received.
- Part B—Certification and Acceptance
 - assignor(s) signature, name, title, and date, and
 - assignee(s) signature, name, title, and date.

If we approve the assignment, the authorized BSEE official signs and dates the form, and the assignment becomes effective on the date specified by us.

Form BSEE–0135—Designation of Right-of-Way Operator

BSEE uses the information to identify who has the authority to act on the ROW grant holder’s behalf to fulfill obligations under the OCS Lands Act; as well as BSEE may provide to the designated ROW operator written or oral instructions in securing compliance with the ROW grant in accordance with applicable laws and regulations. The form asks the pipeline ROW holder to provide:

- Pipeline ROW Grant Number
- Regional Office
- Name and address of Operator
- ROW grant description, including ROW and Pipeline Segment Numbers
- Identified ROW pipeline operator and GOM ID number
- Signatory name, title, and date.

Title of Collection: 30 CFR 250, Subpart J, Pipelines and Pipeline Rights-of-Way (ROW).

OMB Control Number: 1014-0016.

Form Number: Forms BSEE-0149—Assignment of Federal OCS Pipeline Right-of-Way Grant, and Form BSEE-0135—Designation of Right-of-Way Operator.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public:

Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Responses: Currently there are approximately 550 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 2,802.

Estimated Completion Time per Response: Varies from 30 minutes to 107 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 34,206.

Respondent's Obligation: Submissions are mandatory or are required to obtain or retain a benefit.

Frequency of Collection: Submissions are generally on occasion.

Total Estimated Annual Nonhour Burden Cost: \$1,344,916.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2024-14856 Filed 7-5-24; 8:45 am]

BILLING CODE 4310-VH-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-727 and 731-TA-1695 (Preliminary)]

Disposable Aluminum Containers, Pans, Trays, and Lids From China Determinations

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission

(“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of disposable aluminum containers, pans, trays, and lids from China, provided for in statistical reporting number 7615.10.7125 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (“LTFV”) and alleged to be subsidized by the Government of China.^{2,3}

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission’s rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in § 207.21 of the Commission’s rules, upon notice from the U.S. Department of Commerce (“Commerce”) of affirmative preliminary determinations in the investigations under §§ 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under §§ 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Any other party may file an entry of appearance for the final phase of the investigations after publication of the final phase notice of scheduling. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations. As provided in section 207.20 of the Commission’s rules, the Director of the Office of Investigations will circulate draft questionnaires for the final phase of the investigations to parties to the investigations, placing copies on the Commission’s Electronic Document Information System (EDIS, <https://edis.usitc.gov>), for comment.

Background

On May 16, 2024, the Aluminum Foil Container Manufacturers Association, Lexington, Kentucky, and its individual members Durable Packaging International, Wheeling, Illinois; D&W Fine Pack, LLC, Wood Dale, Illinois; Handi-Foil Corp., Wheeling, Illinois; Penny Plate, LLC, Fishersville, Virginia; Reynolds Consumer Products, LLC, Lake Forest, Illinois; Shah Foil Products, Inc., Piscataway Township, New Jersey; Smart USA, Inc., Bay Shore, New York; and Trinidad/Benham Corp., Denver, Colorado, filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of disposable aluminum containers, pans, trays, and lids from China. Accordingly, effective May 16, 2024, the Commission instituted countervailing duty investigation No. 701-TA-727 and antidumping duty investigation No. 731-TA-1695 (Preliminary).

Notice of the institution of the Commission’s investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 22, 2024 (89 FR 45016). The Commission conducted its conference on June 6, 2024. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on July 9, 2024. The views of the Commission are contained in USITC Publication 5523 (July 2024), entitled *Disposable Aluminum Containers, Pans, Trays, and Lids from China: Investigation Nos. 701-TA-727 and 731-TA-1695 (Preliminary)*.

By order of the Commission.

Issued: July 2, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024-14905 Filed 7-5-24; 8:45 am]

BILLING CODE 7020-02-P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee

AGENCY: Joint Board for the Enrollment of Actuaries.

¹ The record is defined in § 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

² 89 FR 49833 and 89 FR 49837 (June 12, 2024).

³ Commissioner Rhonda K. Schmittlein not participating.

ACTION: Notice of Federal Advisory Committee meeting; amended.

SUMMARY: This notice amends the location of the partially closed meeting of the Advisory Committee on Actuarial Examinations previously announced in the **Federal Register** of June 14, 2024.

DATES: July 11, 2024, from 9 a.m. to 5 p.m., and July 12, 2024, from 9:30 a.m. to 3 p.m.

FOR FURTHER INFORMATION CONTACT: Elizabeth Van Osten, Designated Federal Officer, Advisory Committee on Actuarial Examinations, at (202) 312-3648 or Elizabeth.jvanosten@irs.gov.

SUPPLEMENTARY INFORMATION: As published in the **Federal Register** of June 14, 2024 (89 FR 50634), the meeting was to be held at the Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224. However, due to an unexpected building closure precluding an in-person meeting, the meeting will be held by teleconference instead. There are no other changes to the meeting. Because the circumstances necessitating the change to the venue of the meeting are beyond the control of the Joint Board or the Enrollment of Actuaries, it is unable to provide public notification

about the changes, as required by 41 CFR 102-3.150(a).

Dated: July 3, 2024.

Thomas V. Curtin, Jr.,
Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2024-14991 Filed 7-5-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1389]

Bulk Manufacturer of Controlled Substances Application: Curia Missouri Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Curia Missouri Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to

the issuance of the proposed registration on or before September 6, 2024. Such persons may also file a written request for a hearing on the application on or before September 6, 2024.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on May 29, 2024, Curia Missouri Inc., 2460 West Bennett Street, Springfield, Missouri 65807-1229, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Phenylacetone	8501	II
Tapentadol	9780	II

The company plans to bulk manufacture the listed controlled substances for internal use intermediates or for sale to its customers. No other activities for these drug codes are authorized for this registration.

Marsha L. Ikner,

Acting Deputy Assistant Administrator.

[FR Doc. 2024-14926 Filed 7-5-24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1385]

Bulk Manufacturer of Controlled Substances Application: S&B Pharma LLC DBA Norac Pharma

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: S&B Pharma LLC DBA Norac Pharma has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before September 6, 2024. Such persons may also file a written request for a hearing on the application on or before September 6, 2024.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for

lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on April 30, 2024, S&B Pharma LLC DBA Norac Pharma, 405 South Motor Avenue, Azusa, California 91702, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I

The company plans to manufacture the above listed controlled substance for internal research and for development purposes as part of the process in seeking Food and Drug Administration approval prior to distribution to customers. No other activity for this drug code is authorized for this registration.

Marsha L. Ikner,

Acting Deputy Assistant Administrator.

[FR Doc. 2024–14910 Filed 7–5–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1388]

**Importer of Controlled Substances
Application: Arizona Department of
Corrections**

AGENCY: Drug Enforcement
Administration, Justice.

ACTION: Notice of application.

SUMMARY: Arizona Department of Corrections has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before August 7, 2024. Such persons may also file a written request for a hearing on the application on or before August 7, 2024.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not

instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on June 3, 2024, Arizona Department of Corrections, 1305 East Butte Avenue, ASPC-Florence, Florence, Arizona 85132–9221, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Pentobarbital	2270	II

The facility intends to import the above-listed controlled substance for legitimate needs. This particular controlled substance is not available for the intended legitimate need within the current domestic supply of the United States. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Marsha L. Ikner,

Acting Deputy Assistant Administrator.

[FR Doc. 2024–14918 Filed 7–5–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On July 1, 2024, the Department of Justice lodged a proposed consent decree with the United States District Court for the Southern District of New York in the lawsuit entitled *United States v. Gristede's Foods NY, Inc.*, Civil Action No. 24 Civ. 4981.

The United States filed this lawsuit seeking injunctive relief and civil penalties for violations of the Clean Air Act against defendant Gristede's Foods NY, Inc. ("Gristedes") for violations of the United States Environmental Protection Agency's ("EPA") Recycling and Emissions Reduction Rule, 40 CFR part 82, subpart F, for failing to take actions necessary to monitor, prevent, leak, and record refrigerant emissions.

The consent decree requires Gristedes to implement a new Refrigerant Compliance Management Plan; to

reduce its company-wide refrigerant leak rates; to repair or replace specified appliances; to convert certain stores to using more advanced refrigerants; and to pay a \$400,000 civil penalty to the United States.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Gristede's Foods NY, Inc.*, D.J. Ref. No. 90–5–2–1–12759. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov

<i>To submit comments:</i>	<i>Send them to:</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: <http://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the consent decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024–14916 Filed 7–5–24; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Claims and Payment Activities

ACTION: Notice.

SUMMARY: The Department of Labor’s (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension, with changes, for the authority to conduct the information collection request (ICR) titled, “Claims and Payment Activities.” This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by September 6, 2024.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Rachel Beistel by telephone at 202–693–2736 (this is not a toll-free number) or by email at beistel.rachel@dol.gov. For persons with a hearing or speech disability who need assistance to use the telephone system, please dial 711 to

access telecommunications relay services.

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance Room S–4519, 200 Constitution Ave. NW, Washington, DC 20210; by email: OUI-PRA@dol.gov; or by fax 202–693–3975.

FOR FURTHER INFORMATION CONTACT:

Kevin Stapleton by telephone at 202–693–3009 (this is not a toll-free number) or by email at stapleton.kevin@dol.gov.

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Section 303(a)(6) of the Social Security Act (SSA) specifies that for State Unemployment Insurance (UI) programs to be certified to receive administrative funding from the Federal Government, the State’s law must include provisions for “making of such reports . . . as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports.” DOL considers the proposed changes and updates to the ETA 5159 report to be one of those “provisions . . . necessary to assure the correctness and verification” of the reports submitted by States. ETA is proposing changes to the ETA 5159 to continue to collect information on claim activities, number of claims and amount of payments under State UI laws and Federal unemployment insurance laws for Federal workers and ex-service members, as well as add additional sections on activities for claimants that received State UI first payments and final payments by race or ethnicity, sex and/or gender, level of educational attainment following the updated definitions proposed for the ETA 203 Report titled “Characteristics of the Insured Unemployed” under OMB Control Number 1205–0009 and a new field capturing incomplete claims. The

additional demographic report fields for Sex and/or Gender incorporate the most recent U.S. State Department’s updated passport guidelines. The report fields for Race or Ethnicity follow the updated guidance/changes set out in the Office of Management and Budget’s Revisions to its Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity,¹ which became effective on March 29, 2024. The update field for Level of Educational Attainment aligns with the U.S. Census Bureau.

These changes will capture characteristics that better reflect society and the UI population across demographic groups. ETA proposes adding these categories to increase understanding of interactions between socio-economic characteristics and unemployment insurance receipt, benefit exhaustion, and to assist State UI program managers seeking to identify areas of needs such as barriers to filing an application for benefits, hence the additional field for “incomplete claims”. An individual’s refusal to disclose claimant demographic information will *not* impact eligibility determinations. Also, any responses collected and information provided will be treated as confidential. This data will not be shared beyond aggregate reporting to ETA and any demographic information associated with a specific claimant or employer will be masked or hidden from State agency staff. Furthermore, an individual’s disclosure of demographic information is voluntary and a non-response to questions will continue to be reported as “Information Not Available” or INA. Section 303(a)(6) SSA, authorizes this information collection.

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 it is approved by OMB under the PRA 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 Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request

¹ <https://www.govinfo.gov/content/pkg/FR-2024-03-29/pdf/2024-06469.pdf>.

for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0010.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

Minimize the burden of the collection of information on those who are to respond, including 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).

Agency: DOL–ETA.

Type of Review: Revision.

Title of Collection: Claims and Payment Activities.

Form: ETA 5159.

OMB Control Number: 1205–0010.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 53.

Frequency: Monthly.

Total Estimated Annual Responses: 636.

Estimated Average Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 424 hours.

Total Estimated Annual Other Cost Burden: \$0.

Authority: 44 U.S.C. 3506(c)(2)(A).

José Javier Rodríguez,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2024–14791 Filed 7–5–24; 8:45 am]

BILLING CODE 4510–FW–P

MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

Sunshine Act Meetings

TIME AND DATE: 10 a.m. to 3 p.m. (EDT), Tuesday, July 23, 2024.

PLACE: The offices of The University of Arizona Washington, DC Center for Outreach and Collaboration, 1301 Pennsylvania Avenue NW, Suite 500, Washington, DC 20004.

STATUS: Parts of this special meeting of the Board of Trustees will be open to the public. The rest of the meeting will be closed to the public. Members of the public who would like to observe the public session of this meeting may request remote access by contacting Sara Moeller at moeller@udall.gov prior to July 23, 2024, to obtain the teleconference connection information.

MATTERS TO BE CONSIDERED: (1) Call to Order and Chair's Remarks; (2) Trustees' Remarks; (3) Executive Director's Remarks; (4) Consent Agenda Approval (Minutes of the April 3, 2024, Board of Trustees Meeting, and Board takes notice of any new and updated personnel policies and internal control methodologies); (5) Vote on Proposed Executive Session (discuss internal personnel rules and practices of the agency, and disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy); (6) Program Eligibility; and (7) Executive Session.

PORTIONS OPEN TO THE PUBLIC: All agenda items except as noted below.

PORTIONS CLOSED TO THE PUBLIC: Executive Session.

CONTACT PERSON FOR MORE INFORMATION: Sara Moeller, Administrative Officer, 434 E University Blvd., Suite 300, Tucson, AZ 85705, (520) 901–8568.

Dated: July 3, 2024.

David P. Brown,

Executive Director, Morris K. Udall and Stewart L. Udall Foundation.

[FR Doc. 2024–15056 Filed 7–3–24; 4:15 pm]

BILLING CODE 6820–FN–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board hereby gives notice of the scheduling of a teleconference of the National Science Board/National Science Foundation Commission on Merit Review (MRX) and a teleconference of a joint meeting of the National Science Board's Committee on Strategy (CS) and Committee on Awards and Facilities

(A&F) for the transaction of National Science Board business pursuant to the NSF Act and the Government in the Sunshine Act.

TIME AND DATE: The MRX meeting is scheduled for Thursday, July 11, 2024, from 2:00 p.m.–4:00 p.m. EDT.

PLACE: This meeting will be via videoconference through the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda for the MRX meeting is: Commission Chair's remarks about the agenda; Discussion of Preliminary Accountability Recommendations; Commission Chair's closing remarks.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, cblair@nsf.gov, 703/292–7000. Meeting information and updates may be found at www.nsf.gov/nsb.

Ann E. Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2024–14982 Filed 7–3–24; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0163]

Information Collection: Licensing Requirements for Land Disposal of Radioactive Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, “Licensing Requirements for Land Disposal of Radioactive Waste.”

DATES: Submit comments by August 7, 2024. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—

Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2023-0163 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2023-0163.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The supporting is available in ADAMS under Accession No. ML24135A285.

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

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—

Open for Public Comments” or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, “10 CFR part 61, Licensing Requirements for Land Disposal of Radioactive Waste.” The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on March 5, 2024, 89 FR 15904.

1. *The title of the information collection:* 10 CFR part 61, Licensing Requirements for Land Disposal of Radioactive Waste.
2. *OMB approval number:* 3150-0135.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not Applicable.
5. *How often the collection is required or requested:* Applications for licenses are submitted as needed. Other reports are submitted annually, and as other events require.
6. *Who will be required or asked to respond:* Applicants for and holders of an NRC license or Agreement State license for land disposal of low-level radioactive waste.
7. *The estimated number of annual responses:* 16 (12 reporting responses and 4 recordkeepers).
8. *The estimated number of annual respondents:* 4.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 5,372 hours (56 hours reporting and 5,316 hours recordkeeping).

10. *Abstract:* 10 CFR part 61, establishes the procedures, criteria, and license terms and conditions for the land disposal of low-level radioactive waste. The reporting and recordkeeping requirements are mandatory and, in the case of application submittals, are required to obtain a benefit. The information collected in the applications, reports, and records is evaluated by the NRC to ensure that the licensee's or applicant's disposal facility, equipment, organization, training, experience, procedures, and plans provide an adequate level of protection of public health and safety, common defense and security, and the environment.

Dated: July 2, 2024.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2024-14861 Filed 7-5-24; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2024-0022]

Information Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, “Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.”

DATES: Submit comments by August 7, 2024. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/>

public/do/PRAMain. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email:

Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2024-0022 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2024-0022.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to *PDR.Resource@nrc.gov*. The supporting statement is available in ADAMS under Accession No. ML24179A048.

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

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: *Infocollects.Resource@nrc.gov*.

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this

particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, “Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.” The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on February 28, 2024, 89 FR 14725.

1. *The title of the information collection:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.
2. *OMB approval number:* 3150-0217.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion, quarterly, and annually.
6. *Who will be required or asked to respond:* Individuals and households; businesses and organizations; State, Local, or Tribal governments.
7. *The estimated number of annual responses:* 13,300.
8. *The estimated number of annual respondents:* 13,300.
9. *The estimated number of hours needed annually to comply with the*

information collection requirement or request: 2,708.

10. *Abstract:* The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, for the purpose of improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Dated: July 1, 2024.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2024-14830 Filed 7-5-24; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION**[NRC-2024-0001]****Sunshine Act Meetings**

TIME AND DATE: Weeks of July 8, 15, 22, 29, and August 5, 12, 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301-287-0745, by videophone at 240-428-3217, or by email at Anne.Silk@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301-415-1969, or by email at Betty.Thweatt@nrc.gov or Samantha.Miklaszewski@nrc.gov.

MATTERS TO BE CONSIDERED:**Week of July 8, 2024**

Thursday, July 11, 2024

10:00 a.m. Briefing on Results of the Agency Action Review Meeting (Public Meeting) (Contact: Greg Stock: 570-449-4306)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Week of July 15, 2024—Tentative

There are no meetings scheduled for the week of July 15, 2024.

Week of July 22, 2024—Tentative

There are no meetings scheduled for the week of July 22, 2024.

Week of July 29, 2024—Tentative

There are no meetings scheduled for the week of July 29, 2024.

Week of August 5, 2024—Tentative

There are no meetings scheduled for the week of August 5, 2024.

Week of August 12, 2024—Tentative

There are no meetings scheduled for the week of August 12, 2024.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Sarah Turner at 301-287-9058 or via email at Sarah.Turner@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: July 3, 2024.

For the Nuclear Regulatory Commission.

Sarah A. Turner,

Information Management Specialist, Office of the Secretary.

[FR Doc. 2024-15033 Filed 7-3-24; 4:15 pm]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION**[Docket No. 11006605; NRC-2024-0117]****Perma-Fix Northwest Richland, Inc.; Export License Application**

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity to provide comments, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering issuing an export license (XW032), requested by Perma-Fix Northwest Richland, Inc (PFNW) by application dated June 3, 2024. The application seeks the NRC's approval to return residual radioactive waste to the country of origin, Italy. The NRC is providing notice of the opportunity to comment, request a hearing, and petition to intervene on PFWN, Inc's application.

DATES: Submit comments by August 7, 2024. A request for a hearing or petition for leave to intervene must be filed by August 7, 2024.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2024-0117. Address questions about Docket IDs in [Regulations.gov](https://www.regulations.gov) to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions contact the individual listed

in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:* Hearing.Docket@nrc.gov. If you do not receive an automatic email reply confirming receipt, then contact us at 301-415-1677.

- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Andrea Jones, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 404-997-4443, email: Andrea.Jones2@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Obtaining Information and Submitting Comments***A. Obtaining Information*

Please refer to NRC-2024-0117 or Docket No. 11006605 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2024-0117.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The export license application is available in ADAMS under Accession No. ML24178A051.

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

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include NRC–2024–0117 or Docket No. 11006605 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On June 3, 2024, PFNW, Inc. submitted an application to the NRC for a license to export treated radioactive waste of Italian origin. The source of the waste is the European Commission's Joint Research Centre (JRC), located in Ispra, Italy. PFNW, Inc., intends to

receive shipment of incoming waste consisting of liquid, solids, contaminated personal protective equipment, paper, plastic, glass, and combustible waste generated by the research projects at the JRC facility. PFNW will treat the waste by thermal processing, stabilization, and solidification. Residual ash and noncombustible metal would then be exported back to Italy for disposal. Resultant contaminants to be exported will include nickel-63 (Ni-63), carbon-14 (C-14), cesium-137 (Cs-137), cobalt-60 (Co-60), technetium-99 (Tc-99), strontium-90 (Sr-90), americium-241 (Am-241), curium-244 (Cu-144), plutonium (Pu) and uranium-238 (U-238) in the form of residual ash and residual metal or non-combustible material, not to exceed 0.70 terabecquerels (TBq). PFNW, Inc. requests an expiration date of December 31, 2036.

In accordance with paragraph 110.70(b) of Title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is providing notice of the receipt of the application; providing the opportunity to submit written comments concerning the application; and providing the opportunity to request a hearing or petition for leave to intervene, for a period of 30 days after publication of this notice in the **Federal Register**.

A hearing request or petition for leave to intervene must include the information specified in 10 CFR 110.82(b). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner in

accordance with 10 CFR 110.89(a), either by delivery, by mail, or filed with the NRC electronically in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). Detailed guidance on electronic submissions is located in the "Guidance for Electronic Submissions to the NRC" (ADAMS Accession No. ML13031A056) and on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at Hearing.Docket@nrc.gov, or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

The information concerning this application for an export license is as follows.

NRC EXPORT LICENSE APPLICATION

Application information	
Name of Applicant	Perma-Fix Northwest Richland, Inc (PFNW).
Date of Application	June 3, 2024.
Date Received	June 11, 2024.
Application No	XW032.
Docket No	11006605.
ADAMS Accession No	ML24178A051.
Description of material	
Material Type	Low-level radioactive waste contaminated with Ni-63, C-14, Cs-137, Co-60, Sr-90, Tc-99, Am-241, Cu-244, Pu, and U-238 in the form of residual ash and residual metal or non-combustible material. The incoming material will include liquid, solids, contaminated personal protective equipment, paper, plastic, glass, and combustible waste generated by the research projects at the European Commission Joint Research Centre located in Ispra, Italy.
Total Quantity	Not to exceed 0.070 TBq.
End Use	Storage and ultimate disposal of low-level radioactive waste.
Country of Destination	Italy.

Dated: July 1, 2024.

For the Nuclear Regulatory Commission.

David L. Skeen,

Director, Office of International Programs.

[FR Doc. 2024–14780 Filed 7–5–24; 8:45 am]

BILLING CODE 7590–01–P

**SECURITIES AND EXCHANGE
COMMISSION****Sunshine Act Meetings**

TIME AND DATE: 1:00 p.m. on Thursday, July 11, 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.

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: July 3, 2024.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2024-15019 Filed 7-3-24; 4:15 pm]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE
COMMISSION**

[Release Nos. 34-100451; File Nos. PCAOB-2024-01, PCAOB-2024-02]

Public Company Accounting Oversight Board; Extension of Comment and Approval Periods for Proposed Rules on General Responsibilities of the Auditor in Conducting an Audit and Amendments to PCAOB Standards and A Firm's System of Quality Control and Related Amendments to PCAOB Standards

July 1, 2024.

On June 5, 2024, the Public Company Accounting Oversight Board ("PCAOB") 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 the proposed rules referenced above (collectively, the "proposed rules"). The proposed rules were published for comment in the **Federal Register** on June 11, 2024.³ The Commission provided a 21-day public comment period for the proposed rules,⁴ which is scheduled to end on July 2, 2024.

Section 19(b)(2) of the Act⁵ provides that no later than 45 days after the date 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 organization⁶ consents, the Commission shall either approve or 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 the proposed rules is July 26, 2024.

To provide additional time for public comment on the proposed rules and the issues raised therein, the Commission has determined to extend the comment period for the proposed rules for an

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release Nos. 34-100276 and 34-100277 (June 5, 2024) [89 FR 49730 and 89 FR 49588 (June 11, 2024)].

⁴ See id.

⁵ 15 U.S.C. 78s(b)(2).

⁶ The term "self-regulatory organization" includes a "registered securities association." See section 3(a)(26) of the Act. Section 107(b)(4) of the Sarbanes-Oxley Act of 2002 states that the provisions of section 19(b)(1)-(3) of the Act shall govern the proposed rules of the PCAOB as fully as if the PCAOB were a registered securities association for purposes of that Section.

additional 14 days. To accommodate the longer comment period and consideration of such comments, the Commission finds it appropriate to also extend the time period within which the Commission must take action on the proposed rules for up to 30 days. Accordingly, the Commission is extending the public comment period until July 16, 2024, and, pursuant to section 19(b)(2) of the Act,⁷ extends the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rules to August 25, 2024 (File Nos. PCAOB-2024-01, PCAOB-2024-02).

For the Commission, by the Office of the Chief Accountant.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-14819 Filed 7-5-24; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20362 and #20363; Arkansas Disaster Number AR-20007]

Presidential Declaration Amendment of a Major Disaster for the State of Arkansas

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Arkansas (FEMA-4788-DR), dated 05/30/2024.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: 05/24/2024 through 05/27/2024.

DATES: Issued on 07/02/2024.

Physical Loan Application Deadline Date: 08/28/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 03/03/2025.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

⁷ 15 U.S.C. 78s(b)(2).

SUPPLEMENTARY INFORMATION: The notice of the President’s major disaster declaration for the State of Arkansas, dated 05/30/2024, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 08/28/2024. All other information in the original declaration remains unchanged. (Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,
Deputy Associate Administrator, Office of Disaster Recovery & Resilience.
[FR Doc. 2024–14874 Filed 7–5–24; 8:45 am]
BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION
[Disaster Declaration #20413 and #20414;
Florida Disaster Number FL–20007]

Administrative Declaration of a Disaster for the State of Florida

AGENCY: U.S. Small Business Administration.
ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Florida dated 07/01/2024.
Incident: Severe Storms and Flooding.
Incident Period: 06/11/2024 through 06/14/2024.
DATES: Issued on 07/01/2024.
Physical Loan Application Deadline Date: 08/30/2024.
Economic Injury (EIDL) Loan Application Deadline Date: 04/01/2025.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.
FOR FURTHER INFORMATION CONTACT: Vanessa Morgan, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator’s disaster declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1–800–659–2955 for further assistance.
The following areas have been determined to be adversely affected by the disaster:
Primary Counties: Broward, Miami-Dade

<i>Contiguous Counties:</i> Florida: Collier, Hendry, Monroe, Palm Beach The Interest Rates are:	
	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere	5.375
Homeowners without Credit Available Elsewhere	2.688
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere ...	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.250
<i>For Economic Injury:</i>	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.250

The number assigned to this disaster for physical damage is 204136 and for economic injury is 204140.
The State which received an EIDL Declaration is Florida.
(Catalog of Federal Domestic Assistance Number 59008)
Isabella Guzman,
Administrator.
[FR Doc. 2024–14858 Filed 7–5–24; 8:45 am]
BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION
Data Collection Available for Public Comments; Correction

AGENCY: Small Business Administration.
ACTION: Notice; correction.

SUMMARY: The Small Business Administration (SBA) published a document in the **Federal Register** of June 28, 2024, concerning a request for comments on a new data collection. The document contained a typo.
FOR FURTHER INFORMATION CONTACT: Peter Gorman, peter.gorman@sba.gov, (240) 962–9181. Curtis B. Rich, Agency Clearance Officer curtis.rich@sba.gov (202) 205–7030.
SUPPLEMENTARY INFORMATION:
Correction
In the **Federal Register** of June 28, 2024, in Document Number 2024–14194 on page 54122, correct the “Summary of Information Collection” section to read:

Summary of Information Collection
PRA Number
(1) *Title:* MySBA.
Description of Respondents: Current and potential customers of SBA programs.
Form Number: N/A.
Total Estimated Annual Respondents: 17,677,736 potential users.
Total Estimated Annual Responses per Respondent: 1.
Total Estimated Annual Hour Burden per Respondent: 2 minutes.
Total Estimated Annual Hour Burden: 589,258 hours.
Dated: July 2, 2024.
Curtis B. Rich,
Agency Clearance Officer.
[FR Doc. 2024–14914 Filed 7–5–24; 8:45 am]
BILLING CODE 8026–09–P

DEPARTMENT OF STATE
[Public Notice: 12447]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Lumen: The Art & Science of Light” Exhibition
SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Lumen: The Art & Science of Light” at the J. Paul Getty Museum at the Getty Center, Los Angeles, California, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.
FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.
SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of

Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–14921 Filed 7–5–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12444]

Meeting of the United States-Republic of Korea Environmental Affairs Council and Environmental Cooperation Commission

ACTION: Notice of meetings and request for comments or questions.

SUMMARY: The U.S. Department of State and the Office of the United States Trade Representative (USTR) are providing notice that the United States and the Republic of Korea (ROK) intend to hold the fourth meetings of the Environmental Affairs Council (EAC) and Environmental Cooperation Commission (ECC) in Seoul, ROK on July 11 and 12, 2024. The purposes of the meetings, respectively, are to review implementation of the Environment Chapter (Chapter 20) of the U.S.-Korea Free Trade Agreement (FTA) and to review cooperative environmental activities undertaken under the United States–Republic of Korea Environmental Cooperation Agreement (ECA).

DATES: The EAC and ECC meetings will be held on July 11, 2024, in Seoul, ROK. A joint public session will also be held in Seoul on July 12, 2024. Written comments or questions related to these meetings should be submitted no later than July 10, 2024, for consideration. Instructions on submitting questions or comments are under the heading

ADDRESSES.

ADDRESSES: Written comments or questions should use “United States–Republic of Korea EAC/ECC Meetings” as the subject line and be submitted to both:

(1) Merideth Manella, U.S. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, Office of Environmental Quality, by email to ManellaM@state.gov and (2) Timothy Wedding, Office of Environment and Natural Resources, Office of the United

States Trade Representative, by email to twedding@ustr.eop.gov.

When preparing comments, submitters are encouraged to refer to Chapter 20 (Environment) of the FTA and/or the ECA, as relevant (available at https://ustr.gov/sites/default/files/uploads/agreements/fta/korus/asset_upload_file852_12719.pdf and <https://2009-2017.state.gov/documents/organization/182922.pdf>).

In your email, please include your full name and organization.

If you have access to the internet, you can view and comment on this notice by going to: <http://www.regulations.gov/#/home> and searching for docket number DOS–2024–0020.

FOR FURTHER INFORMATION CONTACT:

Merideth Manella, (202) 286–5271, ManellaM@state.gov or Timothy Wedding, (202) 395–6072, twedding@ustr.eop.gov.

SUPPLEMENTARY INFORMATION: Article 20.6.1 of the United States–Korea FTA establishes an Environmental Affairs Council (EAC), which oversees implementation of the Environment Chapter (Chapter 20). The United States and the Republic of Korea, collectively the Parties, established the Environmental Cooperation Commission (ECC) on January 23, 2012, when they signed the Environmental Cooperation Agreement (ECA), which was negotiated in concert with the FTA. In Articles 3 and 4 of the ECA, the Parties state they plan to meet to develop and update, as appropriate, a Work Program of Environmental Cooperation to identify environmental cooperation priorities and possibilities for future cooperation.

During the closed government-to-government EAC and ECC meetings on July 11, 2024, in Seoul, ROK, the Parties will discuss their respective implementation of the Environment Chapter (Chapter 20) of the United States–Korea FTA and review activity under the 2019–2022 and 2023–2026 Work Programs under the ECA.

On July 12, 2024, the Parties will host a joint public session on Environment Chapter (Chapter 20) implementation and environmental cooperation under the ECA in Seoul. Interested persons are invited to submit questions, input, and information for consideration for both the closed and public sessions. Instructions on submitting questions or comments are under the heading

ADDRESSES.

Visit the Department of State website at www.state.gov and the USTR website at www.ustr.gov for more information.

Andrew D. Clark,

Acting Director, Office of Environmental Quality, Department of State.

[FR Doc. 2024–14866 Filed 7–5–24; 8:45 am]

BILLING CODE 4710–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36652]

Green Eagle Railroad—Construction and Operation Exemption—Line of Railroad in Maverick County, Texas

AGENCY: Lead: Surface Transportation Board (Board); Cooperating: United States Coast Guard (USCG).

ACTION: Notice of availability of the final scope of study for the environmental impact statement (EIS).

SUMMARY: On December 14, 2023, Green Eagle Railroad, LLC (GER), a subsidiary of Puerto Verde Holdings (PVH), filed a petition with the Board for authority to construct and operate approximately 1.3 miles of new common carrier rail line (the Line) in Maverick County, Texas (Proposed Action). The purpose of this Notice is to inform stakeholders—including members of the public; elected officials; Tribes; Federal, State, and local agencies; and organizations—interested in or potentially affected by environmental and historic impacts related to the Line and the PVGTB Project of the availability of the Final Scope of Study (Final Scope) for the EIS.

FOR FURTHER INFORMATION CONTACT:

Andrea Poole, Office of Environmental Analysis, Surface Transportation Board, c/o VHB, 1001 G Street NW, Suite 1125, Washington, DC 20001; send an email to contact@greeneaglerreis.com; call (202) 934–3330; or call OEA’s toll-free number (888) 319–2337. Reference Docket No. FD 36652 in all communications. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245. For information about the environmental review process, you may visit the Board-sponsored project website at www.greeneaglerreis.com or the Board’s website at www.stb.gov.

SUPPLEMENTARY INFORMATION:

Background

GER proposes to construct and operate an approximately 1.3-mile rail line that would extend from the United States/Mexico border to the existing Union Pacific Railroad (UP) connection

at approximately UP milepost 31. The Line would cross the Rio Grande River on a new rail bridge (Rail Bridge) and be part of a larger project proposed by PVH, the Puerto Verde Global Trade Bridge project (PVGTB Project), consisting of a new trade corridor for freight rail and commercial motor vehicles between Piedras Negras, Coahuila, Mexico, and Eagle Pass, Texas, United States. The Board's Office of Environmental Analysis (OEA) determined that construction and operation of the Line has the potential to result in significant environmental impacts; therefore, the preparation of an EIS is appropriate pursuant to the National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4370m–11) and related environmental laws, including section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108). In addition to the Line, the PVGTB Project in the United States includes a new commercial motor vehicle roadway that would cross the Rio Grande River on a new road bridge (Road Bridge) separate from the Rail Bridge; a control tower; and inspection facilities. Only the Line requires licensing authority from the Board. Separately from the Board's final decision on GER's request for authority to construct and operate the Line under 49 U.S.C. 10502, the proposed bridges would require permits from USCG and the U.S. Army Corps of Engineers (USACE). In addition, the Line and the PVGTB Project would require authorization from the International Boundary and Water Commission (IBWC) to ensure that the Line and the PVGTB Project do not obstruct the normal flow or flood flows of the Rio Grande River. USCG will participate as a Cooperating Agency in the EIS process. Because USCG, USACE, and IBWC will have actions related to the Proposed Action that require NEPA review, the EIS in this proceeding will analyze the impacts of all the related actions, as appropriate.

The Board's Role in This Proceeding

Board authority is required for the construction and operation of a new common carrier railroad line such as the Line (49 U.S.C. 10901; U.S.C. 10502). The Board will review GER's request for authority to construct and operate the Line through two parallel but distinct processes: (1) the transportation-related process that will examine whether the Line satisfies the criteria for an exemption under section 10502; and (2) the environmental review process that is being conducted by OEA.

Interested persons and entities may participate in either, or both, processes

but if interested persons or entities are focused on potential environmental and historical impacts on communities, such as noise, vibration, air emissions, grade crossing safety and delay, emergency vehicle access, and other similar environmental issues, the appropriate forum is OEA's environmental review process.

Environmental Review Process

On March 29, 2024, OEA issued a Notice of Intent (NOI) to inform interested agencies, Tribes, and the public of its decision to prepare an EIS and to initiate the formal scoping process under NEPA. The NEPA process is intended to assist the Board and the public in identifying and assessing the potential environmental consequences of a proposed action before a decision on the request for authority is made. OEA is responsible for ensuring that the Board complies with NEPA and related environmental statutes, including section 106 of the NHPA and section 7 of the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*). USCG is participating in the environmental and historic review process as a Cooperating Agency pursuant to Council on Environmental Quality (CEQ) regulations at 40 Code of Federal Regulations (CFR) 1501.8. OEA and USCG will prepare this EIS in accordance with NEPA and related environmental laws, the Board's environmental regulations (49 CFR part 1105), and USCG's NEPA implementing regulations (COMDTINST 5090.1). The EIS is intended to provide the Board; USCG; USACE; IBWC; other Federal, State, and local agencies; federally recognized Tribes; and the public with clear and concise information on the potential environmental and historic impacts of the Proposed Action, an alternative route that OEA believes would be reasonable, the No-Action Alternative, and all the related actions. Additional information on OEA's scope of environmental analysis for the EIS is described below.

Purpose and Need

The proposed Federal action here is the Board's decision to authorize with appropriate conditions or to deny GER's request for authority to construct and operate the Line. The Line is not a Federal Government-proposed or sponsored project. Thus, the project's purpose and need should be informed by both the private applicant's goals and the Board's enabling statute—the Interstate Commerce Act (ICC), as amended by the ICC Termination Act, Public Law 104–188, 109 Stat. 803 (1996).

GER's purpose for constructing and operating the Line is to develop an economically viable solution to meet the need for border infrastructure improvements at Eagle Pass that increases safety and facilitates binational trade between the United States and Mexico. According to GER, the Line would resolve rail and truck congestion, reduce cross border wait times, and route rail traffic around the urban center of Eagle Pass.

Proposed Action and Alternatives

Proposed Action

According to GER, the Line would be a secure, double-tracked rail corridor with no roadway/rail at-grade crossings, extending from the interchange point with the UP tracks at approximately UP milepost 31 on the Eagle Pass Subdivision near UP's Clark's Park Yard, for approximately 1.3 miles southwest to the United States/Mexico border. The Line would cross the Rio Grande River on the Rail Bridge and would be elevated on a 100-foot-wide earthen embankment. The total width of the Line, including the service roads, would be approximately 160 feet. A non-intrusive inspection (NII) facility and noise barriers would be located within the right-of-way. The Line would be fully fenced, monitored, and patrolled by security personnel on a service road. In addition to the Line, which requires Board authority, the PVGTB Project would include a new commercial motor vehicle roadway that would cross the Rio Grande River on the Road Bridge; a control tower; and truck inspection facilities. Customs and Border Protection (CBP) would operate the inspection facilities. PVH would either lease the facilities to CBP; transfer ownership of the facilities to the General Services Administration (GSA); or operate the inspection facilities as a privately owned Central Examination Station under 19 CFR part 118. A variety of commodities would move to and from Mexico over the Line and roadway. Trains operating on the Line would consist of approximately 150 cars with two locomotives on the front end and one on the rear end, for an approximate train length of 9,300 feet.

USCG will issue a decision on a proposed Federal action whether to grant or deny GER's request for a permit to construct and operate the proposed bridges across the Rio Grande River and will participate as a Cooperating Agency in the EIS process. Permits will also be required from USACE and IBWC. The EIS will analyze the impacts of constructing and operating the Line as

well as the other parts of the PVGTB Project, as appropriate.

Alternatives To Be Carried Forward in the EIS

The EIS will analyze and compare the potential impacts of construction and operation of the Proposed Action, reasonable alternative routes, and the No-Action Alternative (denial of construction and operation authority). Following consultation with USCG; USACE; IBWC; other appropriate Federal, State, and local agencies; Tribes; other affected stakeholders; the public; and GER, OEA has determined that the reasonable alternatives that the EIS will analyze in detail are:

- **Proposed Action (Southern Rail Alternative).** GER's preferred route. GER originally proposed a route that would have diverged from the UP mainline at approximate milepost 31, crossed Seco Creek, curved to the south of Seco Creek on an embankment, crossed over Rodriguez Street, Barrera Street, and U.S. 277 (Del Rio Boulevard) using bridges with an embankment in between, traversed an undeveloped area, crossed Seco Creek in two locations, and continued to and across the Rio Grande River. On June 27, 2024, GER sent OEA a letter modifying its original route. The modified route departs the UP mainline at the same location as the originally proposed route and follows the same route as the original route until the crossing over U.S. 277. West of U.S. 277, the modified route curves slightly to the south of the originally proposed route to avoid potential impacts associated with crossing Seco Creek and continues to and across the Rio Grande River. This route is now GER's preferred alternative route and is referred to as the Southern Rail Alternative below.

- **Northern Rail Alternative.** Based on information obtained through the scoping process (including data collection, technical evaluations, and an additional site visit), OEA developed the Northern Rail Alternative as another reasonable build alternative for consideration in the EIS. The Northern Rail Alternative would follow a similar route as the Southern Rail Alternative from the UP mainline to U.S. 277 but diverge to the north approximately 0.1 mile west of U.S. 277 to minimize visual impacts to the residences south of Seco Creek. The Northern Rail Alternative would cross Seco Creek slightly to the north of GER's originally proposed route, continue straight, and curve to cross Seco Creek and the Rio Grande River on the Rail Bridge. Under this alternative, the Rail Bridge would be located a little farther north than the

Rail Bridge associated with the Southern Rail Alternative.

Additional information, including a map showing the routes of both rail alternatives, can be found on the Board-sponsored project website at www.greeneaglerreis.com.

Alternatives Considered But Not Carried Forward in the EIS

OEA reviewed and dismissed from detailed analysis several other rail routes that GER had considered. Those routes would have run farther north than the Southern and Northern Rail Alternatives, from the UP Clark's Park Yard and along or near FM 1588 (Thompson Road), through residential areas, industrial areas, and open space before crossing the Rio Grande River. OEA determined that those routes would be infeasible because to connect with the UP mainline, the routes would have to cross the existing yard track used for switching, which would interfere with existing rail operations. In addition, some of the routes would displace numerous residences or industrial properties. The routes would also require longer bridges across the Rio Grande River than either the Southern or the Northern Rail Alternatives. Therefore, the EIS will carry forward the Southern Rail Alternative, the Northern Rail Alternative, and the No-Action Alternative for detailed analysis in the EIS.

Summary of Scoping Process

In December 2023, OEA conducted preliminary consultation with Federal, State, and local agencies as well as federally recognized Native American Tribes and elected officials to determine whether to prepare an Environmental Assessment or an EIS. OEA received responses from the Mayor of Eagle Pass; the Maverick County Judge; USCG; IBWC; CBP; USACE; the Federal Highway Administration (FHWA); the Bureau of Indian Affairs; the Texas Commission on Environmental Quality; Texas Parks and Wildlife; the Texas General Land Office; the Texas Historical Commission; the City of Eagle Pass (Bridge General Manager, Chief of Police, City Engineer, Chairman of the Planning and Zoning Commission, and Public Works Director); and Kickapoo Traditional Tribe of Texas.

As part of this effort, OEA identified eight agencies (FHWA; GSA; IBWC; Texas Department of Transportation; USACE; USCG; CBP; and U.S. State Department) that would potentially need to permit or otherwise authorize parts of the PVGTB Project. OEA invited these agencies to participate in the

NEPA process as Cooperating Agencies. Only USCG accepted OEA's Cooperating Agency invitation.

Based on initial information provided by GER, preliminary consultation with agencies and elected officials, and preliminary analysis, OEA determined that the preparation of an EIS is appropriate in this case. The scoping process began on March 29, 2024, when OEA issued the NOI and published the NOI in the **Federal Register**. The NOI announced OEA's intent to prepare an EIS, solicited comments on the scope of the EIS, and provided information on public scoping meetings. Simultaneously with the issuance of the NOI, OEA sent scoping letters to potentially interested Federal, State, and local agencies as well as six federally recognized Native American Tribes.

To inform the public of the issuance of the NOI and the public meetings, OEA posted online Google banner advertisements (banner ads) focusing on the Eagle Pass area; mailed postcards to 723 property owners in the vicinity of the Line and other parts of the PVGTB Project; and sent letters to 78 community leaders in the Eagle Pass area along with a flyer that could be shared with their respective communities. OEA sent letters to Federal, State, and local elected officials in Eagle Pass and Maverick County and issued a press release.

During scoping, which lasted from March 29 through April 29, 2024, OEA hosted three public meetings to receive oral comments: two in-person meetings in Eagle Pass (April 16, 2024, from 11:30 a.m. to 1:30 p.m. and from 6:00 to 8:00 p.m., Central Daylight Time [CDT]) and one online meeting (April 23, 2024, from 6:00 to 8:00 p.m. CDT). OEA also established a Board-sponsored project website at www.greeneaglerreis.com to provide current information about the Line and the PVGTB Project. OEA set up a toll-free phone line and a dedicated email address for the public to raise questions and concerns.

As part of the planning effort for the scoping process, OEA determined that a majority of residents in Eagle Pass and Maverick County reported as Hispanic or Latino and speak a language other than English at home, predominantly Spanish. Therefore, OEA has and will continue to take appropriate measures to facilitate communication with Spanish speakers. For example, all public scoping materials were made available in both English and Spanish. OEA also provided simultaneous interpretation and translation services from English to Spanish and from Spanish to English at the in-person public scoping meetings held in Eagle

Pass and at the public scoping meeting held online. In addition, this Final Scope is being made available in Spanish as well as English.

In total, during scoping, OEA received 174 comments, 41 of which were oral comments given at the public scoping meetings and 133 of which were written comments. OEA summarized and responded to the substantive comments received below.

Summary of Scoping Comments

- *Purpose and Need:* Commenters questioned the need for the PVGTB Project, noting that the existing commercial motor vehicle crossing at Eagle Pass has sufficient capacity to accommodate present and future commercial vehicles. Other commenters noted the development and economic benefits to be derived from the PVGTB Project. The Purpose and Need for the Line and the PVGTB Project is discussed above.

- *Proposed Action and Alternatives:* Commenters suggested alternative alignments for the Line through undeveloped areas farther to the north of Eagle Pass than GER's originally proposed rail route. Commenters questioned the efficiency of the Line because of its length and alleged deficiencies in operational planning. Some commenters asked that OEA consider routing traffic to and from the proposed truck screening facility (part of the PVGTB Project) via a new north-south road perpendicular to FM 1589 and connecting to U.S. 277 across from FM 1588. As noted above, the EIS will evaluate the Southern Rail Alternative, the Northern Rail Alternative, and the No-Action Alternative. The EIS will also discuss alternatives considered but not carried forward for detailed analysis.

- *Freight Rail Safety:* Commenters expressed concerns about the potential transportation of hazardous materials through inhabited areas and the associated risk of accidental spills and contamination, referencing the 2023 accident in Palestine, Ohio, and emphasizing the risk of spill-induced injuries or fatalities, such as cancer risks and other illnesses. The U.S. Environmental Protection Agency (EPA), the only Federal agency that submitted scoping comments, recommended that the EIS include a response plan for the accidental release of hazardous materials and a discussion of how applicable regulations would be applied to the construction and operation of the Line and associated facilities. Commenters also noted the benefits of moving rail traffic away from the downtown area of Eagle Pass and of constructing a secure rail line. As

described below in the Final Scope, the EIS will assess rail safety impacts, including the risks of derailments and accidental spills, as appropriate.

- *Roadway Capacity:* Commenters raised concerns about the congestion that the roadway part of the PVGTB Project could create on local roads, especially along U.S. 277 (Del Rio Boulevard) and FM 1589 (Hopedale Road), which provides access to and from the Hopedale neighborhood. Commenters stated that the proposed roadway would conflict with existing roadway plans and asked that impacts on existing infrastructure be considered. Commenters were also concerned that increased congestion could affect emergency vehicle response times. As described below in the Final Scope, the EIS will address traffic and roadway system impacts and will consider potential mitigation measures to address impacts related to traffic and roadway systems, as appropriate.

- *Roadway Safety:* Commenters raised concerns about the risks associated with the transportation of hazardous materials by truck. A commenter suggested that the PVGTB Project would improve safety, considering the current congestion involving automobiles and trucks in Eagle Pass and noting a recent accident involving hazardous materials that occurred off Veterans Boulevard because of heavy traffic. As described below in the Final Scope, the EIS will analyze roadway safety impacts, as appropriate.

- *Noise and Vibration:* Commenters expressed concerns about train noise on houses and schools near the Line, including potential health effects from noise. A commenter observed that the City of Eagle Pass has spent approximately 15 years trying to establish quiet zones for the existing grade crossings that would no longer be traversed by trains if the Board approves the Line. Commenters also raised concerns about vibration from both construction and operation of the Line, especially since some potentially affected houses are old and may, in the view of the commenters, suffer structural damage. As described below in the Final Scope, the EIS will address noise and vibration impacts and will consider potential mitigation measures to address impacts related to noise and vibration, as appropriate.

- *Air Quality and Climate Change:* Commenters raised concerns regarding potential air quality impacts on human health and communities due to emissions from rail traffic. EPA submitted scoping comments recommending that the EIS provide a

detailed discussion of ambient air conditions (baseline or existing conditions); National Ambient Air Quality Standards (NAAQS) and non-NAAQS pollutants; criteria pollutant nonattainment areas; hazardous air pollutants; and potential air quality impacts. EPA stated that the discussion should address potential construction, maintenance, and operational activities, and that a construction emissions mitigation plan should be included in the EIS. EPA specified that the EIS should identify all emission sources by pollutant from mobile sources (on and off-road), stationary sources (including portable and temporary emission units), fugitive emission sources, area sources, and ground disturbance. EPA also suggested that this information be used to identify appropriate mitigation measures. The Final Scope reflects that the EIS will consider air quality impacts in accordance with applicable regulations and guidance, as appropriate.

- *Cultural Resources:* Commenters expressed concerns about potential impacts on Native American burial grounds and historic cemeteries known to be present in the project area. The Final Scope reflects that the EIS will consider impacts on cultural and tribal resources as well as potential mitigation measures to address impacts on cultural resources, as appropriate.

- *Water Resources:* Commenters raised concerns regarding impacts from construction in the floodplains of the Rio Grande River, Seco Creek, and Elm Creek, and how construction could affect flood levels. Commenters also expressed concerns about the potential effects of an accidental spill from the proposed bridges across the Rio Grande River on water quality as well as on the area's water supply because the drinking water intake is located downstream of the proposed bridges (as opposed to upstream of the existing bridges). EPA's scoping comments recommended that the EIS discuss compliance with sections 402 and 303(d) of the Clean Water Act (CWA), including specific segments of the Rio Grande River near the project area that are impaired (if any). The Final Scope reflects that the EIS will consider potential impacts on water resources, as well as potential mitigation measures to address impacts on water resources, as appropriate.

- *Biological Resources:* Commenters expressed concerns about impacts on the local ecosystem, especially species dependent on access to local waterbodies, which may be cut off from their water sources. EPA's scoping comments recommended that the EIS

address the need for a plan to revegetate areas cleared for construction. EPA stated that construction, operation, and maintenance activities would cause increased sedimentation and turbidity, which can affect threatened and endangered species in the area, and that best management practices should be implemented to reduce those risks. Furthermore, EPA recommended revegetation plans for disturbed areas and clarification on oil, fuel, and solid waste management spill and leak protocols. The Final Scope reflects that the EIS will consider impacts on wildlife and vegetation, as appropriate.

- **Land Use:** Commenters raised concerns about impacts on land that was previously used for mining or as a landfill. Commenters asked that potential impacts on UP's tracks, network, and operations be considered, as well as the impacts on Clark's Park Yard. Commenters also expressed concerns about the Line impeding vehicular movements on private property. EPA recommended that the EIS analyze impacts from the generation and disposal of solid and hazardous waste. The Final Scope reflects that the EIS will consider impacts on land use and impacts from the generation and disposal of solid and hazardous waste, as appropriate.

- **Socioeconomics:** Commenters raised concerns regarding potential impacts on property values and the loss of bridge revenues for the City of Eagle Pass. Commenters also suggested that the Line and the PVGTB Project would generate economic benefits on both sides of the border, including new jobs, more housing, and improved trade relations. Commenters also requested that the need for additional CBP personnel be evaluated. NEPA requires agencies to evaluate the "environmental impact" and any unavoidable adverse "environmental effects" of a proposed action. A potential change in property values would not be an effect on the environment. Therefore, the Final Scope reflects that the EIS will not consider impacts to property values. The Final Scope will consider impacts from the potential generation of jobs, as appropriate.

- **Environmental Justice:** Commenters noted that the Line would run through low-income neighborhoods that have previously been subject to adverse impacts from past projects. The Eagle Pass Housing Authority noted that the Line would be located close to two of the Authority's housing developments, subsidized by the U.S. Department of Agriculture and the U.S. Department of Housing and Urban Development, respectively. The Final Scope reflects

that the EIS will consider potentially disproportionate impacts on low-income and minority communities and address environmental justice issues, as appropriate.

Based on the comments received during scoping and OEA's independent analysis, OEA has prepared the Final Scope of Study for the EIS, which is detailed below.

Final Scope

Environmental and Historic Impact Analysis

The EIS will address the potential environmental and historic impacts of the Line and the PVGTB Project, as appropriate. OEA will evaluate only the potential environmental and historic impacts of operational and physical changes that are related to the Line, the alternatives described above, and other parts of the PVGTB Project, as appropriate.

The EIS will analyze potential direct, indirect, and cumulative impacts on the environment for the Proposed Action, each reasonable alternative, and other parts of the PVGTB Project, as appropriate.¹ The EIS will also analyze the impacts of the No-Action Alternative. Impact areas assessed will include freight rail safety; grade crossing safety and delay; roadway safety and capacity; noise and vibration; air quality and climate change; energy; geology and soils; cultural resources; hazardous materials release sites; biological resources; water resources (including wetlands and other waters of the United States); land use; socioeconomics; visual resources; environmental justice; cumulative impacts; and transboundary impacts, as described below.

Environmental Impact Categories

1. Freight Rail Safety

The EIS will:

A. Describe projected rail operations and analyze the potential for changes in the probability of train accidents, including derailments, as appropriate.

B. Identify hazardous materials that could be transported and the likelihood of an accidental release of hazardous materials and its consequences.

2. Grade Crossing Safety

The EIS will:

¹ NEPA requires the Board to consider direct, indirect, and cumulative impacts. Direct and indirect impacts are both caused by the action. 40 CFR 1508.1(i)(1) and (2). A cumulative impact is the "incremental effects of the action when added to the effects of other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions." 40 CFR 1508.1(i)(3).

A. Evaluate potential impacts on road/rail grade crossing safety and analyze the potential for a change in the rate of accidents related to the proposed rail operations, as appropriate.

3. Grade Crossing Delay

The EIS will:

A. Describe existing crossing delays and analyze the potential for changes in delays related to the proposed rail operations, as appropriate.

B. Evaluate the potential for disruptions and delays to the movement of emergency vehicles.

4. Roadway Safety

The EIS will:

A. Describe and analyze changes in crash frequencies for relevant roadway segments and intersections, as appropriate.

5. Roadway Capacity

The EIS will:

A. Evaluate the effect of the Line and other parts of the PVGTB Project on affected roadway segments, as appropriate. The EIS will analyze the volume to capacity ratio of each of the roadway segments and levels of service at relevant intersections.

6. Noise and Vibration

The EIS will:

A. Describe the potential noise and vibration effects of the Line and other parts of the PVGTB Project during construction, as appropriate.

B. Describe the potential noise and vibration effects of the Line and other parts of the PVGTB Project during operation, as appropriate.

C. Determine, as appropriate, whether the Line and other parts of the PVGTB Project would cause:

i. An incremental increase in noise levels of three decibels (dB) day-night average sound level (Ldn) or more; and

ii. An increase to a noise level of 65 dB Ldn or greater. If so, the EIS will identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area and quantify the noise increase for these receptors using applicable thresholds defined by the Federal Transit Administration (FTA).

7. Air Quality and Climate Change

The EIS will:

A. Quantify emissions of criteria pollutants and greenhouse gases resulting from construction and operation of the Line and other parts of the PVGTB Project, as appropriate.

B. Analyze the potential impacts of climate change on the Line and other

parts of the PVGTB Project, as appropriate.

8. Energy

The EIS will:

A. Describe the effects of the Line and other parts of the PVGTB Project on the transportation of energy resources, as appropriate.

B. Describe the effects of the Line and other parts of the PVGTB Project on recyclable commodities, as appropriate.

C. State whether the Line and other parts of the PVGTB Project would result in an increase or decrease in overall energy efficiency and explain why, as appropriate.

9. Geology and Soils

The EIS will:

A. Describe geology, topography, and soils within the project area.

B. Evaluate potential effects on geological, topographical, and soil conditions from the construction of the Line and other parts of the PVGTB Project, as appropriate.

10. Cultural Resources

The EIS will:

A. Identify historic buildings, structures, sites, objects, or districts eligible for listing on or listed on the National Register of Historic Places within the Area of Potential Effect (APE).

B. In consultation with federally recognized Tribes participating in the section 106 process, identify properties of traditional religious and cultural importance to Tribes and prehistoric or historic archaeological sites evaluated as potentially eligible, eligible, or listed on the National Register (archaeological historic properties) within the APE and analyze potential project-related impacts to them, including indirect visual effects.

11. Hazardous Materials Release Sites

The EIS will:

A. Identify known hazardous waste sites or sites where there have been known hazardous material spills within 500 feet of the Line and other parts of the PVGTB Project, as appropriate; identify the location of those sites and the types of hazardous waste involved.

B. Assess the risk from construction associated with each identified site.

12. Biological Resources

The EIS will:

A. Based on consultation with the U.S. Fish and Wildlife Service, identify whether the Line and other parts of the PVGTB Project would be likely to adversely affect endangered or threatened species or areas designated

as a critical habitat, as appropriate, and if so, describe the effects.

B. Evaluate biological resources within the project area, including vegetative communities, wildlife, aquatic resources, wetlands, and federally and State-listed threatened and endangered species (including candidate species).

C. Assess qualitatively the effects of the Line and other parts of the PVGTB Project on wildlife, as appropriate. Effects may include displacement, habitat fragmentation, and vehicular collisions as well as behavioral and noise-related impacts.

13. Water Resources

The EIS will:

A. Identify whether the Line and other parts of the PVGTB Project, as appropriate, would require permits under section 404 of the CWA and whether any designated wetlands or 100-year floodplains would be affected.

B. Identify whether the Line and other parts of the PVGTB Project, as appropriate, would require permits under section 402 of the CWA.

C. Identify whether the Line and other parts of the PVGTB Project, as appropriate, would require permits under sections 9 and 10 of the Rivers and Harbors Act.

D. Evaluate the effects of the Line and other parts of the PVGTB Project, as appropriate, on surface waters, water quality, wetlands, floodplains, and groundwater resources, including 303(d)-listed impaired surface waters, if any.

14. Land Use

The EIS will:

A. Evaluate the effects of the Line and other parts of the PVGTB Project on land use, as appropriate. Such impacts may include incompatibility with existing land uses; conversion of land to railroad use; and compatibility with conservation easements and other encumbrances on privately owned land, as applicable.

15. Socioeconomics

The EIS will:

A. Analyze economic effects of constructing and operating the Line and other parts of the PVTGB Project, including direct and induced job creation, as appropriate.

16. Visual Resources

The EIS will:

A. Describe the potential effects of the Line and other parts of the PVGTB Project on the existing visual character of, and quality of views from, the vicinity of the project area, as appropriate.

B. Include visualizations illustrating how the Line and other parts of the PVGTB Project would affect views from select locations, as appropriate.

17. Environmental Justice

The EIS will:

A. Evaluate whether the Line and other parts of the PVGTB Project would adversely or beneficially affect low-income or minority populations, as appropriate.

B. Determine whether adverse impacts would be disproportionately borne by minority and low-income populations.

18. Cumulative Impacts

The EIS will:

A. Evaluate the cumulative effects of the Line and other parts of the PVGTB Project, when added to other past, present, and reasonably foreseeable future actions, as appropriate.

19. Transboundary Impacts

The EIS will:

A. Describe the impacts of constructing the Line and other parts of the PVGTB Project on resources located across the Mexico/United States border, as appropriate.

20. Mitigation Measures

The EIS will:

A. Describe any measures that are proposed to mitigate adverse environmental or historic impacts, indicating why the proposed mitigation is appropriate.

By the Board, Danielle Gosselin, Director, Office of Environmental Analysis.

Stefan Rice,

Clearance Clerk.

[FR Doc. 2024–14740 Filed 7–5–24; 8:45 am]

BILLING CODE 4915–01–P

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Energy Resource Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of meeting.

SUMMARY: The TVA Regional Energy Resource Council (RERC) will hold a meeting on July 16, 2024, to receive an update and provide advice on the development of TVA's next Integrated Resource Plan (IRP). The IRP provides strategic direction on how TVA will continue to provide low-cost, reliable, resilient, and increasingly cleaner electricity to the 10 million residents of the Valley region.

DATES: The meeting will be held in Knoxville, Tennessee, at the Downtown

Knoxville Marriott on Tuesday, July 16, 2024, from 8:30 a.m. to 4:00 p.m. ET. RERC members are invited to attend the meeting in person. The public is invited to view the meeting virtually or attend in person. A one-hour public listening session for the public to present comments virtually or in person will be held July 16, 2024, at 1:30 p.m. ET. A link and instructions to view the meeting will be posted on TVA's RERC website at www.tva.com/rerc prior to the meeting.

ADDRESSES: The meeting will take place at the Downtown Knoxville Marriott at 525 Henley St., Knoxville, TN 37902. The meeting will also be available virtually to the public. Instructions to view the meeting will be posted at www.tva.com/rerc prior to the meeting. Persons who wish to speak virtually during the public listening session must pre-register by 5:00 p.m. ET Friday, July 12, 2024, by emailing bhaliti@tva.gov. Persons wishing to speak in person are requested to register either at the door between 8:30 a.m. and 11:30 a.m. ET on Tuesday, July 16, 2024, or in advance by emailing bhaliti@tva.gov. Anyone needing special accommodations should let the contact below know at least one week in advance.

FOR FURTHER INFORMATION CONTACT: Bekim Haliti, bhaliti@tva.gov or 931-349-1894.

SUPPLEMENTARY INFORMATION: The RERC was established to advise TVA on its energy resource activities and the priorities among competing objectives and values. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. 10. The meeting agenda includes the following:

July 16

1. Welcome and Introductions
2. RERC and TVA Meeting Update
3. Integrated Resource Plan Updates
 - a. IRP Overview
 - b. Scenario and Strategy Updates
 - c. Resource Costs
 - d. Stakeholder Engagement Updates
4. Public Listening Session
5. Integrated Resource Plan discussion and advice statement

The RERC will hear views of citizens by providing a one-hour public comment session starting July 16 at 1:30 p.m. ET. Persons wishing to speak virtually must register by sending an email to bhaliti@tva.gov or by calling 931-349-1894 by 5:00 p.m. ET, on Friday, July 12, 2024. Persons wishing to speak in person are requested to register either at the door between 8:30 a.m. and 11:30 a.m. ET on Tuesday, July 16, 2024, or in advance by emailing

bhaliti@tva.gov. Persons registered will be called on during the public listening session to share their views for up to five minutes, depending on number of registrants. Written comments are also invited and may be emailed to bhaliti@tva.gov.

Dated: June 24, 2024.

Melanie Farrell,

Vice President, External Stakeholders and Regulatory Oversight, Tennessee Valley Authority.

[FR Doc. 2024-14871 Filed 7-5-24; 8:45 am]

BILLING CODE 8120-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice of ADAP and AIP Property Release; Seattle-Tacoma International Airport, Seattle, Washington

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of request to release Airport Development Aid Program (ADAP) and Airport Improvement Program (AIP) property.

SUMMARY: Notice is being given that the FAA is considering a request from the Port of Seattle, Washington to waive the ADAP and AIP property requirements and dispose of 4 parcels totaling approximately 1.2 acres of airport property located at Seattle-Tacoma International Airport, in Seattle, Washington.

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**. Emailed comments can be provided to Mr. Tim House, Lead Planner, Seattle Airports District Office, timothy.a.house@faa.gov.

FOR FURTHER INFORMATION CONTACT: Tim House, Lead Planner, Seattle Airports District Office, 2200 S. 216 St., Des Moines, WA, 98198, timothy.a.house@faa.gov, (206) 231-4248. Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: The subject property is located south of the airport. The Washington State Department of Transportation (WSDOT) owned Right of Way, which is planned for Highway SR 509 construction, is adjacent to and separates the parcels from the aeronautical areas of the airport. This release will allow the Port of Seattle to sell 1.2 acres of land which has no adjacency to other Port property and no street access. The proceeds generated from the proposed release

will be utilized to purchase WSDOT owned land that is surplus to their needs and is adjacent to Port of Seattle owned land. The Port of Seattle will receive not less than fair market value for the property. It has been determined through study that the subject 1.2 acres will not be needed for aeronautical purposes.

Authority: 49 U.S.C. 47153(c).

Issued in Des Moines, Washington, on July 1, 2024.

Warren D. Ferrell,

Manager, Seattle Airports District Office.

[FR Doc. 2024-14774 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Projects in Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice of limitation on claims for judicial review of actions by TxDOT and Federal agencies.

SUMMARY: This notice announces actions taken by TxDOT and Federal agencies that are final. The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried out by TxDOT pursuant to an assignment agreement executed by FHWA and TxDOT. The actions relate to various proposed highway projects in the State of Texas. These actions grant licenses, permits, and approvals for the projects.

DATES: By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of TxDOT and Federal agency actions on the highway projects will be barred unless the claim is filed on or before the deadline. For the projects listed below, the deadline is December 5, 2024. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Patrick Lee, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416-2358; email: Patrick.Lee@txdot.gov. TxDOT's normal business hours are 8:00

a.m.–5:00 p.m. (central time), Monday through Friday.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 9, 2019, and executed by FHWA and TxDOT.

Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway projects in the State of Texas that are listed below.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS) issued in connection with the projects and in other key project documents. The CE, EA, or EIS and other key documents for the listed projects are available by contacting the local TxDOT office at the address or telephone number provided for each project below.

This notice applies to all TxDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].
5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 *et seq.*]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1377] (Section 404, Section 401, Section 319); Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

The projects subject to this notice are:

1. Loop 286 from Stillhouse Road to US 82 E, Lamar County, Texas. The project will reconstruct the existing four-lane section of Loop 286 as a four-lane undivided freeway facility with frontage roads for a length of approximately 2.8 miles. The project includes construction of two 12-foot-wide main lanes in each direction, two 12-foot-wide frontage road lanes in each direction, ramps on either side of the improved roadway where access is needed in the vicinity of major intersections, a 12-foot-wide auxiliary main lane in each direction where needed due to ramp deceleration/acceleration spacing requirements, and right- or left-turn lanes at major intersections including FM 195, North Collegiate Drive, and Pine Mill Road. The project includes the construction of a 10-foot shared use path along the westbound (north side) of Loop 286 and five-foot sidewalks with a five-foot buffer along eastbound (south) Loop 286 and six-foot sidewalks where a five-foot buffer is not feasible. The project will also improve the existing grade-separated interchange at FM 195; construct a new grade-separated interchange at North Collegiate Drive; improve drainage including a combination of open ditches, curb and gutter, and storm sewer; and improve traffic control at FM 195, North Collegiate Drive, and Pine Mill Road

intersections. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on March 8, 2024, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Paris District Office at 1365 N Main Street, Paris, TX 75460; telephone: (903) 737–9213.

2. Loop 286 from SH 19 to approximately 0.5 mile south of US 271, Lamar County, Texas. The project will reconstruct the existing two-lane to three-lane rural section of Loop 286 to a five-lane undivided highway. The completed roadway will consist of two 12-foot-wide travel lanes and 10-foot-wide outside shoulders in each direction with one 16-foot-wide center median two-way left-turn lane. From approximately 300 feet east of FM 905, the roadway will transition to a four-lane highway divided by a grassy median with two 12-foot-wide travel lanes and 10-foot-wide outside shoulders in each direction to match the existing Loop 286 lane configuration at the east end of the project termini. The westbound travel lanes will have 4-foot-wide inside shoulders and the eastbound travel lanes will have 6-foot-wide inside shoulders. Intersection improvements will provide up to two additional 12-foot-wide right- or left-turn lanes at South Collegiate Drive, FM 1507, and FM 905. Drainage improvements will include a combination of open ditches, curb and gutter, and storm sewer. A 12-foot-wide shared use path will be constructed along the north side of Loop 286 from SH 19 to FM 905. The project length is approximately 3.8 miles. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on April 4, 2024, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Paris District Office at 1365 N Main Street, Paris, TX 75460; telephone: (903) 737–9213.

3. Sean Haggerty Drive from Nathan Bay Drive to Dryer Street, El Paso County, Texas. The project will reconstruct Sean Haggerty Drive to provide two travel lanes in each direction separated by a median and a bridge over the Greenbelt levee. Bicycle and pedestrian accommodations will also be added. The actions by TxDOT and Federal agencies and the laws

under which such actions were taken are described in the Categorical Exclusion Determination issued on April 11, 2024, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT El Paso District Office at 13301 Gateway West, El Paso, Texas 79928; telephone: (915) 790-4341.

4. Mile 10 North Road, from Mile 6 W (Westgate Drive) to FM 1015, Hidalgo County, Texas. The improvements will widen Mile 10 N Road from a two-lane rural roadway to a four-lane divided urban road for approximately three miles, improve the existing roadway intersections, and improve drainage. Mile 10 N Road from Mile 6 W (Westgate Dr.) to Mile 4 Road, a length of two miles, will be widened to an urban roadway consisting of four 12-foot-wide travel lanes, a 12-foot-wide continuous left-turn lane, a six-foot-wide sidewalk, and a 12-foot-wide shared-use path lane. Drainage will be handled by a storm drain system. From Mile 4 Road to FM 1015, a length of one mile, Mile 10 North Road is within the 100-year floodplain as identified by FEMA; therefore, the roadway would be elevated to allow one travel lane in each direction to remain open during a 100-yr storm event. For these limits Mile 10 North Road would have roadside ditches in addition to the storm drain system. A 12-foot-wide right turn lane would be provided along Mile 10 North Road at major intersections and at schools. Outfalls for drainage are planned. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on April 16, 2024, and other documents in the TxDOT project file. The Categorical Exclusion and other documents in the TxDOT project file are available by contacting the TxDOT Pharr District Office at 600 West Interstate 2, Pharr, Texas 78577; telephone: (956) 702-6102.

5. FM 521 from CR 56 to SH 6, Fort Bend County, Texas. The project will widen FM 521 between CR 56 and SH 6 from a two-lane undivided roadway to a four-lane roadway with raised medians and bicycle and pedestrian accommodations. The project is approximately five miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion issued on April 17, 2024, and other documents in the TxDOT project file. The Categorical Exclusion determination and other documents in the TxDOT project file are

available by contacting the TxDOT Houston District Office at 7600 Washington Avenue, Houston, Texas 77007; telephone: (713) 802-5076.

6. US 377 from Holmes Drive to FM 167, Hood County, Texas. The project will extend along US 377 from Holmes Drive to 3,000 feet north of FM 167 in the City of Granbury, Texas, over a distance of approximately nine miles. The project will reconstruct and widen US 377 from a four-lane divided highway to a six-lane divided highway with a raised median. Frontage roads will also be provided along US 377. A new grade-separated interchange will be constructed at Business 377. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on May 6, 2024, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Fort Worth District Office at 2501 S W Loop 820, Fort Worth, Texas 76133; telephone: (817) 370-6744.

7. US 75 from FM 375 to FM 1417, Grayson County, Texas. The project will extend for a total of 15.01 miles from approximately 0.29 mile south of FM 375 to approximately 0.81 mile north of FM 1417. The project will widen US 75 to three 12-foot-wide travel lanes in each direction (six lanes total) with 10- to 11-foot-wide inside and outside shoulders. The existing two-way frontage roads will be converted to one-way frontage roads. Eight-foot-wide outside shoulders will be added to the existing one-way frontage roads. Sidewalks will be added intermittently near Bear Rd, south of LB Kirby Ave., and south of FM 1417. Some cross streets and intersections will also be reconstructed within the existing US 75 right-of-way, including FM 375, FM 121, Haning St., and FM 1417. New overpasses will be added between the frontage roads approximately 0.51 mile south of LB Kirby Ave. and at Simmons Lp. Access will remain controlled, although some ramps would be moved from their existing locations. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on May 8, 2024, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Paris District Office at 1365 N Main Street, Paris, Texas 75460; telephone: (903) 737-9213.

8. State Highway Spur 298 from US 84 to SL 396 (Valley Mills Drive), McLennan County, Texas. Two 12-foot main lanes of State Highway Spur 298 will be expanded to four 12-foot main lanes in each direction, including 12-foot shoulders and turn lanes to be separated by a grass median of variable width. The project is 1.4 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on May 16, 2024, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Waco District Office at 100 South Loop Drive, Waco, Texas 78704; telephone: (254) 867-2700.

9. IH 10 from Heights Blvd. to IH 45, Harris County, Texas. The project will raise the elevation of the existing I-10 main lanes above the floodplain of White Oak Bayou from Heights Boulevard to I-45 in Downtown Houston. The project also includes drainage improvements and amenities for bicyclists and pedestrians. The project will be approximately 1.8 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on May 29, 2024, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Houston District Office at 7600 Washington Avenue, Houston, Texas 77007; telephone: (713) 802-5000.

10. US 290 at the SH 36 Interchange, from FM 389 to 0.05 miles west of CR 49 (Windy Acres Road), Washington County, Texas. The project consists of a modernized direct connect interchange design that will ultimately replace the existing clover leaf intersection. The proposed US 290 direct connect interchange will bridge over SH 36 just south of the current clover leaf intersection. Traffic on US 290 will flow continuously through the interchange with entrance and exit ramps to and from SH 36 and tie in west of Westwood Lane. The current clover leaf intersection will be removed and reconfigured with new ramps to SH 36. In addition, US 290 will be widened to a four-lane divided highway consisting of two travel lanes in each direction separated by a grassy median west of the new direct connect. The project length is approximately 3.25 miles. The actions by TxDOT and Federal agencies and the

laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on March 5, 2024, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting the TxDOT Bryan District Office at 2591 North Earl Rudder Freeway, Bryan, Texas 77803; telephone: (979) 778-2165.

11. FM 2185 Extension from Looney Spur Road to FM 3541, Culberson County, Texas. The project will extend FM 2185 and reconstruct parts of existing facilities as a "Super 2" roadway. A Super 2 roadway is a two-lane rural highway with periodic passing lanes. The project will extend for a total of 29.66 miles, starting from approximately 750 feet south of the intersection with Looney Spur Road and traversing along Smileys Road for approximately 4.89 miles, branching off onto Weatherby Road and following Weatherby Road for approximately 9.64 miles before branching off at the Nevel Road intersection. The project will then continue for approximately 9.22 miles onto an area that was not previously used for transportation before connecting to Rustler Springs Road and will follow Rustler Springs Road for approximately 5.91 miles before ending at FM 3541, which is approximately 6.19 miles south of RM 652. The Super 2 roadway will consist of one 12-foot-wide travel lane in each direction with a 12-foot-wide passing lane along alternating sides of the roadway. Directions of travel will be separated by a 2-foot-wide, flush at-grade median, and 10-foot-wide shoulders will be constructed along both sides of the roadway. Drainage will continue to consist of an open ditch drainage system, with a 6-foot-wide drainage ditch along alternating sides of the roadway. Twenty-one bridge-class culverts and 43 non-bridge-class culverts are proposed as part of the FM 2185 drainage system. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on March 5, 2024, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting the TxDOT El Paso District Office at 13301 Gateway West, El Paso, Texas 79928; telephone: (915) 790-4341.

12. US 80 From FM 460 to Spur 557 and Spur 557 From US 80 to IH 20, Kaufman County, Texas. The project

includes reconstructing US 80, from FM 460 to Spur 557, and Spur 557, from US 80 to IH 20, from a four-lane divided highway to a six-lane divided highway. The improvements consist of three 12-foot-wide travel lanes with typical ten-foot inside shoulders in each direction divided by a concrete barrier along the centerline. The improvements will also include one-way continuous two-lane frontage roads in each direction with ramp improvements that connect frontage roads to mainlanes with an auxiliary lane. Pedestrian and bicycle accommodations are proposed to include ten-foot shared use paths on the outside of the frontage roads in each direction. The project is approximately 12 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on April 3, 2024, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, Texas 75150; telephone: (214) 320-4480.

13. SL 1853 Madisonville Loop from SH 21 approximately 0.7 miles east of FM 1452 to SH 21 approximately 0.4 miles west of FM 2346, Madison County, Texas. The project will provide a limited access, new location roadway around the south side of the City of Madisonville. It will include two 12-foot-wide travel lanes in each direction separated by a 68-foot-wide grassy median. The travel lanes will be bounded by 4-foot wide inside and 10-foot-wide outside shoulders. Through the Caney Creek floodplain, the 68-foot-wide grassy median would be replaced by a concrete median barrier and 10-foot-wide inside shoulders on each side. Construction will also occur along US 190/SH 21 to provide turning lanes onto the new roadway, and along Interstate Highway (IH) 45, where new ramps will provide access to and from the proposed roadway. There will be grade separations at the crossings of SH 90, SH 75, IH 45, Pee Dee Lane, and the Caney Creek floodplain. No dedicated bicycle or pedestrian accommodations would be constructed as part of the proposed project. Drainage along the new roadway will be provided via open ditches. The project length is approximately 7.5 miles. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the

Finding of No Significant Impact (FONSI) issued on April 15, 2024, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting the TxDOT Bryan District Office at 2591 North Earl Rudder Freeway, Bryan, Texas 77803; telephone: (979) 778-2165.

Authority: 23 U.S.C. 139(l)(1).

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2024-14836 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0088]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SERENDIPITY (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0088 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2024-0088 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0088, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m.,

Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel SERENDIPITY is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charters.

Geographic Region Including Base of Operations: Washington, Oregon, California. Base of Operations: Bellingham, Washington.

Vessel Length and Type: 74.9' motor yacht.

The complete application is available for review identified in the DOT docket as MARAD 2024-0088 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an undue adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0088 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's

compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024-14807 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0079]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MAGIC MOMENT (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0079 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2024-0079 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0079, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body

of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel MAGIC MOMENT is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charters.

Geographic Region Including Base of Operations: Florida. Base of Operations: Tampa, Florida.

Vessel Length and Type: 75' motor.

The complete application is available for review identified in the DOT docket as MARAD 2024-0079 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise

comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0079 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024-14799 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0077]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: TRANQUILO (SAIL); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary Of Transportation, As Represented By The Maritime Administration (Marad), Is Authorized To Issue Coastwise Endorsement Eligibility Determinations For Foreign-Built Vessels Which Will Carry No More Than Twelve Passengers For Hire. A Request For Such A Determination Has Been Received By Marad. By This Notice, Marad Seeks Comments From Interested Parties As To Any Effect This Action May Have On U.S. Vessel Builders Or Businesses In The U.S. That Use U.S.-Flag Vessels. Information About The Requestor's Vessel, Including A Brief Description Of The Proposed Service, Is Listed Below.

DATES: Submit Comments On Or Before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0077 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2024-0077 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0077, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel TRANQUILO is:

Intended Commercial Use of Vessel: Requester intends to offer passenger pleasure charters.

Geographic Region Including Base of Operations: Florida. Base of Operations: Fort Pierce, Florida.

Vessel Length and Type: 48' sail catamaran.

The complete application is available for review identified in the DOT docket as MARAD 2024-0077 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0077 or visit the Docket Management Facility (see **ADDRESSES** for

hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.

[FR Doc. 2024-14797 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0091]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: NALO KAI (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0091 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2024-0091 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0091, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel NALO KAI is:

Intended Commercial Use of Vessel: Requester intends to offer passenger sightseeing trips.

Geographic Region Including Base of Operations: Hawaii. Base of Operations: Honolulu, Hawaii.

Vessel Length and Type: 28' rigid hull inflatable boat.

The complete application is available for review identified in the DOT docket as MARAD 2024-0091 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0091 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024-14810 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0092]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: CUATRO ALPHA (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this

notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0092 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2024-0092 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0092, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel CUATRO ALPHA is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charter.

Geographic Region Including Base of Operations: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland,

Virginia, North Carolina, South Carolina, Georgia, Florida. Base of Operations: Stamford, Connecticut.

Vessel Length and Type: 39' motor.

The complete application is available for review identified in the DOT docket as MARAD 2024–0092 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD–2024–0092 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject

heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–14811 Filed 7–5–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0086]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: STELLA MARE (SAIL); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0086 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD–2024–0086 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0086, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel STELLA MARE is:

Intended Commercial Use of Vessel: Requester intends to offer sailing charters.

Geographic Region Including Base of Operations: Rhode Island, Massachusetts. Base of Operations: Bristol, Rhode Island.

Vessel Length and Type: 42' monohull sailboat.

The complete application is available for review identified in the DOT docket as MARAD 2024–0086 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag

vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0086 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA)

request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024-14805 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0078]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: STAR SAPPHIRE (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0078 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search MARAD-2024-0078 and follow the instructions for submitting comments.

- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0078, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel STAR SAPPHIRE is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charters.

Geographic Region Including Base of Operations: Florida. Base of Operations: Tampa, Florida.

Vessel Length and Type: 120' motor.

The complete application is available for review identified in the DOT docket as MARAD 2024-0078 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the

commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0078 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the

individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024-14798 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0084]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: TWE11VE (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0084 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search MARAD-2024-0084 and follow the instructions for submitting comments.

- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0084, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel TWE11VE is:

Intended Commercial Use of Vessel: Requester intends to offer occasional charters.

Geographic Region Including Base of Operations: Florida. Base of Operations: Miami Beach, Florida.

Vessel Length and Type: 78' Yacht.

The complete application is available for review identified in the DOT docket as MARAD 2024-0084 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even

days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0084 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.
[FR Doc. 2024-14803 Filed 7-5-24; 8:45 am]
BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0094]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SEALAB (SAIL); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0094 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2024-0094 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0094, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and

specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel SEALAB is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charter.

Geographic Region Including Base of Operations: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas. Base of Operations: Fort Lauderdale, Florida.

Vessel Length and Type: 52' catamaran.

The complete application is available for review identified in the DOT docket as MARAD 2024-0094 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your

comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD–2024–0094 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department’s FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT’s compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.
[FR Doc. 2024–14813 Filed 7–5–24; 8:45 am]
BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0089]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: WISE KRAKEN (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor’s vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0089 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD–2024–0089 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0089, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and

specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel WISE KRAKEN is:

Intended Commercial Use of Vessel: Requester intends to offer passenger fishing charters.

Geographic Region Including Base of Operations: Florida. Base of Operations: Sebastian, Florida.

Vessel Length and Type: 29’ motor.

The complete application is available for review identified in the DOT docket as MARAD 2024–0089 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel’s coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter’s interest in the application, and address the eligibility criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD–2024–0089 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department’s FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT’s compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.

[FR Doc. 2024–14808 Filed 7–5–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0093]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: COROSSOL (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor’s vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0093 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD–2024–0093 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0093, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel COROSSOL is:

Intended Commercial Use of Vessel: Requester intends to offer passenger sunset cruises, bay tours and charters.

Geographic Region Including Base of Operations: California. Base of Operations: Marina del Rey, California. *Vessel Length and Type:* 42’ catamaran.

The complete application is available for review identified in the DOT docket as MARAD 2024–0093 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel’s coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter’s interest in the application, and address the eligibility criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD–2024–0093 or visit the Docket Management Facility (see **ADDRESSES** for

hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024-14812 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0090]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: PRECIOSA (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0090 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search MARAD-2024-0090 and follow the instructions for submitting comments.
- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0090, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel PRECIOSA is:

Intended Commercial Use of Vessel: Requester intends to offer passenger transportation.

Geographic Region Including Base of Operations: Puerto Rico. Base of Operations: Fajardo, Puerto Rico.

Vessel Length and Type: 29' motor.

The complete application is available for review identified in the DOT docket as MARAD 2024-0090 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0090 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department’s FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–14809 Filed 7–5–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION**Maritime Administration**

[Docket No. MARAD–2024–0085]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: JEZERKA (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this

notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor’s vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0085 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD–2024–0085 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0085, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel JEZERKA is:

Intended Commercial Use of Vessel: Requester intends to offer river cruises on the Mystic River and Fishers Island Sound.

Geographic Region Including Base of Operations: Connecticut, Rhode Island, New York. Base of Operations: Mystic, Connecticut.

Vessel Length and Type: 29.9’ Motor.

The complete application is available for review identified in the DOT docket as MARAD 2024–0085 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel’s coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter’s interest in the application, and address the eligibility criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

Public Participation*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD–2024–0085 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with

specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.

[FR Doc. 2024-14804 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0080]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: PEGASUS IX (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0080 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2024-0080 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0080, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel PEGASUS IX is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charters.

Geographic Region Including Base of Operations: Florida. Base of Operations: Fort Lauderdale, Florida.

Vessel Length and Type: 72.6' motor.

The complete application is available for review identified in the DOT docket as MARAD 2024-0080 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel

in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0080 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is

ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024-14800 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0095]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: ANDIAMO (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0095 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2024-0095 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The

Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0095, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel ANDIAMO is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charter.

Geographic Region Including Base of Operations: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas. Base of Operations: Naples, Florida.

Vessel Length and Type: 51'4" motor yacht.

The complete application is available for review identified in the DOT docket as MARAD 2024-0095 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an

approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0095rew or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024-14814 Filed 7-5-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION**Maritime Administration**

[Docket No. MARAD-2024-0083]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: ABRACADABRA (SAIL); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0083 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search MARAD-2024-0083 and follow the instructions for submitting comments.

- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0083,

1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel ABRACADABRA is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charters on an America's Cup sailboat.

Geographic Region Including Base of Operations: California. Base of Operations: San Diego, California.

Vessel Length and Type: 75' Sailing Sloop.

The complete application is available for review identified in the DOT docket as MARAD 2024-0083 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0083 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's

compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–14802 Filed 7–5–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0087]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: VICTORY (SAIL); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0087 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD–2024–0087 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0087, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body

of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel VICTORY is:

Intended Commercial Use of Vessel: Requester intends to offer sailing charters.

Geographic Region Including Base of Operations: California. Base of Operations: San Diego, California.

Vessel Length and Type: 36' sailboat. The complete application is available for review identified in the DOT docket as MARAD 2024–0087 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise

comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD–2024–0087 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–14806 Filed 7–5–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2024–0082]****Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: NO NAME (MOTOR); Invitation for Public Comments****AGENCY:** Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 7, 2024.**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2024–0082 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD–2024–0082 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0082, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel NO NAME is:

Intended Commercial Use of Vessel: Requester intends to offer passenger transport.

Geographic Region Including Base of Operations: Florida. Base of Operations: Miami, Florida.

Vessel Length and Type: 37' Motor Yacht.

The complete application is available for review identified in the DOT docket as MARAD 2024–0082 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD–2024–0082 or visit the Docket Management Facility (see **ADDRESSES** for

hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–14801 Filed 7–5–24; 8:45 am]

BILLING CODE 4910–81–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: This action takes effect on the date listed in **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley T. 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 the Assistant Director for Compliance, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (<https://www.treasury.gov/ofac>).

Notice of OFAC Actions

On July 1, 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. TONG, Peiji (Chinese Simplified: 佟霏佶) (a.k.a. TONG, Peigi; a.k.a. "Dr P"; a.k.a. "PJ"; a.k.a. "Small Bull"), China; DOB 15 May 1997; POB Shenyang, Liaoning Province, China; nationality China; Gender Male; National ID No. 210103199705154515 (China) (individual) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of Executive Order 14059 of December 15, 2021, "Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade," 86 FR 71549 (December 17, 2021) (E.O. 14059) for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

2. HE, Jiaxuan (Chinese Simplified: 何家璇) (a.k.a. HE, Jia Xuan), China; DOB 31 Mar 1999; POB Shanghai, China; nationality China; Gender Male; National ID No. 310115199903310135 (China) (individual) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

3. ACOSTA OVALLE, Diego, Mexico; DOB 08 Mar 1990; POB Coahuila de Zaragoza, Mexico; nationality Mexico; Gender Male; C.U.R.P. AOOD900308HCLCVG07 (Mexico) (individual) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

Dated: July 1, 2024.

Bradley T. Smith,

*Director, Office of Foreign Assets Control,
U.S. Department of the Treasury.*

[FR Doc. 2024-14829 Filed 7-5-24; 8:45 am]

BILLING CODE 4810-AL-C

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0094]

Agency Information Collection Activity Under OMB Review: Supplement to VA Forms (for Philippine Claims)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900-0094.”

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Maribel Aponte, 202-461-8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Supplement to VA Forms 21-526EZ, 21P-534EZ, and 21P-535 (For Philippine Claims) (VA Form 21-4169).

OMB Control Number: 2900-0094
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21-4169 is primarily used to gather the necessary information to determine whether a claimant's service qualifies as service in the Commonwealth Army of the Philippines or recognized guerrilla organizations. The form is used for the sole purpose of collecting the

information needed to determine eligibility for benefits based on such service, including service information, proof of service, place of residence, and membership in pro-Japanese, pro-German, or anti-American Filipino organizations. Without this information, determination of entitlement would not be possible. No changes have been made to this form. The respondent burden has decreased due to the estimated number of receivables averaged over the past year.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 35306, May 1, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 212 hours.

Estimated Average Burden per

Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 849 per year.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

*VA PRA Clearance Officer, Office of
Enterprise and Integration, Data Governance
Analytics, Department of Veterans Affairs.*

[FR Doc. 2024-14864 Filed 7-5-24; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0666]

Agency Information Collection Activity Under OMB Review: Information Regarding Apportionment of Beneficiary's Award

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900-0666.”

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Maribel Aponte, 202-461-8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Information Regarding Apportionment of Beneficiary's Award (VA Form 21-0788).

OMB Control Number: 2900-0666
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21-0788 is used to collect the information that is necessary to determine whether an apportionment may be authorized and the reasonable amount that may be awarded. Without this collection of information, VA would be unable to properly authorize apportionments of compensation and pension benefits. No changes have been made to this form. The respondent burden has increased due to the estimated number of receivables averaged over the past year.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 35307, May 1, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 5,045 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 10,090 per year.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

*VA PRA Clearance Officer, Office of
Enterprise and Integration, Data Governance
Analytics, Department of Veterans Affairs.*

[FR Doc. 2024-14860 Filed 7-5-24; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS**[OMB Control No. 2900–0079]****Agency Information Collection Activity Under OMB Review: Employment Questionnaire****AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.**ACTION:** Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0079.”

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Employment Questionnaire (VA Form 21–4140).

OMB Control Number: 2900–0079
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: VA Forms 21–4140 is used to gather the necessary information to determine continued entitlement to individual unemployability. Recipients are required to certify, when requested, that the eligibility factors which established entitlement to the benefit being paid continue to exist. Individual unemployability is awarded based on a veteran’s inability to be gainfully employed due to service-connected disabilities, and entitlement may be terminated if a veteran begins working. Without information about recipients’ employment, VA would not be able to determine continued entitlement to individual unemployability, and overpayments would result. No changes have been made to this form. The

respondent burden has increased due to the estimated number of receivables averaged over the past year.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at Vol. 89 FR 35932, May 2, 2024.

Affected Public: Individual or Households.

Estimated Annual Burden: 285 hours.

Estimated Average Burden per

Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 3,422 per year.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–14839 Filed 7–5–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS**[OMB Control No. 2900–0858]****Agency Information Collection Activity Under OMB Review: Authorization and Consent To Release Information to VA, General Release for Medical Provider Information to VA**

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0858.”

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Authorization and Consent to Release Information to VA (VA Form 21–4142), General Release for Medical Provider Information to VA (VA Form 21–4142a).

OMB Control Number: 2900–0858
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–4142 is used to authorize the disclosure of information to the VA and VA Form 21–4142a is used to gather the necessary information to request medical provider information to the VA. Without the information solicited by these forms, VA would be unable to determine eligibility, and benefits would not be properly paid. No changes have been made to these forms. The respondent burden has increased due to the estimated number of receivables averaged over the past year.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 35308, May 1, 2024.

Affected Public: Individuals and households.

Estimated Annual Burden: 36,687 hours.

Estimated Average Burden per

Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 440,246 per year.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–14847 Filed 7–5–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS**[OMB Control No. 2900–0065]****Agency Information Collection Activity Under OMB Review: Request for Employment Information in Connection With Claim for Disability Benefits**

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0065.”

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Request for Employment Information in Connection with Claim for Disability Benefits (VA Form 21–4192).

OMB Control Number: 2900–0065
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–4192 is used to gather necessary employment information from veterans’ employers so VA can determine eligibility to increased disability benefits based on unemployability. Without this information, determination of entitlement would not be possible. No changes have been made to this form. The respondent burden has increased due to the estimated number of receivables averaged over the past year.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 35309, May 1, 2024.

Affected Public: Private Sector.
Estimated Annual Burden: 12,183 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.
Estimated Number of Respondents: 48,730 per year.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–14882 Filed 7–5–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0458]

Agency Information Collection Activity Under OMB Review: Certification of School Attendance or Termination

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0458.”

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Certification of School Attendance or Termination (VA Form 21–8960).

OMB Control Number: 2900–0458
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: VA compensation and pension programs require current information to determine eligibility for benefits. VA Form 21–8960 is used to solicit information that is needed to determine continued benefit eligibility for schoolchildren between the ages of 18 and 23. If the collection were not conducted or were conducted less frequently, VA would be unable to

verify continued entitlement in a timely manner, and increased overpayments would result. No changes have been made to this form. The respondent burden has decreased due to the estimated number of receivables averaged over the past year.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at Vol. 89 FR 35309, May 1, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 219 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,314.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–14838 Filed 7–5–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0114]

Agency Information Collection Activity Under OMB Review: Statement of Marital Relationship

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the

list for the information collection by Title or “OMB Control No. 2900–0114.”

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Statement of Marital Relationship (VA Form 21–4170).

OMB Control Number: 2900–0114
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–4170 is primarily used to gather information that is necessary to determine whether a valid common law marriage was

established. The form is used by persons claiming to be common law widows/widowers of deceased veterans and by veterans and their claimed common law spouses. Benefits cannot be authorized unless a valid marriage is established. No changes have been made to this form. The respondent burden has decreased due to the estimated number of receivables averaged over the past year.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection

of information was published at 89 FR 35305, May 1, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 827 hours.

Estimated Average Burden per

Respondent: 25 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,984 per year.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–14840 Filed 7–5–24; 8:45 am]

BILLING CODE 8320–01–P



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Part II

Consumer Financial Protection Bureau

12 CFR Part 1092

Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders; Final Rule

CONSUMER FINANCIAL PROTECTION BUREAU**12 CFR Part 1092**

[Docket No. CFPB–2022–0080]

RIN 3170–AB13

Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders**AGENCY:** Consumer Financial Protection Bureau.**ACTION:** Final rule.

SUMMARY: Under the Consumer Financial Protection Act of 2010 (CFPA), the Consumer Financial Protection Bureau (Bureau or CFPB) is issuing this final rule to require certain types of nonbank covered persons subject to certain final public orders obtained or issued by a government agency in connection with the offering or provision of a consumer financial product or service to report the existence of the orders and related information to a Bureau registry. The Bureau is also requiring certain supervised nonbanks to file annual reports regarding compliance with registered orders.

DATES:

Effective date: This rule is effective on September 16, 2024.

Implementation dates: For implementation dates, see § 1092.206.

FOR FURTHER INFORMATION CONTACT:

George Karithanom, Regulatory Implementation and Guidance Program Analyst, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:**I. Summary of the Final Rule**

The Bureau is adopting this final rule to establish and maintain a registry that will collect information about certain publicly available agency and court orders and facilitate the Bureau's supervision of certain companies. In this way, the Bureau will more effectively be able to monitor and to reduce the risks to consumers posed by entities that violate consumer protection laws. The final rule also authorizes the Bureau to consolidate this information in an online registry for use by the public and other regulators.

The final rule requires certain nonbank covered person entities (with exclusions for insured depository institutions, insured credit unions, related persons, States, certain other entities, and natural persons) to register

with the Bureau upon becoming subject to a public written order imposing obligations based on violations of certain consumer protection laws. Those entities will be required to register in a system established by the Bureau, provide basic identifying information about the company and the order (including a copy of the order), and periodically update the registry to ensure its continued accuracy and completeness. The Bureau intends to publish this information on its website and potentially in other forms.

The Bureau will also require certain nonbanks subject to the Bureau's supervisory authority under section 1024(a) of the Consumer Financial Protection Act of 2010 (CFPA)¹ annually to identify an executive (or executives) responsible for and knowledgeable of the firm's efforts to comply with the orders identified in the registry. The supervised nonbank entity will also be required to submit on an annual basis a written statement signed by the applicable executive regarding the entity's compliance with each order in the registry.

Nonbanks that are subject to an order published on the Nationwide Multistate Licensing System's Consumer Access website (except for orders issued or obtained at least in part by the Bureau) may elect to comply with a one-time registration option in lieu of complying with the rule's notification and written-statement requirements with respect to that order.

Nonbank registrants will have to register with the Bureau starting after an applicable implementation date for the registry specified in the rule. Different implementation dates are specified for larger participants, other supervised nonbanks, and other nonbanks not subject to Bureau supervision. Details on how to register will be provided through filing instructions.

II. Background**A. The Bureau and Other Agencies Take Enforcement Actions Against Nonbanks To Protect Consumers**

The Bureau administers and enforces Federal consumer financial laws against nonbanks in consumer financial markets. In addition to the Bureau, Congress has authorized multiple other Federal and State agencies to enforce Federal consumer financial laws, including the CFPA prohibition against unfair, deceptive, or abusive acts or practices (UDAAP) and enumerated statutes including the Truth in Lending Act, the Electronic Fund Transfer Act,

the Fair Credit Reporting Act, the Equal Credit Opportunity Act, and other statutes.² Several Federal agencies, most notably the Federal Trade Commission, also enforce section 5 of the Federal Trade Commission Act (FTC Act), which similarly prohibits unfair or deceptive acts or practices (UDAP).³ The prohibitions against unfair and deceptive acts or practices in the CFPA were modeled after the same prohibitions in the FTC Act. Furthermore, States across the country began codifying State UDAP statutes modeled after the FTC Act starting in the 1960s and 1970s.⁴ Many State UDAP statutes contain rules of construction requiring State courts to use interpretations of the FTC Act by the Federal courts and the FTC as a guide to interpreting their State UDAP statutes.⁵ These laws differ in many respects from each other, but generally they hail from a common consumer protection tradition originating with the FTC Act, similar to the CFPA's prohibition on UDAAP.

The Bureau was created in the wake of the 2008 financial crisis, which was caused by a variety of overlapping factors, including systemic malfeasance in the mortgage industry.⁶ Since passage of the CFPA, the Bureau has brought nearly 350 enforcement actions against nonbanks. When the Bureau issues an order against a covered person (often, but not always, as a consent order), or brings an action in a court of law that results in an order, the Bureau often follows up with supervisory or enforcement action to ensure the company's compliance with the order. On numerous occasions, the Bureau has uncovered companies that failed to comply with consent orders that the

² See 12 U.S.C. 5481(12), 5552; 12 CFR part 1082; Bureau Interpretive Rule, *Authority of States to Enforce the Consumer Financial Protection Act of 2010*, 87 FR 31940 (May 26, 2022).

³ 15 U.S.C. 45.

⁴ Dee Pridgen, *The Dynamic Duo of Consumer Protection: State and Private Enforcement of Unfair and Deceptive Trade Practices Laws*, 81 Antitrust L.J. 911, 912 (2017).

⁵ See, e.g., Ariz. Rev. Stat. Ann. sec. 44–1522(C) (courts “may use as a guide” FTC and Federal court interpretations of the FTC Act); Fla. Stat. sec. 501.204(2) (expressing the intent of the legislature that “due consideration and great weight” be given to interpretations of the FTC Act when interpreting Florida's State UDAP statute).

⁶ See U.S. Fin. Crisis Inquiry Comm'n, *The Financial Crisis Inquiry Report*, at 104–11, 113–18 (2011), <https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf>; see also S. Rep. No. 111–176, at 11 (2010) (“Th[e] financial crisis was precipitated by the proliferation of poorly underwritten mortgages with abusive terms, followed by a broad fall in housing prices as those mortgages went into default and led to increasing foreclosures.”).

¹ 12 U.S.C. 5514(a).

companies entered into with the Bureau voluntarily.⁷

B. Congress Instructed the Bureau To Monitor Markets for Consumer Financial Products and Services

Congress established the Bureau to regulate (among other things) the offering and provision of consumer financial products and services under the Federal consumer financial laws, and it granted the Bureau authority to ensure that the Bureau could achieve that mission.⁸ But it also understood that the Bureau could not fully and effectively achieve that mission unless it developed a clear window into the markets for and persons involved in offering and providing such products and services. To that end, Congress mandated that the Bureau “shall monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.”⁹

Notably, Congress directed the Bureau to engage in such monitoring “to support its rulemaking and other functions,”¹⁰ instructing the Bureau to use monitoring to inform all of its work. Congress separately described the Bureau’s “primary functions” as “conducting financial education programs”; “collecting, investigating, and responding to consumer complaints”; “collecting, researching, monitoring, and publishing information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets”; “supervising covered persons for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal consumer financial law”; “issuing rules, orders, and guidance implementing Federal consumer financial law”; and “performing such support activities as may be necessary or useful to facilitate the other functions of the Bureau.”¹¹ Put simply, Congress envisioned that the Bureau would use its market-monitoring work to inform its

activities, all with the express purpose of “ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.”¹²

To achieve these ends, Congress took care to ensure that the Bureau had the tools necessary to effectively monitor for risks in the markets for consumer financial products and services. It granted the Bureau authority “to gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers.”¹³ In particular, Congress authorized the Bureau to “require covered persons and service providers participating in consumer financial services markets to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe by rule or order, annual or special reports, or answers in writing to specific questions,” that would furnish the Bureau with such information “as necessary for the Bureau to fulfill the monitoring . . . responsibilities imposed by Congress.”¹⁴

To assist the Bureau in allocating resources to perform its monitoring, Congress also identified a non-exhaustive list of factors that the Bureau may consider, including “likely risks and costs to consumers associated with buying or using a type of consumer financial product or service”;¹⁵ “understanding by consumers of the risks of a type of consumer financial product or service”;¹⁶ “the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers”;¹⁷ “rates of growth in the offering or provision of a consumer financial product or service”;¹⁸ “the extent, if any, to which the risks of a consumer financial product or service may disproportionately affect traditionally underserved consumers”;¹⁹ and “the types, number, and other pertinent characteristics of covered persons that offer or provide the consumer financial product or service.”²⁰

Congress also anticipated that the insights the Bureau would gain from such market monitoring should at times become available to a wider audience than just Bureau employees. Not only did Congress mandate that the Bureau “publish not fewer than 1 report of significant findings of its monitoring . . . in each calendar year,” but it also instructed that the Bureau may make non-confidential information available to the public “as is in the public interest.”²¹ Congress gave the Bureau discretion to determine the format of publication, authorizing the Bureau to make the information available “through aggregated reports or other appropriate formats designed to protect confidential information in accordance with [specified] protections in this section.”²² These instructions regarding public release of market-monitoring information align with one of the Bureau’s “primary functions” mentioned above—to “publish[] information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets.”²³

The Bureau takes its market-monitoring obligations seriously, and it has incorporated valuable insights gained to date from such monitoring in conducting the multiple functions assigned to it under the CFPB, including its supervisory and enforcement efforts, as well as its rulemaking, consumer education, and other functions.²⁴ As discussed in further detail below, this final rule seeks to continue and build upon that commitment by creating an order registry to accomplish a number of goals, with a particular focus on

²¹ 12 U.S.C. 5512(c)(3).

²² 12 U.S.C. 5512(c)(3)(B).

²³ 12 U.S.C. 5511(c)(3).

²⁴ See, e.g., CFPB Semiannual Regulatory Agenda, 87 FR 5326, 5328 (Jan. 31, 2022) (“The Bureau’s market monitoring work assists in identifying issues for potential future rulemaking work.”); Payday, Vehicle, and Certain High-Cost Installment Loans, 82 FR 54472, 54475, 54488, 54498 (Nov. 17, 2017) (citing information obtained through Bureau market-monitoring efforts); Arbitration Agreements, 82 FR 33210, 33220 (July 19, 2017) (same). See also, e.g., Consumer Fin. Prot. Bureau, *Buy Now, Pay Later: Market trends and consumer impacts* (Sept. 2022), https://files.consumerfinance.gov/f/documents/cfpb_buy-now-pay-later-market-trends-consumer-impacts_report_2022-09.pdf (publishing information obtained through Bureau market-monitoring efforts); Consumer Fin. Prot. Bureau, *Consumer Credit Trends: Credit Card Line Decreases* (June 2022), https://files.consumerfinance.gov/f/documents/cfpb_credit-card-line-decreases_report_2022-06.pdf (same); Consumer Fin. Prot. Bureau, *Data Point: Checking Account Overdraft at Financial Institutions Served by Core Processors* (Dec. 2021), https://files.consumerfinance.gov/f/documents/cfpb_overdraft-core-processors_report_2021-12.pdf (same).

⁷ See, e.g., *RMK Financial Corp. d/b/a Majestic Home Loan or MHL*, CFPB No. 2023-CFPB-0002 (Feb. 27, 2023); *CFPB v. American Advisors Group*, No. 21-cv-01674-JLS-JDEx (C.D. Cal. Oct. 25, 2021); *Discover Bank*, CFPB No. 2020-BCFP-0026 (Dec. 22, 2020); *Bureau of Consumer Fin. Prot. v. Encore Capital Grp.*, No. 3:20-cv-01750-GPC-KSC (S.D. Cal. Oct. 16, 2020); *Sec. Nat’l Automotive Acceptance Co.*, CFPB No. 2017-CFPB-0013 (Apr. 26, 2017); *Military Credit Servs., LLC*, CFPB No. 2016-CFPB-0029 (Dec. 20, 2016).

⁸ See 12 U.S.C. 5511.

⁹ See 12 U.S.C. 5512(c)(1).

¹⁰ *Id.* (emphasis added).

¹¹ 12 U.S.C. 5511(c).

¹² 12 U.S.C. 5511(a).

¹³ 12 U.S.C. 5512(c)(4)(A).

¹⁴ 12 U.S.C. 5512(c)(4)(B)(ii) (emphasis added).

¹⁵ 12 U.S.C. 5512(c)(2)(A).

¹⁶ 12 U.S.C. 5512(c)(2)(B).

¹⁷ 12 U.S.C. 5512(c)(2)(C).

¹⁸ 12 U.S.C. 5512(c)(2)(D).

¹⁹ 12 U.S.C. 5512(c)(2)(E).

²⁰ 12 U.S.C. 5512(c)(2)(F).

monitoring for risks to consumers related to repeat offenders of consumer protection law. A public registry of agency and court orders issued or obtained in connection with violations of law will help the Bureau and the broader public monitor trends concerning corporate recidivism relating to consumer protection law, including areas where prior violations of law are indicia of risk to consumers.

More generally, entities subject to such public orders relating to the offering or provision of consumer financial products and services may pose ongoing risks to consumers in the markets for those products and services. A broad collection of such public orders will shed light on how laws are being enforced across consumer protection laws, jurisdictions, and markets, and help identify trends and potential gaps in enforcement. Both heightened enforcement and the absence of enforcement could possibly provide information regarding risks to consumers—the former as evidence that government agencies with various jurisdictions have identified the need to enforce consumer protection laws, and the latter as potential evidence of less risk to consumers, or perhaps of inattention by regulatory agencies. A centralized, up-to-date repository of such public orders will provide valuable market-based insight that the Bureau could use both to identify concerning trends in these markets that it otherwise might miss and to decide which of several different policy tools would best address the consumer risks presented by these trends. In short, the information sought will significantly increase the Bureau's ability to identify, understand, and ultimately prevent harm in the markets for consumer financial products and services. These and other core goals of the information the Bureau will collect are discussed further below at part IV.

Consistent with an approach suggested by commenters, the Bureau is adopting a one-time registration option for nonbanks that are identified by name as a party subject to an order that is published on the Nationwide Multistate Licensing System (NMLS) Consumer Access website, www.NMLSConsumerAccess.org (except for orders issued or obtained by the Bureau). Such nonbanks may choose to submit certain information to the Bureau in lieu of complying with the other ongoing requirements of the final rule with respect to the order. The information provided to the Bureau in connection with such orders will notify the Bureau about the nonbank and the relevant order and will enable the

Bureau to follow up with the NMLS's operator and any applicable agency as appropriate.

C. Congress Authorized the Bureau To Supervise Certain Nonbank Covered Persons

One of the Bureau's key responsibilities under the CFPB is the supervision of very large banks, thrifts, and credit unions, and their affiliates, and certain nonbank covered persons. Congress has authorized the Bureau to supervise certain categories of nonbank covered persons under CFPB section 1024.²⁵ Congress provided that the Bureau "shall require reports and conduct examinations on a periodic basis" of nonbank covered persons subject to its supervisory authority for purposes of "assessing compliance with the requirements of Federal consumer financial law"; "obtaining information about the activities and compliance systems or procedures of such person[s]"; and "detecting and assessing risks to consumers and to markets for consumer financial products and services."²⁶ Pursuant to the CFPB, the Bureau implements a risk-based supervision program under which it prioritizes nonbank covered persons for supervision in accordance with its assessment of risks posed to consumers.²⁷ In making prioritization determinations, the Bureau considers several factors, including "the asset size of the covered person,"²⁸ "the volume of transactions involving consumer financial products or services in which the covered person engages,"²⁹ "the risks to consumers created by the provision of such consumer financial products or services,"³⁰ "the extent to which such institutions are subject to oversight by State authorities for consumer protection,"³¹ and "any other factors that the Bureau determines to be relevant to a class of covered persons."³² CFPB section 1024(b)(7)(A)–(C) further authorizes the Bureau to prescribe rules to facilitate supervision and assessing and detecting risks to consumers, as well as to ensure that supervised nonbanks "are legitimate entities and are able to perform their obligations to consumers."³³

Under CFPB section 1024(b)(7)(A)–(C), the Bureau is requiring that certain

supervised nonbanks annually submit a written statement regarding the company's compliance with any outstanding registered orders. The statement must be signed by a designated senior executive. In the written statement, the attesting executive must generally describe the steps the executive has undertaken to review and oversee the company's activities subject to the applicable order for the preceding calendar year. The executive must then provide an attestation regarding the company's compliance with the order.

The required written statement will assist the Bureau in achieving each of the statutory objectives listed in CFPB section 1024(b)(7)(A)–(C). Therefore, each of those objectives provides a distinct, independently sufficient basis for the final rule's written-statement requirements.³⁴

First, requiring submission of an annual written statement will facilitate Bureau supervision and the Bureau's assessment and detection of risks to consumers. In particular, as part of the Bureau's risk-based supervision program, the Bureau considers supervised nonbanks' compliance record regarding consumer protection law when prioritizing supervisory resources. The annual written statement, including the steps taken by the executive to review and oversee activity related to the order, will provide the CFPB valuable information in understanding how compliance is managed at the supervised entity. The requirement will also provide valuable information in connection with other aspects of the Bureau's supervisory work and will assist the Bureau's monitoring efforts. For example, in 2022 the Bureau announced that it was increasing its supervisory focus on repeat offenders, particularly those which violate agency or court orders.³⁵ As part of that focus, it created a Repeat Offender Unit within its supervision program focused on: (i) reviewing and monitoring the activities of repeat offenders; (ii) identifying the root cause of recurring violations; (iii) pursuing and recommending solutions and remedies that hold entities accountable for failing to consistently comply with Federal consumer financial law; and (iv) designing a model for order review and monitoring that reduces the occurrences

²⁵ 12 U.S.C. 5514.

²⁶ 12 U.S.C. 5514(b)(1).

²⁷ 12 U.S.C. 5514(b)(2).

²⁸ 12 U.S.C. 5514(b)(2)(A).

²⁹ 12 U.S.C. 5514(b)(2)(B).

³⁰ 12 U.S.C. 5514(b)(2)(C).

³¹ 12 U.S.C. 5514(b)(2)(D).

³² 12 U.S.C. 5514(b)(2)(E).

³³ 12 U.S.C. 5514(b)(7)(A)–(C).

³⁴ For a more extended discussion of these matters, see part IV(D) and the section-by-section discussion of § 1092.204 below.

³⁵ See Consumer Fin. Prot. Bureau, *Supervisory Highlights: Issue 28, Fall 2022*, at 2–3 (Nov. 2022), https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-28_2022-11.pdf.

of repeat offenses.³⁶ The Repeat Offender Unit is tasked more generally with enhancing detection of repeat offenses, developing processes for rapid review and response designed to address root causes of violations, and recommending corrective actions designed to stop recidivist behavior.³⁷ The Bureau believes that the annual written statement will greatly facilitate that work, among other things.

Second, the final rule's written-statement requirements will help ensure the company providing the statement is a legitimate entity and is able to perform its obligations to consumers. Information regarding a company's compliance with outstanding orders is probative of whether the company is willing and able to satisfy its legal obligations and of whether the company treats potential sanctions for repeat violations of relevant consumer protection laws as a mere cost of doing business. The written-statement requirements will also provide an incentive for supervised nonbanks to perform their obligations to consumers by requiring supervised nonbanks to specify which individual executives are responsible for achieving compliance with particular orders. Publication of the identity of this executive as intended by the Bureau will enhance the incentive.

III. Legal Authority

The Bureau is issuing this final rule pursuant to its authority under the CFPA. This section includes a general discussion of several CFPA provisions on which the Bureau relies in this rulemaking. Additional description of these authorities, and the final rule's reliance on them, is also contained in part II above and part IV below as well as in the section-by-section analysis.

A. CFPA Section 1022(b)

CFPA section 1022(b)(1) authorizes the Bureau to prescribe rules "as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof."³⁸ Among other statutes, the CFPA—*i.e.*, title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)—is a Federal consumer financial law.³⁹ Accordingly, in issuing the final rule, the Bureau is exercising its authority under CFPA section 1022(b) to

prescribe rules that carry out the purposes and objectives of the CFPA and prevent evasions thereof. CFPA section 1022(b)(2) prescribes certain standards for rulemaking that the Bureau must follow in exercising its authority under section 1022(b)(1).⁴⁰ For a discussion of the Bureau's standards for rulemaking under CFPA section 1022(b)(2), see part VIII below.

B. CFPA Section 1022(c)(1)–(4) and (7)

The provisions of the final rule that (1) require nonbank covered persons to inform the Bureau that they have an applicable order entered against them, (2) provide basic identifying and administrative information and information regarding the orders (including copies of the orders), and (3) authorize publication of this information, are authorized under CFPA sections 1022(c)(1) through (4) and 1022(c)(7), as well as CFPA section 1022(b).⁴¹

CFPA sections 1022(c)(1)–(4) authorize the Bureau to prescribe rules to collect information from covered persons for purposes of monitoring for risks to consumers in the offering or provision of consumer financial products or services. The Bureau is collecting this information to monitor, on an ongoing basis, both individual and market-wide compliance with consumer protection laws and orders for alleged violations of those laws. The Bureau considers violations of consumer protection laws probative of "risks to consumers in the offering and provision of consumer financial products or services."⁴² In particular, the Bureau believes that entities subject to public orders enforcing the law relating to the offering or provision of consumer financial products and services may pose heightened and ongoing risks to consumers in the markets for those products and services. It further believes that monitoring for such orders will allow the Bureau to track specific instances of, and more general developments regarding, potential corporate recidivism, which presents special risks to consumers for reasons discussed in greater detail below. The Bureau also believes that enforcement trends, as shown by public orders enforcing the law across consumer protection laws, jurisdictions, and markets, will potentially shed light on risks to consumers in the offering or provision of consumer financial products or services. Heightened enforcement could indicate areas where

numerous regulators have identified risk of harm to consumers. Conversely, the absence of enforcement in other areas could indicate less risk to consumers, or perhaps a lack of attention by regulators that shows a need for further monitoring.

More specifically, in order to support its rulemaking and other functions, section 1022(c)(1) of the CFPA requires the Bureau to monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in the markets for such products or services.⁴³ As discussed further below at part IV(B), section 1022(c)(2) of the CFPA authorizes the Bureau to allocate resources to perform the monitoring required by section 1022 by considering "likely risks and costs to consumers associated with buying or using a type of consumer financial product or service," "understanding by consumers of the risks of a type of consumer financial product or service," "the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers," "rates of growth in the offering or provision of a consumer financial product or service," "the extent, if any, to which the risks of a consumer financial product or service may disproportionately affect traditionally underserved consumers," and "the types, number, and other pertinent characteristics of covered persons that offer or provide the consumer financial product or service."⁴⁴ Section 1022(c)(4)(A) of the CFPA authorizes the Bureau to conduct the monitoring required by section 1022 by "gather[ing] information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers."⁴⁵ The Bureau is authorized to gather this information by, among other things, requiring covered persons participating in consumer financial services markets to file annual or special reports, or answers in writing to specific questions, that furnish information "as necessary for the Bureau to fulfill the monitoring . . . responsibilities imposed by Congress."⁴⁶ The Bureau

⁴³ 12 U.S.C. 5512(c)(1) ("In order to support its rulemaking and other functions, the Bureau shall monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.").

⁴⁴ 12 U.S.C. 5512(c)(2)(A)–(F).

⁴⁵ 12 U.S.C. 5512(c)(4)(A).

⁴⁶ 12 U.S.C. 5512(c)(4)(B)(ii) ("In order to gather information described in subparagraph (A), the

Continued

³⁶ *Id.*

³⁷ *Id.* at 3.

³⁸ 12 U.S.C. 5512(b)(1).

³⁹ See 12 U.S.C. 5481(14) (defining "Federal consumer financial law" to include the provisions of title X of the Dodd-Frank Act).

⁴⁰ See 12 U.S.C. 5512(b)(2).

⁴¹ 12 U.S.C. 5512(b), (c)(1)–(4), (c)(7).

⁴² 12 U.S.C. 5512(c)(1).

may require such information to be filed “in such form and within such reasonable period of time as the Bureau may prescribe by rule or order.”⁴⁷

Section 1022(c)(7)(A) of the CFPA further authorizes the Bureau to “prescribe rules regarding registration requirements applicable to a covered person, other than an insured depository institution, insured credit union, or related person.”⁴⁸ Section 1022(c)(7)(B) provides that, “[s]ubject to rules prescribed by the Bureau, the Bureau may publicly disclose registration information to facilitate the ability of consumers to identify covered persons that are registered with the Bureau.”⁴⁹ The Bureau interprets section 1022(c)(7)(B) as authorizing it to publish registration information required by Bureau rule under section 1022(c)(7)(A) so that consumers may identify the nonbank covered persons on which the Bureau has imposed registration requirements.

Finally, CFPA section 1022(c)(3) authorizes the Bureau to publicly release information obtained pursuant to CFPA section 1022, subject to limitations specified therein.⁵⁰ Specifically, section 1022(c)(3) states that the Bureau “may make public such information obtained by the Bureau under [section 1022] as is in the public interest, through aggregated reports or other appropriate formats designed to protect confidential information in accordance with [specified protections in section 1022].”⁵¹ Information submitted to the Bureau’s registry is protected by, among other things, CFPA section 1022(c)(8), which states that “[i]n collecting information from any person, publicly releasing information held by the Bureau, or requiring covered persons to publicly report information, the Bureau shall take steps to ensure that proprietary, personal, or confidential consumer information that is protected from public disclosure under [the Freedom of Information Act, 5 U.S.C. 552(b),] or [the Privacy Act of 1974, 5 U.S.C. 552a,] or any other provision of law, is not made public

Bureau may . . . require covered persons and service providers participating in consumer financial services markets to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe by rule or order, annual or special reports, or answers in writing to specific questions, furnishing information described in paragraph (4), as necessary for the Bureau to fulfill the monitoring, assessment, and reporting responsibilities imposed by Congress.”).

⁴⁷ 12 U.S.C. 5512(c)(4)(B)(ii).

⁴⁸ 12 U.S.C. 5512(c)(7)(A).

⁴⁹ 12 U.S.C. 5512(c)(7)(B).

⁵⁰ See 12 U.S.C. 5512(c)(3).

⁵¹ 12 U.S.C. 5512(c)(3)(B).

under [the CFPA].”⁵² The Bureau’s registry is designed to not collect any protected proprietary, personal, or confidential consumer information, and thus, the Bureau will not publish, or require public reporting of, any such information.

See the introduction to the section-by-section analysis of § 1092.202 for a discussion of certain comments received by the Bureau about the discussion in the Bureau’s proposed rule⁵³ of the Bureau’s authorities under CFPA section 1022(b)(1)–(4) and (7).

C. CFPA Section 1024(b)

As explained above, section 1024(b) of the CFPA authorizes the Bureau to exercise supervisory authority over certain nonbank covered persons.⁵⁴ Section 1024(b)(1) requires the Bureau to periodically require reports and conduct examinations of persons subject to its supervisory authority to assess compliance with Federal consumer financial law, obtain information about the activities and compliance systems or procedures of persons subject to its supervisory authority, and detect and assess risks to consumers and to markets for consumer financial products and services.⁵⁵ Section 1024(b)(2) requires that the Bureau exercise its supervisory authority over nonbank covered persons under section 1024(b)(1) based on its assessment of risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable: “(A) the

⁵² 12 U.S.C. 5512(c)(8). In the remainder of this preamble, the Bureau refers to information protected from disclosure under CFPA section 1022(c)(8) as “protected proprietary, personal, or confidential consumer information.”

⁵³ See 88 FR 6088 (Jan. 30, 2023). For further discussion of the Bureau’s proposed rule, see part V(C) below.

⁵⁴ The nonbank covered persons over which the Bureau has supervisory authority are listed in section 1024(a)(1) of the CFPA. They include covered persons that: offer or provide origination, brokerage, or servicing of loans secured by real estate for use by consumers primarily for personal, family, or household purposes, or loan modification or foreclosure relief services in connection with such loans; are larger participants of a market for consumer financial products or services, as defined by Bureau rule; the Bureau has reasonable cause to determine, by order, that the covered person is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services; offer or provide private education loans; or offer or provide payday loans. 12 U.S.C. 5514(a)(1).

⁵⁵ 12 U.S.C. 5514(b)(1) provides: “The Bureau shall require reports and conduct examinations on a periodic basis of persons described in subsection (a)(1) for purposes of—(A) assessing compliance with the requirements of Federal consumer financial law; (B) obtaining information about the activities and compliance systems or procedures of such person; and (C) detecting and assessing risks to consumers and to markets for consumer financial products and services.”

asset size of the covered person; (B) the volume of transactions involving consumer financial products or services in which the covered person engages; (C) the risks to consumers created by the provision of such consumer financial products or services; (D) the extent to which such institutions are subject to oversight by State authorities for consumer protection; and (E) any other factors that the Bureau determines to be relevant to a class of covered persons.”⁵⁶

Section 1024(b)(7) of the CFPA in turn identifies three independent sources of Bureau rulemaking authority. First, section 1024(b)(7)(A) requires the Bureau to prescribe rules to facilitate the supervision of nonbank covered persons subject to the Bureau’s supervisory authority and assessment and detection of risks to consumers.⁵⁷ Second, section 1024(b)(7)(B) authorizes the Bureau to require nonbank covered persons subject to its supervisory authority to “generate, provide, or retain records for the purposes of facilitating supervision of such persons and assessing and detecting risks to consumers.”⁵⁸ As explained below in the introduction to the section-by-section analysis of § 1092.204, the Bureau interprets this section as authorizing it to require nonbank covered persons subject to its supervisory authority to “generate”—*i.e.*, create⁵⁹—reports regarding their activities and then “provide” them to the Bureau.

The third source of authority, CFPA section 1024(b)(7)(C), authorizes the Bureau to prescribe rules regarding nonbank covered persons subject to its supervisory authority “to ensure that such persons are legitimate entities and are able to perform their obligations to consumers.”⁶⁰ The Bureau interprets this section as authorizing it to prescribe substantive rules to ensure that supervised entities are willing and able to comply with their legal, financial,

⁵⁶ 12 U.S.C. 5514(b)(2).

⁵⁷ 12 U.S.C. 5514(b)(7)(A) (“The Bureau shall prescribe rules to facilitate supervision of persons described in subsection (a)(1) and assessment and detection of risks to consumers.”).

⁵⁸ 12 U.S.C. 5514(b)(7)(B) (“The Bureau may require a person described in subsection (a)(1), to generate, provide, or retain records for the purposes of facilitating supervision of such persons and assessing and detecting risks to consumers.”).

⁵⁹ See *Generate*, Webster’s Third New International Dictionary (1981) (defining “generate” as “to bring into existence”).

⁶⁰ 12 U.S.C. 5514(b)(7)(C) (“The Bureau may prescribe rules regarding a person described in subsection (a)(1), to ensure that such persons are legitimate entities and are able to perform their obligations to consumers. Such requirements may include background checks for principals, officers, directors, or key personnel and bonding or other appropriate financial requirements.”).

and other obligations to consumers, including those imposed by Federal consumer financial law. The term “obligations” encompasses “anything that a person is bound to do or forbear from doing,” including duties “imposed by law, contract, [or] promise.”⁶¹ The Bureau construes the phrase “legitimate entities” as encompassing an inquiry into whether an entity takes seriously its duty to “[c]omply[] with the law.”⁶² Legitimate entities do not presume they will break the law and treat the risk of enforcement actions for violations of legal obligations as a mere cost of doing business. Instead, legitimate entities work in good faith to have protocols in place aimed at ensuring compliance with their legal obligations and detecting and appropriately addressing any legal violations that the entity may commit.

While each of the three subparagraphs of section 1024(b)(7) discussed above operates as independent sources of rulemaking authority, the subparagraphs also overlap in several respects, such that a particular rule may be (and, in the case of this final rule, is) authorized by more than one of the subparagraphs. For example, rules requiring the generation, provision, or retention of records generally will be authorized under both subparagraphs 1024(b)(7)(A) and (B). That is so because subparagraph 1024(b)(7)(B) makes clear that the Bureau’s authority under subparagraph 1024(b)(7)(A) to prescribe rules to facilitate supervision and assessment and detection of risks to consumers extends to requiring covered persons subject to the Bureau’s supervisory authority “to generate, provide or retain records for the purposes of facilitating supervision of such persons and assessing and detecting risks to consumers.”⁶³

See the introduction to the section-by-section analysis of § 1092.204 below for a discussion of certain comments received by the Bureau about the

proposal’s discussion of the Bureau’s authorities under CFPB section 1024(b).

IV. Why the Bureau Is Issuing This Final Rule

A. Overview

The Bureau is issuing this final rule to require nonbanks to report certain public agency and court orders because the Bureau believes that not only the Bureau, but also consumers, the public, and other potential users of the Bureau’s registry will benefit from the creation and maintenance of a central public repository for information regarding certain public orders that have been imposed upon nonbank covered persons.

Agency and court orders are not suggestions. They are legally binding orders intended to prevent and remedy violations of the law. When an agency issues such an order, or seeks a court order, it typically has determined that the problems at the applicable entity are sufficiently serious to merit the expenditure of that agency’s limited resources and perhaps the attention of the courts.

By establishing an effective registry for collecting public orders enforcing the law across different sectors of entity misconduct, the final rule will allow the Bureau to more effectively monitor for potential risks to consumers arising from both individual instances and broader patterns of recidivism. Persons that are subject to one or more orders that would require registration under the final rule may pose greater risks to consumers than others. And the existence of multiple orders may serve as a particular “red flag” with respect to risks to consumers and as a signal of potential recidivism. The existence of multiple orders may also indicate broader problems at the entity that pose related risks to consumers—including lack of sufficient controls related to the offering and provision of consumer financial products and services, inadequate compliance management systems and processes, and an unwillingness or inability of senior management to comply with laws subject to the Bureau’s jurisdiction.

The Bureau also concludes that collecting information regarding public agency and court orders enforcing the law will help it identify broader trends related to risks to consumers in the offering and provision of consumer financial products and services. For example, collecting this information would inform the Bureau about enforcement activity across geographic or product markets with respect to particular consumer protection laws,

increases and decreases over time in such activity, and many other relevant matters. Notably, by studying how laws are being enforced across consumer protection laws, jurisdictions, and markets, the Bureau will be able to identify indications of risks to consumers. For example, the existence of enforcement activity in multiple jurisdictions among certain products, services, or features, or related to certain legal requirements, or concerning certain consumer risks, could indicate areas of heightened consumer risk that warrant further attention by regulators. Or such enforcement activity might be an indication of appropriate attention by other regulators, which might be an indication that applicable nonbanks are subject to adequate oversight, or that risk to consumers in certain areas may otherwise be reduced. By contrast, the absence of enforcement activity in certain areas could potentially indicate less risk to consumers or could be evidence of less attention by regulators and a need to increase monitoring activities. The Bureau thus concludes that obtaining information regarding such orders will enable it to better monitor risks to consumers in the offering or provision of consumer financial products and services, including developments in the markets for such products and services, under its authority at CFPB section 1022(c).⁶⁴

As described further below, the Bureau intends to make a registry of these orders publicly available. The Bureau anticipates that publishing such a registry will, among other things, allow other regulators at the Federal, State, and local level tasked with protecting consumers to realize many of the same market-monitoring benefits that the Bureau anticipates obtaining from this rule. Publication will also facilitate the ability of consumers to identify the covered persons that are registered with the Bureau. In addition, publication will enhance the ability of investors, research organizations, firms conducting due diligence, and the media to locate, review, and monitor orders enforcing the law.

The final rule also will assist the Bureau’s supervisory work by collecting additional information in the form of a written statement from certain entities that are subject to the Bureau’s supervision and examination authority. As explained in greater detail below, requiring certain supervised entities to designate a senior executive officer with knowledge of, and control over, the entity’s efforts to comply with each relevant order, and requiring that

⁶¹ *Obligation*, *Black’s Law Dictionary* (11th ed. 2019).

⁶² *Legitimate*, *Black’s Law Dictionary* (11th ed. 2019) (defining “legitimate” as “[c]omplying with the law; lawful”); see also *Legitimate*, *Webster’s Second New International Dictionary* (1934) (defining “legitimate” as “[a]ccordant with law or with established legal forms and requirements; lawful”); *Legitimate*, *Webster’s Third New International Dictionary* (1981) (similar).

⁶³ 12 U.S.C. 5514(b)(7)(B); see also, e.g., *Barton v. Barr*, 140 S. Ct. 1442, 1453 (2020) (“‘redundancies . . . in statutory drafting’ may reflect ‘a congressional effort to be doubly sure’”); *Atlantic Richfield Co. v. Christian*, 140 S. Ct. 1335, 1350 n.5 (2020) (concluding that “Congress employed a belt and suspenders approach” in statute); *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 383–85 (2013) (statutory language is “not . . . superfluous if Congress included it to remove doubt” about an issue).

⁶⁴ 12 U.S.C. 5512(c).

executive to submit the information required to be contained in the written statement, will facilitate Bureau supervision efforts by providing important information about the entity, helping to prioritize the Bureau's supervisory activities, and otherwise assisting the Bureau's supervisory work. These requirements will also help ensure that the relevant entities are "legitimate" and "are able to perform their obligations to consumers" under CFPB section 1024(b)(7)(C), in part by incentivizing entities who might otherwise not take seriously their obligations to instead endeavor to comply with consumer protection laws and by highlighting the designated senior executive whose duties include ensuring such compliance.⁶⁵

General Comments Received

This section discusses certain general comments received by the Bureau regarding the proposal.

Various industry, consumer advocate, and other commenters generally agreed with the Bureau's statements in the proposal about the need for a new Bureau registry for nonbank entities that are subject to the Bureau's jurisdiction and that are subject to certain agency and court orders. A consumer advocate commenter stated that the registry would be immensely useful for the Bureau and other Federal and State regulators alike, and agreed that the proposed registry would advance a wide variety of statutory objectives, streamline regulatory processes, and create efficiencies that will result in greater consumer protection. An industry commenter stated that the proposed registry would help to compile and track violations and provide a basis from which to initiate risk-based supervision of nonbanks. Industry and consumer advocate commenters stated that the proposed registry would appropriately respond to a dearth of information about nonbank financial companies, including their number and type and the practices they engage in. Consumer advocate commenters stated that the proposal would, among other things, help unify efforts across regulators, help regulators and policymakers develop additional reforms to consumer protection, and help prevent future financial crises.

Other commenters objected to the Bureau's proposal on various grounds, as discussed elsewhere in this preamble. Among other things, commenters stated the proposed registry would be duplicative of the NMLS and overly burdensome for registered entities.

Industry commenters stated that the Bureau should either not finalize the proposal, or should carefully consider not finalizing the proposal, in light of the Fifth Circuit's decision in *Consumer Financial Protection Bureau (CFPB) v. Community Financial Services Association of America*⁶⁶ and the U.S. Supreme Court's grant of the petition for certiorari in that case.⁶⁷

A consumer advocate commenter stated that the Bureau should clarify in the final rule the monetary penalties it will seek for each day of non-compliance, and that these penalties should be large. In the commenter's view, the failure to register as required under the final rule also should be an aggravating factor when assessing monetary penalties against the entity for other violations.

Response to General Comments Received

The Bureau agrees with commenters regarding the need for a new Bureau registry for nonbank entities that are subject to the Bureau's jurisdiction and that are subject to certain agency and court orders. The final rule will establish a valuable Bureau registry that will provide the Bureau and other users with important information regarding such companies and the orders they are subject to. Comments objecting to the proposal are addressed elsewhere in this preamble.

With respect to comments addressing the U.S. Court of Appeals for the Fifth Circuit's decision regarding the constitutionality of the Bureau's funding structure, the Supreme Court has reversed that decision, holding that the Bureau's funding structure does not violate the Appropriations Clause.⁶⁸

The Bureau declines the consumer advocate commenter's suggestion to establish special rules or remedies for violation of the rule. The final rule is a Federal consumer financial law under the CFPB.⁶⁹ Violation of the final rule would be an independent violation of Federal consumer financial law subject to enforcement as provided in the CFPB, and applicable remedies under law, including potential civil money penalties.⁷⁰

⁶⁶ See *Cnty. Fin. Servs. Ass'n of Am., Ltd. v. CFPB*, 51 F.4th 616 (5th Cir. 2022).

⁶⁷ No. 22–448 (U.S. argued Oct. 3, 2023).

⁶⁸ See *CFPB v. Cnty. Fin. Servs. Ass'n of Am., Ltd.*, 601 U.S. 416 (2024).

⁶⁹ See 12 U.S.C. 5481(14) (defining term "Federal consumer financial law" as including "any rule . . . prescribed by the Bureau" under the CFPB).

⁷⁰ Violation of the final rule may also violate 12 U.S.C. 5536(a)(2), which provides that it shall be unlawful for "any covered person or service provider to fail or refuse, as required by Federal consumer financial law, or any rule or order issued

B. Why the Bureau Is Issuing a Rule To Monitor for Risks Associated With Certain Agency and Court Orders

Requiring registration and submissions regarding certain agency and court orders as provided in the final rule will assist the Bureau in monitoring for risks to consumers in the offering or provision of consumer financial products or services, in accordance with CFPB section 1022(c).⁷¹ The final rule's requirements to submit and update information regarding such agency and court orders related to the provision or offering of consumer financial products or services will provide important support for a variety of Bureau functions.

As the principal Federal regulator responsible for administering the Federal consumer financial laws, the Bureau's ability to effectively identify and monitor for potential risks to consumers arising out of apparent violations of core Federal and State consumer laws is important to the Bureau achieving its statutory purposes and objectives. Such information will help the Bureau satisfy its statutory obligation to monitor for risks to consumers in the markets for consumer financial products and services.⁷² For example, the registry will enable the Bureau to better identify an increase in the number of orders in a particular product market, in a particular geographic market, addressing similar consumer risks, or with other common features. The Bureau will be able to use this information to identify areas of heightened consumer risk that warrant further attention, as well as areas that are receiving adequate attention from other regulators. By contrast, the absence of enforcement activity in certain areas could indicate less risk to consumers, or it potentially could be evidence of less attention by regulators and a need to increase monitoring and other supervisory or regulatory activities. Over time, the Bureau's collection and review of information under the final rule will better enable the Bureau to evaluate, assess, and understand the relationship between such matters and the consumer risk that is related to covered orders. Thus, this information would help to inform and prioritize the Bureau's other market-monitoring efforts, including research regarding particular markets and the

by the Bureau thereunder—[¶] (A) to permit access to or copying of records; [¶] (B) to establish or maintain records; or [¶] (C) to make reports or provide information to the Bureau."

⁷¹ 12 U.S.C. 5512(c).

⁷² See 12 U.S.C. 5512(c)(1).

⁶⁵ 12 U.S.C. 5514(b)(7)(C).

risks to consumers presented in such markets.⁷³

Likewise, the Bureau's rulemaking efforts will benefit from information about such orders, so that the Bureau might, for example, consider drafting rules to address identified consumer risks.⁷⁴ The Bureau's consumer response function will be informed by increased monitoring of risks and trends, as the Bureau could direct resources or investigate risks in a certain area or on a certain topic.⁷⁵ And the Bureau may choose to direct its consumer education efforts toward educating consumers about risks identified via the registry.⁷⁶

The information that the Bureau will obtain under the final rule will also be valuable to the Bureau in exercising its supervisory and enforcement functions.⁷⁷ Among other things, the information may be informative when the Bureau makes determinations whether a covered person is engaging, or has engaged, in conduct that poses risk to consumers with regard to the offering or provision of consumer financial products or services under CFPB section 1024(a)(1)(C), such that the Bureau may determine to subject the covered person to Bureau supervision under that provision.⁷⁸ The information contained in the registry may also be

relevant in assessing civil penalties for violations of Federal consumer financial laws, given that Congress has provided that such penalties should take into account an entity's "history of previous violations" and "such other matters as justice may require."⁷⁹

Furthermore, there is a heightened likelihood that entities that are subject to public orders enforcing the law and relating to the offering or provision of consumer financial products and services may pose risks to consumers in the markets for those products and services, and risk of consumer harm is a significant factor that weighs heavily in the Bureau's decisions regarding the general allocation of its resources. Knowledge of whether a covered person has engaged in previous violations of consumer financial protection laws is valuable information that the Bureau considers when evaluating the risk of consumer harm. In the Bureau's experience, entities that have previously been subject to enforcement actions, including those brought by local, State, and other Federal authorities, present an increased risk of committing violations of laws subject to the Bureau's jurisdiction, and thus causing the additional consumer harm associated with such violations. Prior enforcement actions are also likely to be a good indication of continuing risks to consumers present in a particular market for consumer financial products or services. Because the orders that would be covered by the final rule are regularly issued, modified, and terminated, the Bureau needs to collect this information regularly and on a timely basis in order to stay abreast of developments.

Although referrals from and other information provided by other agencies have been valuable to the Bureau's work, the Bureau currently often relies on other agencies to take proactive steps to contact it. As discussed in part IV(E) below, under the final rule, nonbanks that are subject to agency and court orders that are published on the NMLS Consumer Access website will have an option to notify the Bureau and provide information that will flag the relevant order and nonbank for the Bureau's attention. Having access to targeted information regarding relevant orders entered against nonbanks, whether such orders are listed on the Bureau's own registry or available through the NMLS, will significantly increase the Bureau's ability to monitor markets so that the

Bureau can identify, better understand, and ultimately, prevent further consumer harm, particularly from repeat offenders.

Recidivism—whether in the form of a company that repeatedly violates the law and as a result becomes subject to multiple orders, or in the form of a company that violates the orders to which it is subject—poses particular risks to consumers. Companies that repeatedly violate the law do more than just deprive consumers of protections in the marketplace; these companies may also charge their customers more in order to cover the costs of any fines or other costs resulting from the company's legal violations. In other words, consumers may end up subsidizing corporate malfeasance. When government orders fail to deter future misconduct by a company, that company's operations are more likely to present risk to consumers. Thus, the existence of multiple orders may be highly probative of heightened risks to consumers in the markets for consumer financial products and services, including the risk of noncompliance with laws subject to the Bureau's jurisdiction.

Collecting information about such public orders across markets and agencies as provided in the final rule will improve the Bureau's efforts to determine where entities, either as a group or individually, are repeatedly violating the law. The Bureau particularly needs to be made aware of entities that become subject to multiple orders, or that are found to be out of compliance with existing orders, as well as of trends in such developments. Systematic or repeat violations of the law may indicate broader problems within a market for consumer financial products and services. Such problems might include lack of sufficient controls related to the offering and provision of certain consumer financial products and services, inadequate compliance management systems and processes within a set of market participants, and an unwillingness or inability of senior management at certain entities to comply with Federal consumer financial laws. The registry established in the final rule will provide a valuable mechanism to help ensure that the Bureau is rapidly made aware of such repeat offenders across a range of markets and enforcement agencies.

The Bureau believes that the registry will be especially useful with respect to the particular nonbank markets that are subject to the Bureau's supervision and examination authority under CFPB section 1024(a). In those markets, the Bureau will be able to take account of

⁷³ See 12 U.S.C. 5511(c)(3) (identifying as one of the "primary functions of the Bureau . . . collecting, researching, monitoring, and publishing information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets").

⁷⁴ See 12 U.S.C. 5511(c)(5) (identifying as one of the "primary functions of the Bureau . . . issuing rules, orders, and guidance implementing Federal consumer financial law").

⁷⁵ See 12 U.S.C. 5511(c)(2) (identifying as one of the "primary functions of the Bureau . . . collecting, investigating, and responding to consumer complaints"); see also Consumer Fin. Prot. Bureau, *Consumer Response Annual Report: January 1–December 31, 2021*, at 5–8 (Mar. 2022), https://files.consumerfinance.gov/f/documents/cfpb_2021-consumer-response-annual-report_2022-03.pdf (describing the Bureau's consumer-complaint process and how the Bureau uses complaint information).

⁷⁶ See 12 U.S.C. 5511(c)(1) (identifying as one of the "primary functions of the Bureau . . . conducting financial education programs").

⁷⁷ See 12 U.S.C. 5511(c)(4) (identifying as one of the "primary functions of the Bureau . . . supervising covered persons for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal consumer financial law"). Part IV(D) and the section-by-section discussion of § 1092.204 below contain additional discussion of how the final rule will facilitate the Bureau's supervisory efforts.

⁷⁸ See 12 U.S.C. 5514(a)(1)(C) (authorizing Bureau orders subjecting nonbanks to supervision based upon consumer complaints "or information from other sources"); 12 CFR part 1091 (Bureau procedural rule to establish supervisory authority over certain nonbank covered persons based on risk determination).

⁷⁹ See 12 U.S.C. 5565(c)(3)(D), (E). The Bureau may consider certain matters identified in orders collected under the final rule to be relevant under these provisions.

risks identified through the registry in conducting its risk-based supervisory prioritization and enforcement work. The existence of an order that would require registration under the final rule would be probative of a potential need for supervisory examination, to the extent that the nonbank is subject to the Bureau's supervision and examination authorities. Under CFPB section 1024(b)(2), the Bureau is required to exercise its supervisory authority in a manner designed to ensure that such exercise, with respect to persons described in CFPB section 1024(a), is based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets and taking into consideration the factors enumerated at CFPB section 1024(b)(2)(A)–(E).⁸⁰

Depending upon the circumstances, the Bureau may consider the existence of an order requiring registration under the final rule to be a risk factor under these provisions for covered persons subject to the rule. CFPB section 1024(b)(2)(C) refers to “the risks to consumers created by the provision of such consumer financial products or services.”⁸¹ The existence of one or more orders that would require registration under the final rule would be probative of such risks to consumers because it indicates that an entity may not be willing or able to ensure compliance with the law. CFPB section 1024(b)(2)(D) provides that the Bureau shall also take into account “the extent to which such institutions are subject to oversight by State authorities for consumer protection.”⁸² The existence of one or more orders issued or obtained by the types of State agencies described in the final rule in connection with violations of law would provide important and directly relevant information regarding the extent to which nonbanks are subject to oversight by State authorities for consumer protection. CFPB section 1024(b)(2)(E) provides that the Bureau shall also take into account “any other factors that the Bureau determines to be relevant to a class of covered persons.”⁸³ For the classes of covered persons subject to the final rule, the Bureau believes that the existence of an order that would require registration under the final rule would be a relevant factor under this statutory provision for the Bureau to take into consideration when exercising its supervisory authorities under CFPB section 1024. Thus, for the reasons

described above, the existence of such orders would be relevant information in prioritizing and scoping the Bureau's supervisory activities under CFPB section 1024(b) with respect to the markets subject to that provision.

In crafting the final rule's requirements to register and submit certain agency and court orders, the Bureau has considered (among others) the factors listed at CFPB section 1022(c)(2), to the extent relevant here to the allocation of Bureau resources to perform market monitoring. For example, the Bureau considered the “likely risks and costs to consumers associated with buying or using a type of consumer financial product or service.”⁸⁴ As discussed above, the Bureau believes companies that violate the law, especially repeatedly, generally pose more risk to consumers. The final rule will assist the Bureau in identifying and evaluating such risks—and their associated costs—across companies, industries, products, and regions.

The Bureau also considered the “understanding by consumers of the risks of a type of consumer financial product or service.”⁸⁵ The Bureau is concerned that consumers currently may not adequately understand risks posed by certain institutions, including risks arising from recidivism. With a clear window into nationwide trends and gaps in nonbank covered persons' compliance with consumer protection laws, the Bureau can target its various functions—including consumer education—to ensure that consumers understand the risks and associated costs of such conduct on their use of certain consumer financial products or services.

The Bureau further considered “the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers.”⁸⁶ The final rule will enhance the Bureau's ability to effectively assess whether and to what extent the orders themselves, as well as other relevant laws, in practice adequately protect consumers. Information collected in connection with the final rule will aid the Bureau in better understanding how effectively the nation's consumer protection laws operate in practice, which should assist the Bureau in determining (among other things) how best to allocate its resources to ensure consumers are adequately protected from unlawful conduct.

The Bureau also considered “rates of growth in the offering or provision of a consumer financial product or service.”⁸⁷ Commenters expressed concern about a dearth of information regarding nonbank financial companies and stated that nonbanks may be obtaining an increased market share in certain markets for consumer financial products and services. The Bureau likewise believes that at least in certain markets, there has been rapid growth in consumer offerings by nonbanks. The Bureau intends to use the information obtained under the final rule in assessing and monitoring the rates of such growth and any associated risks, as evidenced by information regarding relevant consumer protection orders issued against nonbanks.

The Bureau also considered “the extent . . . to which the risks of a consumer financial product or service may disproportionately affect traditionally underserved consumers.”⁸⁸ The Bureau generally is concerned that traditionally underserved communities may be disproportionately the target of consumer protection violations—particularly, unfair, deceptive, or abusive acts or practices—in the offering or provision of consumer financial products or services. The information collected should provide the Bureau with robust nationwide data to identify and evaluate the extent to which this is the case.

Finally, the Bureau considered “the types, number, and other pertinent characteristics of covered persons that offer or provide the consumer financial product or service.”⁸⁹ For the reasons discussed, law violator status—and especially repeat law violator status—is a highly pertinent characteristic. The Bureau believes that risks to consumers posed by law violators warrant market monitoring. In particular, it will provide greater visibility into nonbank covered persons' compliance with consumer protection laws in the offering or provision of consumer financial products and services, in addition to more generally aiding the Bureau's overall understanding of nonbank covered persons and the products or services they provide.

As discussed further below in part IV(E), the Bureau is adopting a modification to the proposed rule in order to provide an option for one-time registration of orders published on the NMLS Consumer Access website (except for orders issued or obtained by

⁸⁰ 12 U.S.C. 5514(a), (b)(2).

⁸¹ 12 U.S.C. 5514(b)(2)(C).

⁸² 12 U.S.C. 5514(b)(2)(D).

⁸³ 12 U.S.C. 5514(b)(2)(E).

⁸⁴ 12 U.S.C. 5512(c)(2)(A).

⁸⁵ 12 U.S.C. 5512(c)(2)(B).

⁸⁶ 12 U.S.C. 5512(c)(2)(C).

⁸⁷ 12 U.S.C. 5512(c)(2)(D).

⁸⁸ 12 U.S.C. 5512(c)(2)(E).

⁸⁹ 12 U.S.C. 5512(c)(2)(F).

the Bureau). The Bureau will be notified regarding such orders and the nonbank entities that are subject to them, and, using the information provided by the nonbank via the registry, will be able to obtain additional information from applicable Federal, State, and local authorities, including through the NMLS. Thus, the Bureau will have access to a comprehensive collection of relevant orders and entities, accessible either through the Bureau's registry or via the Bureau's existing access to NMLS and its ability to reach out to other agencies.

The Bureau has concluded that alternative means of collecting the information subject to the final rule would be inadequate.⁹⁰ For example, the Bureau considered requesting the information on an ad hoc basis from entities that are subject to relevant orders through a Bureau order issued pursuant to CFPB section 1022(c)(4)(B)(ii).⁹¹ However, the Bureau concludes this alternative would be inadequate. There is no existing comprehensive list of covered persons subject to Bureau regulation, so the Bureau would be unable to issue a standing order to such entities to produce information. It is not clear how the Bureau would obtain this information without issuing a rule. Also, the Bureau wishes to collect information that changes over time—for example, information regarding new orders and changes to orders, as well as with respect to changes in registration information. An order that required submission of information at a single point in time—assuming that the Bureau could identify the entities to which such an order should be addressed—would be inadequate to capture such changes in information. While the Bureau might issue frequently recurring orders under its market-monitoring authority, such an approach would be less reliable and predictable for all parties than a rule-based approach.

The Bureau further considered using its supervisory and examination authority to obtain information solely from entities that are subject to that authority. However, there is no existing comprehensive list of nonbank entities subject to Bureau supervision, so the Bureau would be unable to issue a standing order to such entities to produce such information. Moreover, the Bureau has concluded that collecting information from a wider

range of covered persons, including those that are not subject to the Bureau's supervisory and examination authority, is appropriate to achieve its market-monitoring objectives.

C. Why the Bureau Has Identified Orders Issued Under the Types of Laws Described in the Proposal as Posing Particular Risk

The final rule prescribes registration requirements with reference to certain types of “covered laws” that served as the basis for an applicable order. As discussed herein, the Bureau concludes that orders issued under the types of covered laws described in the proposal are likely to be probative of risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.⁹²

First, the Bureau is requiring registration in connection with orders issued under the Federal consumer financial laws, to the extent that the violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service. As explained above, numerous Federal and State agencies besides the Bureau have authority to enforce Federal consumer financial laws. In matters where an agency other than the Bureau has issued or obtained a final public order concluding that a covered person has violated Federal consumer financial law, the Bureau also will generally have jurisdiction over the conduct that resulted in that order. Requiring registration of such orders will facilitate effective market monitoring by providing the Bureau a tool to identify and understand the nature of the risks to consumers presented by the conduct addressed in those orders, including the risk that the conduct might continue unabated outside of the particular jurisdiction that issued the order. For example, such information may inform the Bureau's supervisory or enforcement activities, as the Bureau may consider bringing its own action in connection with the same or related conduct. Or the conduct may be probative of a more systemic problem with one or more entities' overall willingness or capacity to comply with Federal consumer financial law across different product lines or aspects of their operations. Likewise, requiring registration of orders involving Federal consumer financial law will facilitate effective market monitoring by ensuring that the

Bureau can quickly and effectively identify patterns of similar conduct across multiple nonbank covered persons. The identification of such patterns may indicate a problem that the Bureau could best address by engaging in rulemaking to clarify or expand available consumer protections to address emerging consumer risk trends. It may also prompt the Bureau to use other tools, such as consumer education, to address the identified risks.

Second, the Bureau is requiring registration of orders in connection with a violation of any other law as to which the Bureau may exercise enforcement authority, to the extent such violation arises out of conduct in connection with the offering or provision of a consumer financial product or service. The Bureau may enforce certain laws other than Federal consumer financial laws, as that term is defined in CFPB section 1002(14).⁹³ The Bureau concludes that the registry should collect information regarding orders issued under any law that the Bureau may enforce, where the violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service. By definition, the conduct addressed in such orders will generally fall within the scope of the Bureau's enforcement authority. More generally, the Bureau concludes that evidence of such conduct could be probative of a broader risk that the entity has engaged or will engage in conduct that may violate Federal consumer financial law. For example, violations of the Military Lending Act, as to which the Bureau has enforcement authority, may overlap with, or be closely associated with, violations of the CFPB's UDAAP prohibitions⁹⁴ or the Truth in Lending Act,⁹⁵ among other Federal consumer

⁹³ See, e.g., 10 U.S.C. 987(f)(6) (authorizing Bureau enforcement of the Military Lending Act). As the Bureau has explained in an interpretive rule, it also has authority to supervise nonbanks subject to its supervision regarding risks to consumers arising from conduct that violates the Military Lending Act. See Bureau Interpretive Rule, Examinations for Risks to Active-Duty Servicemembers and Their Covered Dependents, 86 FR 32723 (June 23, 2021). In this rulemaking, however, the Bureau does not need to rely on the authority described in that interpretive rule. Instead, to the extent that the final rule would collect information regarding orders issued under laws described in § 1092.201(c)(2) for the purpose of facilitating the Bureau's supervisory activities, the Bureau would do so because the Bureau believes such orders may be probative of a broader risk that an entity has engaged or will engage in conduct that may violate Federal consumer financial law.

⁹⁴ 15 U.S.C. 5531, 5536(a)(1)(B).

⁹⁵ 15 U.S.C. 1601 *et seq.*

⁹⁰ For additional discussion of comments received in connection with other alternative means of collecting this information, see the section-by-section discussion of §§ 1092.202(b) and 1092.203(a) below.

⁹¹ 12 U.S.C. 5512(c)(4)(B)(ii).

⁹² See also the discussion of the definition of the term “covered law” in the section-by-section discussion of § 1092.201(c) below.

financial laws. In addition, in the Bureau's experience, a violation of one law within the Bureau's enforcement authority may be indicative of broader inadequacies in an entity's compliance systems that are resulting or could result in other legal violations, including violations of Federal consumer financial laws. Furthermore, including in the registry orders issued under any law that the Bureau may enforce (where the violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service) will further the Bureau's objective of creating a cross-market registry that could serve as a reference tool for use in monitoring for risks to consumers, thereby increasing the Bureau's ability to use the registry to monitor for patterns of risky conduct of nonbank covered persons across entities, industries, and product offerings.

Third, the Bureau is requiring registration in connection with orders issued under the prohibition on unfair or deceptive acts or practices under section 5 of the FTC Act, 15 U.S.C. 45, or any rule or order issued for the purpose of implementing that prohibition, to the extent that the violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service. In matters where a government agency has reached a determination that an entity has violated section 5 of the FTC Act in connection with the offering or provision of a consumer financial product or service, the Bureau has reason to be concerned that the entity poses heightened risks to consumers in financial markets. For one thing, the conduct resulting in the order may have violated Federal consumer financial law. CFPA section 1031, for example, authorizes the Bureau to take action "to prevent a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service."⁹⁶ And CFPA section 1036(a)(1)(B) provides that "[i]t shall be unlawful" for a covered person "to engage in any unfair, deceptive, or abusive act or practice."⁹⁷ Congress modeled the CFPA's prohibition of unfair or deceptive acts or practices after the similar prohibition in section 5

of the FTC Act.⁹⁸ Therefore, violations of FTC Act section 5 in connection with the provision or offering of a consumer financial product or service are highly probative of a heightened risk that UDAP violations subject to the Bureau's jurisdiction have occurred or are occurring.

Moreover, the high probative value of such orders is not simply a function of the likelihood that underlying conduct could violate Federal consumer financial law. The Bureau concludes that, where an entity has engaged in conduct prohibited under FTC Act section 5 in connection with offering or providing a consumer financial product or service, there is a significant risk that upon closer inspection of the entity's activities it has engaged in other acts or omissions that either violate Federal consumer financial law or otherwise present risks to consumers in the consumer financial markets. For example, inadequacies in compliance systems are not likely limited to a particular Federal or State consumer protection law, and compliance-system inadequacies that result in FTC Act section 5 violations indicate a heightened risk of similar inadequacies related to the prevention of violations of Federal consumer financial laws. And, as described above, a registry of orders is particularly useful because a core purpose of the Bureau's monitoring efforts is to analyze patterns of risky conduct across entities, industries, product offerings, and jurisdictions. Such patterns would help the Bureau identify risks to consumers that warrant further action, such as more monitoring, increased supervisory attention in the case of supervised persons, regulation, or consumer education.

Fourth, the Bureau is requiring registration in connection with orders issued under State laws prohibiting unfair, deceptive, or abusive acts or practices that are identified in appendix A to part 1092, to the extent that the violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service.⁹⁹ State UDAP/UDAAP laws are generally modeled after—or otherwise prohibit conduct similar to that prohibited by—FTC Act section 5 or CFPA sections

1031 and 1036(a)(1)(B).¹⁰⁰ Therefore, violations of State UDAP/UDAAP law in connection with the provision or offering of a consumer financial product or service are similarly highly probative of a heightened risk that UDAP violations subject to the Bureau's jurisdiction have occurred or are occurring. In addition, violations of State UDAP/UDAAP law may be probative of the existence of violations of other laws within the Bureau's jurisdiction.¹⁰¹

Obtaining a better understanding of entities' compliance with State UDAP/UDAAP laws will assist the Bureau in the assessment and detection of risks for the same general reasons described with respect to alleged or found violations of FTC Act section 5—namely, that (i) conduct that violates State UDAP/UDAAP prohibitions commonly also violates laws under the Bureau's jurisdiction; and (ii) the Bureau believes that evidence of such conduct may be highly probative of a broader risk that the entity has engaged or will engage in similar conduct that may violate laws within the Bureau's jurisdiction, either as a result of a willingness to violate such laws or a lack of sufficient protections in place to prevent violations. Registration of State UDAP/UDAAP orders will facilitate effective market monitoring by ensuring that the Bureau can quickly and effectively identify patterns of risky conduct across entities, industries, consumer financial product or service offerings, and jurisdictions. The Bureau could then decide which Bureau functions are best suited to address the consumer risks raised by the orders.¹⁰²

¹⁰⁰ 15 U.S.C. 45; 12 U.S.C. 5531. See Request for Information on Payday Loans, Vehicle Title Loans, Installment Loans, and Open-End Lines of Credit, 81 FR 47781, 47783 (July 22, 2016) ("In the 1960s, States began passing their own consumer protection statutes modeled on the [Federal Trade Commission] Act to prohibit unfair and deceptive practices."); see also Cal. Fin. Code sec. 90009(c)(3) (providing that "the term 'abusive' shall be interpreted consistent with Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010"); Michael Greenfield, *Unfairness Under Section 5 of the FTC Act and Its Impact on State Law*, 46 Wayne L. Rev. 1869, 1899 (2000) (noting that "the state statutes actually were drafted and promoted by the Federal Trade Commission, which, one supposes, had a special interest in uniform, nationwide interpretation of the standards").

¹⁰¹ To take just one example, UDAP violations in connection with debt-collection efforts may also violate the Fair Debt Collection Practices Act's prohibition against unfair, deceptive, or abusive debt-collection practices. See 15 U.S.C. 1692d–1692f.

¹⁰² For discussion of the final rule's requirements with respect to State laws amending or otherwise succeeding a law identified in appendix A, and rules or orders issued by State agencies for the purpose of implementing State UDAP/UDAAP

⁹⁶ 12 U.S.C. 5531(a).

⁹⁷ 12 U.S.C. 5536(a)(1)(B).

⁹⁸ See 15 U.S.C. 45; see also, e.g., *Consumer Fin. Prot. Bureau v. ITT Educ. Servs., Inc.*, 219 F. Supp. 3d 878, 902–04 (S.D. Ind. 2015).

⁹⁹ The Bureau is adopting a final version of appendix A to part 1092 with certain changes to the version in the proposal. For a discussion of these changes to the proposal, see the section-by-section discussion of § 1092.201(c) below.

D. Why the Bureau Is Requiring Supervised Nonbanks To Designate Attesting Executives and Submit Written Statements

The final rule will also require certain entities that are subject to the Bureau's supervision and examination authority to annually submit a written statement signed by a designated attesting executive regarding each covered order to which they are subject. In the written statement, the attesting executive will be required to (i) generally describe the steps that the executive has undertaken to review and oversee the entity's activities subject to the applicable covered order for the preceding calendar year, and (ii) attest whether, to the executive's knowledge, the entity during the preceding calendar year has identified any violations or other instances of noncompliance with any of the obligations that were imposed in a public provision of the covered order by the applicable agency or court based on a violation of a covered law. The final rule further requires that the entity designate as the attesting executive for each covered order its highest-ranking duly appointed senior executive officer (or, if the entity does not have any duly appointed officers, the highest-ranking individual charged with managerial or oversight responsibility for the entity) whose assigned duties include ensuring the entity's compliance with Federal consumer financial law, who has knowledge of the entity's systems and procedures for achieving compliance with the covered order, and who has control over the entity's efforts to comply with the covered order. The Bureau intends to publish the name and title of that executive in the public registry.

The Bureau concludes these requirements will serve two sets of distinct purposes relating to its exercise of its supervisory and examination authorities under CFPB section 1024.

First, the Bureau concludes the final rule's requirements that certain supervised entities (which are referred to in the rule as "supervised registered entities") designate attesting executives and provide written statements will facilitate the Bureau's supervision efforts, including its efforts to assess compliance with the requirements of Federal consumer financial law, obtain information about supervised entities' activities and compliance systems or procedures, and detect and assess risks to consumers and to markets for consumer financial products and

services.¹⁰³ As discussed, the existence of one or more covered orders involving a supervised registered entity already raises red flags regarding the entity's compliance with Federal consumer financial law and the overall risk posed by such entity to consumers in the offering or provision of consumer financial products and services. Submission of a written statement regarding either compliance or noncompliance with such an order will provide the Bureau with important additional information regarding risks to consumers that may be associated with the order and the applicable supervised registered entity's compliance systems and procedures. Covered orders frequently contain provisions aimed at ensuring an entity's future legal compliance, such as reporting requirements, recordkeeping requirements, and provisions requiring the entity to obtain the issuing agency's nonobjection before adopting or amending relevant policies and procedures. An entity's sustained compliance with such provisions may mitigate the continuing risks to consumers presented by the entity and thus reduce the potential need for current supervisory activities. By contrast, an entity's noncompliance with the terms of an order may indicate a heightened need for current supervisory activities. And if an entity is committing significant or repeated violations of a covered order, or it is failing to take appropriate steps to address such violations and prevent their recurrence, that may indicate that the entity lacks the protocols and institutional commitment necessary to ensure compliance with legal obligations aimed at protecting consumers and ultimately with the Federal consumer financial laws. Entities that fail to comply with orders enforcing the law may be at greater risk of violating one or more laws within the Bureau's jurisdiction. Submission of the proposed written statements will enable the Bureau to conduct additional supervisory reviews or to otherwise investigate the matter in order to identify any such violations and related risks.

As a result, the final rule's written statements will be particularly relevant

when prioritizing the Bureau's supervisory activities under CFPB section 1024(b). As discussed above at part III(C) and below in the section-by-section discussion of § 1092.204, CFPB section 1024(b)(2) requires that the Bureau exercise its authority under CFPB section 1024(b)(1) in a manner designed to ensure that such exercise, with respect to persons described in section 1024(a), is based on the assessment by the Bureau of certain identified risks.¹⁰⁴ For the reasons discussed above, the final rule's written statements will inform the Bureau's risk-based prioritization of its supervisory program under CFPB section 1024(b)(2). The Bureau anticipates that the written statements would be particularly helpful in assessing, among other things, "the risks to consumers created by the provision of . . . consumer financial products or services" and "the extent to which such institutions are subject to oversight by State authorities for consumer protection."¹⁰⁵

The final rule's written-statement requirements also will improve the Bureau's ability to conduct its supervisory and examination activities with respect to the supervised nonbank, when it does choose to exercise its supervisory authority. The Bureau exercises its supervisory authority with respect to supervised nonbanks for certain purposes, including assessing compliance with the requirements of Federal consumer financial law, obtaining information about the activities and compliance systems or procedures of supervised nonbanks, and detecting and assessing risks to consumers and markets for consumer financial products and services.¹⁰⁶ Assessing whether entities have adequate compliance management systems in place is a long-standing and standard component of the Bureau's examination process, and that assessment depends in part on understanding with whom certain responsibilities lie and how a compliance program is carried out.¹⁰⁷ The Bureau concludes a supervised nonbank's written statements as required under the proposal will provide important information relevant

¹⁰⁴ 12 U.S.C. 5514(a), (b)(2).

¹⁰⁵ 12 U.S.C. 5514(b)(2)(C)–(D). See additional discussion of the factors for risk-based supervisory prioritization in part IV(B) above.

¹⁰⁶ 12 U.S.C. 5514(b)(1).

¹⁰⁷ See CFPB Supervision and Examination Manual at CMR 1 ("To maintain legal compliance, an institution must develop and maintain a sound compliance management system . . . that is integrated into the overall framework for product design, delivery, and administration across their entire product and service lifecycle.").

¹⁰³ See 12 U.S.C. 5514(b)(1), (7)(A)–(B). As explained in the "legal authority" section, 12 U.S.C. 5514(b)(7)(A) authorizes the Bureau to prescribe rules to facilitate Bureau supervision and the assessment and detection of risks to consumers, and 12 U.S.C. 5514(b)(7)(B) authorizes the Bureau to require supervised registered entities to "generate"—i.e., create—reports regarding their activities (including the required written statements) and then "provide" them to the Bureau.

laws, see the section-by-section discussion of § 1092.201(c) below.

to all of these statutory purposes. As explained below, a supervised nonbank's failure to comply with a relevant order under a covered law could indicate that the entity more generally lacks the will or ability to comply with its legal obligations, including its obligations under Federal consumer financial law. Such noncompliance may also indicate that the entity generally lacks adequate compliance systems or procedures, which in turn would create risks to consumers and to the markets for consumer financial products and services that the entity participates in. Conversely, written statements indicating that the entity had not identified any instances of noncompliance with a relevant order would also provide the Bureau with similarly useful information about the entity's efforts to comply with such orders and the entity's compliance systems and procedures related to the entity's offering and provision of consumer financial products and services. Thus, in cases where the Bureau determines to exercise its supervisory authorities with respect to a supervised nonbank required to submit written statements under the proposal, the Bureau would expect those written statements to be of value in conducting its examination work. For example, the Bureau may use the written statements in determining what information to require from a supervised nonbank, in determining the content of supervisory communications and recommendations, or in making other decisions regarding the use of its supervisory authority.¹⁰⁸

Second, the final rule's written-statement requirements will help ensure that supervised registered entities "are legitimate entities and are able to perform their obligations to consumers."¹⁰⁹ As discussed in part VIII below, the Bureau believes that most supervised registered entities subject to covered orders endeavor in good faith to comply with consumer protection laws and, accordingly, have put in place some manner of systems and procedures to help achieve such compliance. But the Bureau also expects that other supervised registered entities

will not take their legal obligations seriously, including their obligations under Federal consumer financial law.¹¹⁰ The final rule's written-statement requirements will provide information that would help the Bureau assess in which category a particular entity falls. If, after reviewing a written statement, the Bureau concludes that an entity is not working in good faith to comply with its legal obligations, that conclusion might provide grounds for prioritizing the entity for supervisory examinations to assess its compliance with Federal consumer financial law. The Bureau expects that the risk of such increased supervisory scrutiny will provide an incentive for some entities to improve their compliance efforts so that they can submit a written statement that is less likely to result in increased scrutiny from the Bureau. Thus, by making it more difficult to quietly disregard the law, the Bureau concludes that the written-statement requirement will likely motivate at least a few supervised entities with substandard compliance practices to enhance their compliance efforts and comply with their legal obligations, including their obligations under Federal consumer financial law. The Bureau likewise believes that the final rule's requirement to designate an attesting executive with knowledge of the entity's systems and procedures for achieving compliance with the covered order and with control over the efforts to comply with the covered order will likely provide an incentive to pay more attention to the entity's legal obligations.

To be clear, the final rule does not establish any minimum procedures or otherwise specify the steps the attesting executive must take in order to review and oversee the supervised registered entity's activities. Nor does the final rule establish any minimum level of compliance management or expectation for compliance systems and procedures at such entities, or purport to impose any restrictions on the manner in which supervised registered entities address such matters. However, as explained above, the Bureau expects that most supervised registered entities will be at least somewhat hesitant to repeatedly report the absence of good faith efforts to comply with covered orders. Also, the rule will require supervised registered entities to identify, on an annual basis, a high-level executive with knowledge and responsibility regarding an entity's efforts to comply

with a covered order, which will facilitate any Bureau supervisory efforts related to the order or the matters addressed therein.

The Bureau is finalizing its preliminary findings that requiring certain supervised nonbanks to designate attesting executives and to submit written statements relating to compliance with reported orders will facilitate the Bureau's supervisory efforts and better ensure that supervised registered entities are legitimate entities and are able to perform their obligations to consumers.

E. Why the Bureau Is Adopting an Option for One-Time Registration of Orders Published on the NMLS Consumer Access Website

The Bureau received multiple comments on the proposal stating that the proposed registry was redundant with existing registries and other published information, and in particular with the NMLS. See the section-by-section analysis of § 1092.203 below for a discussion of these comments and the Bureau's response. Some consulting parties expressed similar concerns during the Bureau's interagency consultation process, as discussed in part V below. In light of those comments and concerns, the Bureau is adopting a one-time registration option for orders that are published on the NMLS Consumer Access website, which may be exercised at the election of the covered nonbank. Nonbanks that exercise this option may submit a one-time registration regarding certain agency and court orders that are published on the NMLS Consumer Access website maintained at www.NMLSConsumerAccess.org (except for orders issued or obtained by the Bureau), in lieu of complying with other requirements of the rule with respect to the order. Such nonbanks will be required to submit certain limited information to the Bureau's nonbank registry regarding the order to enable the Bureau to identify the relevant nonbank and order and otherwise coordinate the nonbank registry with the NMLS. Upon exercising this option and submitting the required information about the relevant order, a nonbank will have no further obligation under subpart B to provide information to, or update information provided to, the Bureau's nonbank registry regarding the order.

The one-time registration option established in the final rule will ensure that the Bureau is informed regarding risks to consumers in the offering or provision of consumer financial products and services, including developments in markets for such

¹⁰⁸ As explained below in the section-by-section discussion of § 1092.204(e), the Bureau is requiring supervised registered entities to maintain records to support their written statements. That recordkeeping requirement will further facilitate the Bureau's supervisory and examination activities because it will ensure the availability of records for the Bureau to review regarding the matters addressed in the written statements.

¹⁰⁹ 12 U.S.C. 5514(b)(7)(C). As explained in the "legal authority" section above, 12 U.S.C. 5514(b)(7)(A), (B), and (C) provide independent sources of rulemaking authority.

¹¹⁰ As explained above, in several cases, the Bureau has found that entities have violated prior orders that the Bureau has issued or obtained. See *supra* note 7.

products and services, in a manner that promotes coordination and cooperation with the States while reducing potential burden on the companies that are required to register. This option is not available for orders that are issued or obtained at least in part by the Bureau itself.

The one-time registration option is consistent with § 1092.102(b), which provides that in administering the nonbank registry, the Bureau may rely on information a person previously submitted to the nonbank registry under part 1092 and may coordinate or combine systems in consultation with State agencies as described in CFPA sections 1022(c)(7)(C) and 1024(b)(7)(D). Those statutory provisions provide that the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate. As § 1092.102(b) makes clear, the Bureau may develop or rely on such systems as part of maintaining the nonbank registry and may also rely on previously submitted information.

F. Why the Bureau Intends To Publish Certain Information Collected Under the Registration Requirements

The Bureau intends to publish a registry that contains certain information about nonbanks and orders collected under the rule. However, the Bureau is reserving the option not to publish information based on operational considerations, such as resource constraints.¹¹¹

While the orders subject to the rule will already be public, information about the orders may not be readily accessible in a comprehensive and collected manner, and some of the information submitted to the registry may not be readily available to the public. The Bureau intends to publish this information because it believes publication will provide benefits to the general public, other regulators, and to consumers, and would be consistent with Federal Government efforts to make government data assets publicly available.¹¹² The Bureau has authority to publish the registration information under CFPA section 1022(c)(3)(B), which authorizes it to publish information obtained under section 1022 “as is in the public interest,”¹¹³ and under CFPA section 1022(c)(7)(B),

which authorizes the Bureau to “publicly disclose registration information to facilitate the ability of consumers to identify covered persons that are registered with the Bureau.”¹¹⁴ As discussed further in the section-by-section discussion of § 1092.205(a) below, the Bureau finds that, except under certain circumstances, it will be in the public interest to publish certain information collected by the nonbank registry.

A variety of Federal regulators, including the prudential regulators, as well as State attorneys general and other State agencies, all have authority to issue orders to address legal violations in the provision or offering of consumer financial products or services. Consequently, similar conduct may be addressed through separate orders, by separate regulators, or across separate lines of business. Again, the orders that would be published under the proposal would already be public. But such orders, while public, are currently subject to distinct publication regimes. The distinct enforcement and publication regimes for the various agencies with authority over nonbank covered persons make it more difficult for the Bureau, consumers, and other interested parties to identify entities that engage in misconduct and repeatedly violate the law. The final rule will address that issue by creating a registry of orders that relate to offering or providing consumer financial products or services and the nonbanks that are subject to them. The registry will enable users of the nonbank registry to become better informed about those orders and nonbanks and promote transparency in the markets for consumer financial products and services.

The Bureau recognizes that much public information about such orders already exists. In particular, some information is available to potential users through the NMLS Consumer Access website, which is owned and operated by the State Regulatory Registry LLC, which is a wholly owned subsidiary of the Conference of State Bank Supervisors. In addition, the applicable Federal and State regulators generally each publish their own orders enforcing consumer financial law; thus, potential users may be able to access some of this information by means of the various websites and other databases maintained by individual agencies or other multiagency websites. And still other information is published and maintained by private actors.

As discussed in part IV(E) above and in the section-by-section discussion of § 1092.203 below, the Bureau is adopting a one-time registration option with respect to orders that are published on the NMLS Consumer Access website, www.NMLSConsumerAccess.org (except for orders issued or obtained by the Bureau). This option will reduce burden on eligible entities that are subject to the rule, help avoid confusion, and promote coordination with the States in exercising the Bureau’s nonbank registration authorities by leveraging information already gathered and published by the States. The Bureau intends to publish certain limited information collected under this one-time registration option for the purposes of informing users of the registry of particular orders published on the NMLS Consumer Access website and the applicable nonbanks subject to them. The Bureau’s registry will alert users of the NMLS that orders have been issued against nonbanks subject to the Bureau’s jurisdiction in connection with the offering or provision of consumer financial products or services. Where an order has been registered with the Bureau’s registry under the option discussed in part IV(E) above, users may also refer to the NMLS for additional information about that order, to the extent consistent with any terms of use or other conditions of access that the NMLS’s operator may impose.

The Bureau is authorizing the establishment of its own public registry in order to provide access to a new centralized and publicly available database containing information about applicable nonbanks and the orders to which they are subject, specifically in connection with the offering and provision of consumer financial products and services. While certain State regulators provide information about certain public enforcement actions through the NMLS, including in some cases publishing related orders on the NMLS Consumer Access website, such information does not extend to all of the orders and all of the agencies that are addressed by the final rule, including orders issued by Federal agencies. It is also limited to only certain industry sectors. Therefore, there appears to be limited collective information regarding all of the orders that have been issued by multiple regulators to particular entities across multiple product markets and geographic markets related to consumer financial products and services. To the Bureau’s knowledge, there is currently no public government registry at the Federal or State level for the collection

¹¹¹ For additional discussion regarding the Bureau’s discretion not to publish information under § 1092.205(a), see the section-by-section discussion of that provision below.

¹¹² See also the discussion of these issues in the section-by-section discussion of § 1092.205 below.

¹¹³ 12 U.S.C. 5512(c)(3)(B).

¹¹⁴ 12 U.S.C. 5512(c)(7)(B).

of information about such orders across the entities subject to the Bureau's jurisdiction (though privately maintained databases may exist). No government agency appears to maintain a publicly available repository of such orders and other related information with respect to particular entities as they relate to consumer financial products and services. The Bureau believes that consumers would benefit from a registry that is maintained by the Federal Government for the purpose of providing information regarding such orders.

The Bureau believes that there will be significant value in creating a public repository of information related to public agency and court orders that impose obligations based on violations of consumer protection laws, and the nonbanks under the Bureau's jurisdiction that are subject to them.¹¹⁵ Publication of certain data collected pursuant to this rule is in the public interest in a variety of ways. By improving public transparency, the Bureau intends to mitigate recidivism and more effectively deter unlawful behavior. Providing better tools to monitor repeat law violators and corporate recidivism is in the public interest. Researchers will be able to use published information to better understand the markets regulated by the Bureau and the participants in those markets, and their efforts may result in more thorough understanding and promote compliance with the law. Non-government entities will likewise be able to use published information in conducting their work and in identifying potential issues and risks affecting consumers in the markets for consumer financial protection and services. Industry can use a public registry as a convenient source of information regarding regulator actions and trends across jurisdictions, helping industry actors to better understand legal risks and compliance obligations. A public registry will also provide potential investors, contractual partners, financial firms, and others that are conducting due diligence on a registered nonbank a consolidated source of information regarding public orders. Establishing a source for public data on entity lawbreaking and recidivism will promote tracking and awareness of such matters by consumer groups, trade associations, firms conducting due diligence, the media, and other parties.

Government agencies—including, but not limited to, the Bureau—will also

benefit from the public registry. While the orders that the Bureau intends to publish under the rule will already be public, every Federal, State, and local agency with jurisdiction over a covered nonbank will benefit from access to a regularly maintained database providing up-to-date information on relevant public orders that have been issued against such entities. Such information will help agencies to detect risks to consumers, and to coordinate and maintain consistency with the Bureau and other agencies in their enforcement strategies and approaches. Agencies can use the published information to better identify registered nonbanks and determine their legal structure and organization, since the registry will (subject to the option for NMLS-published covered orders) require registered nonbanks to submit and maintain up-to-date identifying information, including legal name and principal place of business. Also, publication of registration information and information regarding orders will assist other agencies in assessing the potential risks to consumers that may be posed by registered nonbanks and in making their own determinations regarding whether to conduct examinations or investigations, bring enforcement actions against nonbanks, or engage in other regulatory activities. For example, a State regulator attempting to improve its assessments of consumer risk trends among nonbank payday lenders in its State should be able to use the Bureau's registry to identify what other regulators of the same or similar nonbank providers or products have recently identified in terms of such risks. In addition, the Bureau believes that many agencies would find the published information useful in making other determinations regarding the nonbanks registered under the proposal. For example, an agency may be able to use this information when making determinations regarding an application or license, or to ask relevant questions regarding the information that is published. Thus, the Bureau believes that, with access to a public Bureau registry of these orders, those similarly tasked with protecting consumers in the markets for consumer financial products and services would obtain many of the same powerful market-monitoring benefits that the Bureau anticipates obtaining from this rule.¹¹⁶

¹¹⁶ As described in part V below, certain consulting parties confirmed to the Bureau during the interagency consultation process that they would find the registry useful in conducting their own operations, while certain other consulting parties stated that they would not.

In developing the proposal, the Bureau considered whether it might be better to use confidential channels, or perhaps a private electronic portal, to exchange this information with other government agencies. However, the Bureau believes that such an approach likely would be impractical. Not every agency that would be able to use the information would be aware of the need to request access to the information from the Bureau or would necessarily be able to expend the resources to maintain access. The Bureau would need to expend its own resources to establish and maintain such channels. And the Bureau believes that such a system would not achieve the benefits of disclosure to consumers and the public discussed in this section. Publication also would formally align the proposed registry with Federal Government standards calling for publishing information online as open data.¹¹⁷

Consumers may also benefit from the collection and publication of the information collected by the registry, including information about orders that are already public. At least in certain cases, publishing information about the entity and its applicable orders in a public registry as intended by the Bureau will potentially help certain consumers make informed decisions regarding their choice of consumer financial products or services. As discussed at part VIII below, the Bureau does not necessarily expect a wide group of consumers to rely routinely on the Bureau's registry when selecting consumer financial products or services. However, the Bureau believes that the registry will benefit certain consumers if the information in the registry is recirculated, compiled, or analyzed by other users such as consumer advocacy organizations, researchers, or the media. For example, media outlets can use the registry to report which entities have the most government orders enforcing the law against them, which would inform consumers about such repeat offenders.

Publication of the registry as intended by the Bureau will also facilitate private enforcement of the Federal consumer financial laws by consumers, to the extent those laws provide private rights of action, where consumers have been harmed by a registered nonbank. Such publication will be useful in helping consumers understand the identity of a company that has offered or provided a particular consumer financial product or service, and in determining whether to file suit or otherwise make choices

¹¹⁵ See also the discussion of these issues in the section-by-section discussions of §§ 1092.202(b) and 1092.205(a) below.

¹¹⁷ See, e.g., Open, Public, Electronic, and Necessary Government Data Act, in title II of Public Law 115–435 (Jan. 14, 2019).

regarding how to assert their legal rights. And availability of this information could lead consumers and other persons to report to the Bureau instances of similar conduct for the Bureau to investigate.

Under the final rule, the Bureau will not publish the written statement submitted by a supervised registered entity but will instead treat the written statement as Bureau confidential supervisory information subject to the provisions of its rule on the disclosure of records and information at 12 CFR part 1070. The Bureau does intend to publish the name and title of the attesting executive(s) submitted by the supervised registered entity. The Bureau intends to disclose this name and title information because it concludes that, except as described in the section-by-section discussion of § 1092.205 below, publication of this information will be in the public interest. In particular, it will help ensure accountability at the entity for noncompliance. The Bureau concludes that the publication of the executive's name and title will provide an incentive to pay more attention to covered orders. The Bureau believes that designating an attesting executive will prompt that executive to focus greater attention on ensuring the entity's compliance with a covered order, and in turn increase the likelihood of compliance. Publication of this designation as intended by the Bureau will increase the likelihood of these effects. Such publication of the designation will identify for other regulators (and the general public) the highest-ranking executive at the supervised registered entity who has control over the entity's efforts to comply with the covered order and otherwise satisfies the rule's designation requirements. Just as the possibility of Bureau scrutiny of the attesting executive's conduct is likely to motivate the executive to devote greater attention to compliance efforts, the additional scrutiny from others outside the Bureau will further promote compliance. Publishing the attesting executive's name and title thus dovetails with the supervisory goals discussed above in part IV(D).

Publishing the name and title of the executive who has knowledge and control of the supervised entity's efforts to comply with the covered order, as intended by the Bureau, will benefit users of the registry in other ways. For example, publishing this information may help certain consumers better understand and monitor the conduct of the entities with whom they do business, including how the company assigns responsibility for compliance

with Federal consumer financial law. Researchers, media, and other users of the information may be able to detect trends or patterns associated with such information. Publication as intended by the Bureau may also help whistleblowers and consumers better understand the operations and structure of the supervised entity, such as to which department or division of the company to direct whistleblowing complaints, information about violations, or requests for information with respect to the covered order in order to ensure that their complaint, information, or request is being sent to the appropriate part of the organization. Clients or other companies that do business with the entity will also have a better understanding of which areas of the company are affected by a covered order and who is responsible for compliance with it.

Publishing such name and title information will also facilitate coordination and communication regarding the order between the Bureau, other government agencies, and the nonbank entity. Other regulators, especially those that have issued orders regarding the supervised entity, would likely benefit from understanding which executive(s) have been tasked with ensuring compliance with their orders. And disclosure of this information would increase transparency regarding how the Bureau processes and verifies information submitted as part of the registry.

V. Summary of Rulemaking Process

A. Consultation With Other Agencies in Exercising the Authorities Relied Upon in the Proposal and Final Rule

One of the authorities cited as a basis for components of the Bureau's proposed rule and final rule is CFPA section 1022(c)(7), which provides that the "Bureau may prescribe rules regarding registration requirements applicable to a covered person, other than an insured depository institution, insured credit union, or related person."¹¹⁸ Congress provided that "[i]n developing and implementing registration requirements under [section 1022(c)(7)], the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate."¹¹⁹ CFPA section 1024(b)(7)—the statutory basis for the written-statement

requirement—includes a similar consultation provision.¹²⁰

Accordingly, the Bureau has consulted with State agencies, including State agencies involved in supervision of nonbanks and State agencies charged with law enforcement, in crafting the proposal's and final rule's registration requirements and system. In developing the proposal and this final rule, the Bureau considered the input it received from State agencies, including concerns expressed regarding possible duplication between any registration system the Bureau might build and existing registration systems.

In addition, before proposing a rule under the Federal consumer financial laws, including CFPA sections 1022(b)–(c) and 1024(b), and during the applicable comment process, the Bureau must consult with appropriate prudential regulators or other Federal agencies regarding consistency with prudential, market, or systemic objectives administered by such agencies.¹²¹ In developing the proposal and this final rule, the Bureau consulted with prudential regulators and other Federal agencies and considered the input it received.

The Bureau also consulted with Tribal governments regarding this rulemaking pursuant to CFPA sections 1022(c)(7)(C) and 1024(b)(7)(D).¹²² In addition, the Bureau consulted with tribal governments in accordance with applicable Bureau policy.¹²³ In developing this final rule, the Bureau considered the input of Tribal governments, including concerns tribal governments expressed regarding maintaining Tribal sovereignty.

Each of the Bureau's outreach efforts is discussed in turn below.

B. Pre-Proposal Outreach

The Bureau received feedback from external stakeholders in developing the

¹²⁰ 12 U.S.C. 5514(b)(7)(D) ("In developing and implementing requirements under this paragraph, the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate.").

¹²¹ 12 U.S.C. 5512(b)(2)(B) ("In prescribing a rule under the Federal consumer financial laws . . . the Bureau shall consult with the appropriate prudential regulators or other Federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies . . .").

¹²² See 12 U.S.C. 5512(c)(7)(C), 5514(b)(7)(D) (requiring consultation with "State agencies"); see also 12 U.S.C. 5481(27) (term "State" includes "any federally recognized Indian tribe, as defined by the Secretary of the Interior under" 25 U.S.C. 5131(a)).

¹²³ See Consumer Fin. Prot. Bureau, *Policy for Consultation with Tribal Governments*, https://files.consumerfinance.gov/f/201304_cfpb_consultations.pdf.

¹¹⁸ 12 U.S.C. 5512(c)(7)(A).

¹¹⁹ 12 U.S.C. 5512(c)(7)(C).

notice of proposed rulemaking. The following is a summary of that effort.

1. State Agencies and Tribal Governments

As required by CFPA sections 1022(c)(7) and 1024(b)(7),¹²⁴ the Bureau consulted with State agencies and Tribal governments, including agencies involved in supervision of nonbanks and agencies charged with law enforcement, in crafting the proposed registration requirements and registry. Among other meetings, the Bureau's consultation efforts included presentations to State and Tribal governments on October 13, October 20, October 27, November 3, November 10, November 17, and November 21, 2022, explaining proposals then under consideration and requesting feedback. In addition, on October 31, 2022, Bureau staff met with State financial regulators and staff of the Conference of State Bank Supervisors to discuss technical questions to better understand whether and how the Bureau could combine or coordinate its proposed registry with the NMLS.¹²⁵ In developing its proposed rule, the Bureau considered the input it received from State agencies and Tribal governments. This input included concerns State agencies expressed regarding possible duplication between any registration system the Bureau might build and existing registration systems. This input also included concerns Tribal governments expressed regarding maintaining Tribal sovereignty.

2. Federal Regulators

Before proposing a rule under the Federal consumer financial laws, including CFPA sections 1022(c) and 1024(b), the Bureau must consult with appropriate prudential regulators or other Federal agencies regarding consistency with prudential, market, or systemic objectives administered by such agencies.¹²⁶ In developing this proposal, the Bureau consulted with prudential regulators and other Federal agencies and considered the input it received.

C. Notice of Proposed Rulemaking

On December 12, 2022, the Bureau issued its proposed rule to establish a public registration system for nonbank

covered persons subject to certain agency and court orders. The proposal was published in the **Federal Register** on January 30, 2023, and the public comment period closed on March 31, 2023.¹²⁷ The Bureau received more than 60 comments on the proposal during the comment period. Commenters included individual consumers, consumer advocate commenters, tribes, the U.S. Small Business Administration Office of Advocacy (SBA Office of Advocacy), industry, and others, including a joint comment letter from State regulators.

In addition, the Bureau also received three *ex parte* communications, one from a journalist commenter, one from a consumer advocate commenter, and another from an industry commenter.¹²⁸ Summaries of those *ex parte* communications are available on the public docket for this rulemaking.¹²⁹ The Bureau also received a joint comment letter from Members of Congress related to the proposed rule, which is also available on the public docket.

Relevant information received via comment letters, as well as *ex parte* submissions, is discussed above in part IV, as well as the section-by-section analysis and subsequent parts of this document, as applicable. The Bureau considered all comments it received regarding the proposal, made certain modifications, and is adopting the final rule set forth herein. Comments regarding the Bureau's impact analyses are discussed in parts VIII and IX below.

D. Further Outreach

Before finalizing a proposed rule under the Federal consumer financial laws, including CFPA sections 1022(c) and 1024(b), the Bureau must consult with appropriate prudential regulators or other Federal agencies regarding consistency with prudential, market, or systemic objectives administered by such agencies.¹³⁰ In developing this final rule, the Bureau consulted with prudential regulators and other Federal agencies and considered the input it received.

As required by CFPA sections 1022(c)(7) and 1024(b)(7),¹³¹ the Bureau also consulted with State agencies and Tribal governments, including agencies involved in supervision of nonbanks and agencies charged with law

enforcement, in crafting the registration requirements and system.¹³² Among other meetings, the Bureau's consultation efforts included presentations to State agencies and Tribal governments on February 21, 22, and 23, 2024, explaining proposals then under consideration and requesting feedback, as well as a meeting between representatives of the Bureau and State agencies on April 18, 2024. In developing the final rule, the Bureau considered the public comments it received from tribes and via a joint comment letter from State regulators, as well as the input it received from State agencies and Tribal governments during the consultation process.

In interagency consultations, several consulting parties reasserted issues that had been raised in the comment letters. Those comments are addressed elsewhere in the applicable sections of this preamble.

Consistent with an approach suggested by commenters, including in a joint comment letter submitted by a group of State regulators, the Bureau is adopting a one-time registration option for nonbanks to submit certain information about orders published on the NMLS Consumer Access website (except for orders issued or obtained by the Bureau), in lieu of complying with the other requirements of the rule with respect to such orders.¹³³

Consulting partners also raised certain additional issues that the Bureau addresses in this section. During consultation, some consulting parties expressed concerns with aspects of the final rule and stated that they would not use the information collected by the Bureau and potentially published as provided in the rule.¹³⁴ However, other consulting parties expressed general support for the Bureau's adoption of the final rule, and confirmed to the Bureau during the interagency consultation process that they would find the registry useful in conducting their own operations.

The Bureau satisfied all applicable statutory requirements with respect to interagency consultations, including CFPA sections 1022(c)(7) and

¹³² As explained above, during the rulemaking process for issuing rules under the Federal consumer financial laws, Bureau policy is to consult with appropriate Tribal governments. See https://files.consumerfinance.gov/f/201304_cfpb_consultations.pdf.

¹³³ See part IV(E) and the section-by-section discussion of § 1092.203 below.

¹³⁴ For further discussion regarding the final rule's approach to authorizing publication of registry information by the Bureau, including the ability of other agencies to use such information, see part IV(F) and the section-by-section discussion of § 1092.205 below.

¹²⁴ 12 U.S.C. 5512(c)(7)(C); 12 U.S.C. 5514(b)(7)(D).

¹²⁵ In addition to the listed meetings, the Bureau participated in other meetings with one or more representatives of State financial regulators regarding the Bureau's proposed registry, including meetings in August and September 2022.

¹²⁶ 12 U.S.C. 5512(b)(2)(B).

¹²⁷ 88 FR 6088 (Jan. 30, 2023).

¹²⁸ See CFPB, *Policy on Ex Parte Presentations in Rulemaking Proceedings*, 82 FR 18687 (Apr. 21, 2017).

¹²⁹ See <https://www.regulations.gov/docket/CFPB-2022-0080>.

¹³⁰ 12 U.S.C. 5512(b)(2)(B).

¹³¹ 12 U.S.C. 5512(c)(7)(C); 12 U.S.C. 5514(b)(7)(D).

1024(b)(7). As described in this section, the Bureau engaged in oral and written discussions with State regulators as it developed the proposal, during the notice-and-comment process, and before finalizing the rule. Throughout the consultation process, it has solicited the views of State regulators regarding the combination and coordination of systems as well as other matters relating to both the proposal and the final rule. Some consulting parties sought further engagement with the Bureau on aspects of the rulemaking, which the Bureau granted.

The Bureau also offered the States an opportunity to give specific, concrete feedback on the proposed registry, including providing feedback regarding how that system might be combined or further coordinated with other registration systems, as contemplated by CFPB sections 1022(c)(7)(C) and 1024(b)(7)(D).

Certain consulting parties raised questions about the one-time registration option for NMLS-published covered orders in § 1092.203, stating that any final rule should strike reporting and registration requirements for any violations of State consumer financial laws, rules, and agency orders. As discussed in part IV(E) above and the section-by-section discussion of § 1092.203 below, the Bureau concluded that the option provided under § 1092.203 is an appropriate means of furthering the purposes of the final rule, including the final rule's provisions restricting the availability of that option to "NMLS-published covered orders" as that term is defined at § 1092.201(k). For discussion of the application of the final rule to State laws and orders, see the section-by-section discussions of § 1092.201(c) and (d) below.

Certain consulting parties urged the Bureau to exempt from its rule any nonbank entity meeting the Small Business Administration's definition of "small business" because, in the consulting parties' view, the rule would be overly expansive and particularly burdensome for small nonbank entities not subject to Bureau supervision. As explained in parts VIII and IX below, however, the Bureau has determined that the rule will not impose significant burdens on a substantial number of small entities. The Bureau thus declines to exempt all small businesses from the rule's requirements. As explained below, however, entities with less than \$5 million in annual receipts resulting from offering or providing all consumer financial products and services described in CFPB section 1024(a)¹³⁵

are not subject to the requirements imposed in § 1092.204 of the rule.

One consulting party asserted that the final rule's treatment of Tribal instrumentalities or entities wholly owned by tribes was inconsistent with the treatment proposed by the Bureau in its 2023 proposed rule regarding registration of nonbanks that use certain terms and conditions.¹³⁶ The Bureau disagrees with the consulting party's characterization of its other proposal. The present final rule does not adopt a different or narrower approach to issues related to tribally affiliated entities than the Bureau proposed in its other proposed rule. That proposed rule, like the present final rule, did not propose to exempt entities that are not part of the tribe itself from its proposed registration requirements. As discussed further in the section-by-section discussion of § 1092.201(d) below, the Bureau declines to provide an express exemption from the final rule for Tribal instrumentalities or entities wholly owned by tribes because the Bureau does not choose to use this rulemaking as the vehicle for determining the circumstances under which tribally affiliated entities qualify as part of the tribe itself. As discussed in the section-by-section discussion of §§ 1092.202(g) and 1092.204(f) below, the Bureau believes that the voluntary good-faith filing option established in those sections of the final rule provides a satisfactory mechanism for tribally affiliated entities to avoid the risk of an enforcement action where they decide not to register an order or submit a written statement based on a good-faith belief that they are not a covered nonbank or a supervised registered entity, such as on the grounds that they qualify as part of a federally recognized tribe and thus as a "State."

Consulting parties also expressed concerns, including confidentiality and privacy concerns, regarding the notifications of non-registration provided for in §§ 1092.202(g) and 1092.204(f) of the final rule. As discussed in the section-by-section discussion of those sections below, the option to file notifications of non-registration under these provisions is voluntary and does not impose any mandatory process or other obligation on tribes or any other persons. Nor would a decision not to file a voluntary good-faith notification change or enlarge the coverage of the rule. Certain consulting parties stated that the Bureau

should adopt a more informal mechanism for submitting such notifications, such as via electronic mail or regular mail to a designated Bureau representative. The Bureau does not believe that eliminating the voluntary option to file notifications of non-registration via the nonbank registry under §§ 1092.202(g) and 1092.204(f), or soliciting separate communications from persons that may wish to notify the Bureau of the type of information that would be submitted to the Bureau under those sections of the final rule, would improve the confidentiality or privacy of those communications. Nor would such an informal approach enhance the efficiency or effectiveness of the nonbank registry. Instead, such an approach would add complexity to the process of notifying the Bureau about issues relevant to the registry and thus deter the submission of relevant information to the Bureau. The Bureau concludes that a system-based approach to such matters will be more efficient and effective in accomplishing the purposes of the final rule. Nor is it clear that it would be less burdensome for either a tribe or the Bureau to engage in such informal and ad hoc communications than it would be for the tribe to submit a succinct electronic notification of non-registration under §§ 1092.202(g) and 1092.204(f) via the nonbank registry.

A consulting party stated that the Bureau should specify whether or not, in what level of detail, and how the Bureau intends to make registry information publicly available. For discussions addressing these matters, see part IV(F) and the section-by-section discussion of § 1092.205(a) regarding the information the Bureau intends to publish under § 1092.205(a) of the final rule.

See the section-by-section discussion of §§ 1092.201(d), 1092.202(g), and 1092.204(f) below for additional discussion of issues related to tribes and the notifications of non-registration provided for in the final rule.

VI. Section-by-Section Analysis

Part 1092

Subpart A—General

Section 1092.100 Authority and Purpose

Proposed Rule

Proposed § 1092.100(a) would have set forth the legal authority for proposed 12 CFR part 1092, including all subparts. Proposed § 1092.100 would have referred to CFPB sections 1022(b)

¹³⁶ See Registry of Supervised Nonbanks That Use Form Contracts To Impose Terms and Conditions That Seek To Waive or Limit Consumer Legal Protections, 88 FR 6906, 6937–38 (Feb. 1, 2023).

¹³⁵ 12 U.S.C. 5514(a).

and (c) and 1024(b),¹³⁷ which were discussed in section III of the proposal.

Proposed § 1092.100(b) would have explained that the purpose of part 1092 is to prescribe rules regarding nonbank registration requirements, to prescribe rules concerning the collection of information from registered entities, and to provide for public release of that information as appropriate.

Comments Received and Final Rule

The Bureau solicited comment on proposed § 1092.100 and did not receive any comments specifically regarding proposed § 1092.100. See part III above for a general discussion of several CFPB provisions on which the Bureau relies in this rulemaking. The Bureau is finalizing § 1092.100 as proposed, with minor technical changes.

Section 1092.101 General Definitions

Section 1092.101(a)

Proposed § 1092.101(a) would have defined the terms “affiliate,” “consumer,” “consumer financial product or service,” “covered person,” “Federal consumer financial law,” “insured credit union,” “person,” “related person,” “service provider,” and “State” as having the meanings set forth in the CFPB, 12 U.S.C. 5481. The Bureau solicited comment on this proposed provision and received no comments. The Bureau is finalizing § 1092.101(a) as proposed.

Section 1092.101(b)

Proposed § 1092.101(b) would have defined the term “Bureau” as a reference to the Consumer Financial Protection Bureau. The Bureau solicited comment on this proposed definition and received no comments on this proposed definition. The Bureau is finalizing § 1092.101(b) as proposed.

Section 1092.101(c)

Proposed § 1092.101(c) would have clarified that the terms “include,” “includes,” and “including” throughout part 1092 would denote non-exhaustive examples covered by the relevant provision.¹³⁸ The Bureau solicited comment on proposed § 1092.101(c). No commenters addressed proposed § 1092.101(c). The Bureau is finalizing § 1092.101(c) as proposed. As used in the final rule, these terms should not be construed more restrictively than the ordinary usage of such terms so as to

exclude any other thing not referred to or described.¹³⁹

Section 1092.101(d)

Proposed § 1092.101(d) would have defined the term “nonbank registration system” to mean the Bureau’s electronic registration system identified and maintained by the Bureau for the purposes of part 1092. The Bureau solicited comment on this proposed definition and received no comments on the proposed definition.

The Bureau is finalizing § 1092.101(d) as proposed, with minor revisions to change this term to “nonbank registry,” which as adopted in the final rule means “the Bureau’s electronic registry identified and maintained by the Bureau for the purposes of part 1092.” The Bureau is adopting the revised definition for stylistic reasons, with no change in meaning from the term “nonbank registration system” that was used in the proposed rule. The Bureau is also adopting corresponding changes to the proposed rule to use the term “nonbank registry” instead of the term “nonbank registration system” throughout the final rule, including at §§ 1092.102(a) through (c); 1092.201(a); 1092.202(b), (c), (f), (g); 1092.204(d), (f); and 1092.205(a), (c) of the final rule.

Section 1092.101(e)

Proposed § 1092.101(e) would have defined the term “nonbank registration system implementation date” to mean, for a given requirement or subpart of part 1092, the date(s) determined by the Bureau to commence the operations of the nonbank registration (NBR) system in connection with that requirement or subpart. The Bureau anticipated that the nonbank registration system implementation date with respect to proposed subpart B would occur sometime after the effective date of the final rule and no earlier than January 2024. The Bureau explained that the actual nonbank registration system implementation date would depend, in significant part, upon the Bureau’s ability to develop and launch the required technical systems that would support the submission and review of applicable filings, and on feedback provided by commenters regarding the time registrants would need to implement proposed part 1092’s requirements. The Bureau proposed to provide advance public notice regarding the nonbank registration system implementation date with respect to subpart B to enable entities subject to

subpart B to prepare and submit timely filings to the NBR system. No comments addressed this proposal.

The Bureau is finalizing § 1092.101(e) largely as proposed with two revisions as follows.

First, for stylistic reasons, the Bureau is adopting a revision to change this term to “nonbank registry implementation date” (without any change in meaning). This revision corresponds with the Bureau’s adoption of the term “nonbank registry” in § 1092.101(d) as discussed above. The Bureau is also adopting corresponding changes to the proposed rule to use the term “nonbank registry implementation date” instead of the term “nonbank registration system implementation date” throughout the final rule, including at §§ 1092.202(b) and 1092.204(a) of the final rule.

Second, the final rule provides that the definition of the term “nonbank registry implementation date” in § 1092.101(e) means, for a given requirement or subpart of part 1092, or *a given person or category of persons*, the date(s) determined by the Bureau to commence the operations of the nonbank registry in connection with that requirement or subpart. Thus, the final rule clarifies that the nonbank registry implementation date may be different for different persons or categories of persons.

Also, in connection with this change, the Bureau is adopting a new section of the final rule at § 1092.206 that specifies the nonbank registry implementation date in connection with the requirements of subpart B for three different categories of covered persons subject to the final rule. While the proposal would have provided for a separate later determination by the Bureau of the “nonbank registration system implementation date,” the Bureau concludes that specifying the nonbank registry implementation date in the final rule will provide registrants and the Bureau with more information and certainty regarding the timing of the launch of the registry and the requirements imposed under the final rule. Section 1092.206 of subpart B establishes different nonbank registry implementation dates for covered nonbanks that are larger participants in supervised markets, other supervised nonbanks, and other covered nonbanks for registrations under subpart B. For further information, see the section-by-section analysis of § 1092.206 below.

¹³⁷ 12 U.S.C. 5512(b), (c); 12 U.S.C. 5514(b).

¹³⁸ See, e.g., *Christopher v. SmithKline Beecham Corp.*, 567 U.S. 142, 162 (2012) (use of “includes” indicates that “the examples enumerated in the text are intended to be illustrative, not exhaustive”).

¹³⁹ See 12 U.S.C. 5301(18)(A) (similarly defining the term “including” for purposes of the Dodd-Frank Act by reference to 12 U.S.C. 1813).

Section 1092.102 Submission and Use of Registration Information

Section 1092.102(a) Filing Instructions Proposed Rule

Proposed § 1092.102(a) would have provided that the Bureau shall specify the form and manner for electronic filings and submissions to the NBR system that are required or made voluntarily under part 1092. The Bureau explained that it would issue specific guidance for filings and submissions. The Bureau anticipated that its filing instructions may, among other things, specify information that filers must submit to verify that they have authority to act on behalf of the entities for which they are purporting to register. The Bureau proposed to accept electronic filings and submissions to the NBR system only and did not propose to accept paper filings or submissions.

Proposed § 1092.102(a) also would have stated that the Bureau may provide for extensions of deadlines or time periods prescribed by the proposed rule for persons affected by declared disasters or other emergency situations. The Bureau explained in the proposal that such situations could include natural disasters such as hurricanes, fires, or pandemics, and also could include other emergency situations or undue hardships including technical problems involving the NBR system. For example, the Bureau could defer deadlines during a presidentially declared emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) or a presidentially declared pandemic-related national emergency under the National Emergencies Act (50 U.S.C. 1601 *et seq.*). The Bureau stated that it would issue guidance regarding such situations.

Comments Received and Final Rule

The Bureau did not receive comments specifically about proposed § 1092.102(a). The Bureau is finalizing § 1092.102(a) as proposed.¹⁴⁰

Section 1092.102(b) Coordination or Combination of Systems

Proposed Rule

Proposed § 1092.102(b) would have provided that in administering the NBR system, the Bureau may rely on information a person previously submitted to the NBR system under part 1092. This proposed section would have clarified, for example, that the

registration process for proposed subpart B may take account of information previously submitted, such as in a prior registration under subpart B or, if applicable, a registration of nonbanks that use certain terms and conditions and related information under subpart C.

Proposed § 1092.102(b) also would have provided that in administering the NBR system, the Bureau may coordinate or combine systems in consultation with State agencies as described in CFPA sections 1022(c)(7)(C) and 1024(b)(7)(D). Those statutory provisions provide that the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate. The Bureau sought comment on the types of coordinated or combined systems that would be appropriate and the types of information that could be obtained from or provided to State agencies.

Comments Received

In connection with proposed § 1092.102(b), the Bureau sought comment on the types of coordinated or combined systems that would be appropriate under CFPA sections 1022(c)(7)(C) and 1024(b)(7)(D) and the types of information that could be obtained from or provided to State agencies. For a discussion of certain comments related to this topic, and the Bureau's response thereto, see the section-by-section discussion of § 1092.203.

A consumer advocate commenter agreed that the Bureau, in administering the NBR system, should rely on information an entity previously submitted to the registry under part 1092 and coordinate or combine systems with State agencies, as provided in proposed § 1092.102(b). The commenter stated that not only would this provision allow for more efficient implementation of the registry by avoiding duplicative or redundant efforts but would also reflect the importance of this registry to both Federal and State regulators, and that the Bureau should consider coordination with existing State consumer financial protection agencies.

Response to Comments Received

As required by CFPA sections 1022(c)(7)(C) and 1024(b)(7)(D) and described in part V, the Bureau has consulted with State agencies on requirements and systems related to the nonbank registry. The Bureau also intends to continue to consult with State agencies in implementing the nonbank registry. Under § 1092.203,

with respect to any NMLS-published covered order, a covered nonbank that is identified by name as a party subject to the order may elect to comply with the one-time registration option described in that section in lieu of complying with the requirements of §§ 1092.202 and 1092.204. As discussed in the section-by-section discussion of § 1092.203, the Bureau is adopting this option partly in recognition of the statutory mandates to consult with State agencies regarding combined or coordinated systems for registration in CFPA sections 1022(c)(7)(C) and 1024(b)(7)(D).

Final Rule

For the reasons discussed above, the Bureau is finalizing § 1092.102(b) as proposed.¹⁴¹

Section 1092.102(c) Bureau Use of Information

Proposed Rule

Proposed § 1092.102(c) would have provided that the Bureau may use the information submitted to the NBR system under this part to support its objectives and functions, including in determining when to exercise its authority under CFPA section 1024 to conduct examinations and when to exercise its enforcement powers under subtitle E of the CFPA.

The Bureau proposed to establish the NBR system under its registration and market-monitoring rulemaking authorities under CFPA section 1022(b)(1), (c)(1)–(4) and (c)(7), and under its supervisory rulemaking authorities under CFPA section 1024(b)(7)(A), (B), and (C). The Bureau explained in its proposal that it intended to use the information submitted under the NBR system to monitor for risks to consumers in the offering or provision of consumer financial products or services, and to support all of its functions as appropriate, including its supervisory, rulemaking, enforcement, and other functions. The Bureau stated that it may, among other things, rely on the information submitted under part 1092 as it considers whether to initiate supervisory activity at a particular entity, in determining the frequency and nature of its supervisory activity with respect to particular entities or markets, in prioritizing and scoping its supervisory, examination, and enforcement activities, and otherwise in assessing and detecting risks to consumers. In particular, the Bureau

¹⁴⁰ See the section-by-section discussion of § 1092.101(d) above regarding the Bureau's adoption of the revised term "nonbank registry."

¹⁴¹ See the section-by-section discussion of § 1092.101(d) above regarding the Bureau's adoption of the revised term "nonbank registry."

explained that it could consider this information in developing its risk-based supervision program and in assessing the risks posed to consumers in relevant product markets and geographic markets and the factors described in 12 U.S.C. 5514(b)(2) with respect to particular covered persons, and for enforcement purposes.¹⁴²

Proposed § 1092.102(c) also would have provided that part 1092, and registration under that part, would not alter any applicable process whereby a person may dispute that it qualifies as a person subject to Bureau authority. As an example of such a process, the Bureau cited in the proposal 12 CFR 1090.103, which establishes a Bureau administrative process for assessing a person's status as a larger participant under CFPA section 1024(a)(1)(B) and (2) and 12 CFR part 1090. The Bureau explained that, under proposed § 1092.102(c), a person could dispute its status as a larger participant under 12 CFR 1090.103 notwithstanding any registration or information submitted to the NBR system under part 1092. Submission of such a dispute regarding larger participant status to the Bureau under 12 CFR 1090.103, including the Bureau's processes regarding the treatment of such disputes and the effect of any determinations regarding the person's supervised status, would be governed by the provisions of 12 CFR part 1090. The Bureau explained that it could use the information provided to the NBR system in connection with making any determination regarding a person's supervised status under 12 CFR 1090.103, along with the affidavit submitted by the person and other information as provided in that section. However, the submission of information to the NBR system would not have prevented a person from also submitting other information under 12 CFR 1090.103.

Comments Received and Final Rule

The Bureau received no comments on proposed § 1092.102(c) and is finalizing it as proposed.¹⁴³

¹⁴² See, e.g., 12 U.S.C. 5514(b)(2)(C), (D), (E) (providing that in prioritizing examinations the Bureau shall consider "the risks to consumers created by the provision of such consumer financial products or services," "the extent to which such institutions are subject to oversight by State authorities for consumer protection," and "any other factors that the Bureau determines to be relevant to a class of covered persons"); see also, e.g., 12 U.S.C. 5565(c)(3)(D), (E) (providing that in determining the amount of civil money penalties the Bureau shall consider "the history of previous violations" and "such other matters as justice shall require").

¹⁴³ See the section-by-section discussion of § 1092.101(d) above regarding the Bureau's adoption of the revised term "nonbank registry."

Section 1092.102(d) Calculation of Time Periods

The Bureau is finalizing § 1092.102(d), which the Bureau did not propose, to clarify how dates and time periods prescribed in part 1092 are calculated.

In calculating dates and time periods, the day of the event that triggers the time period is excluded. Every day, including intermediate Saturdays, Sundays, and Federal holidays, is included. If any provision of part 1092 would establish a deadline for an action that is a Saturday, Sunday, or Federal holiday, the deadline is extended to the next day that is not a Saturday, Sunday, or Federal holiday. The clarifications for calculation of dates and time periods apply to all such calculations in subpart B.

Section 1092.103 Severability

Proposed Rule

Proposed § 1092.103 would have provided that the provisions of the proposed rule are separate and severable from one another, and that if any provision is stayed or determined to be invalid, the remaining provisions shall continue in effect. As the Bureau stated in the proposal, this is a standard severability clause of the kind that is included in many regulations to clearly express agency intent about the course that is preferred if such events were to occur. The Bureau explained that it carefully considered the requirements of the proposed rule, both individually and in their totality, including their potential costs and benefits to covered persons and consumers. The Bureau further explained that in the event a court were to stay or invalidate one or more provisions of the proposed rule as finalized, the Bureau would have wanted the remaining portions of the rule as finalized to remain in full force and legal effect.

Comments Received and Final Rule

The Bureau received no comments on proposed § 1092.103. It is finalizing proposed § 1092.103 with revisions to clarify that applications of provisions are also severable. The Bureau has carefully considered the requirements of the final rule, both individually and in their totality, including their potential costs and benefits to covered persons and consumers. The Bureau intends that, if any provision of this rule, or any application of a provision, is stayed or determined to be invalid, the remaining provisions or applications are severable and shall continue in effect.

Subpart B—Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders

Section 1092.200 Scope and Purpose

Proposed Rule

Proposed § 1092.200(a) and (b) would have described the scope and purpose of proposed subpart B. Proposed subpart B would have required nonbank covered persons that are subject to certain public agency and court orders enforcing the law to register with the Bureau and to submit copies of the orders to the Bureau. It also would have described the registration information the Bureau would make publicly available. Proposed § 1092.200(a) also explained that subpart B would have required certain nonbank covered persons that are supervised by the Bureau to prepare and submit an annual written statement. The requirements regarding annual written statements were described in proposed § 1092.203.

Proposed § 1092.200(b) would have explained that the purposes of the information collection requirements in proposed subpart B were to support Bureau functions by monitoring for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services, pursuant to CFPA section 1022(c)(1); to prescribe rules regarding registration requirements applicable to nonbank covered persons, pursuant to CFPA section 1022(c)(7); and to facilitate the supervision of persons described in CFPA section 1024(a)(1), to ensure that such persons are legitimate entities and are able to perform their obligations to consumers, and to assess and detect risks to consumers, pursuant to CFPA section 1024(b).

Comments Received and Final Rule

Comments addressing CFPA section 1024(b)(3) and (4)¹⁴⁴ are addressed in the section-by-section discussion of § 1092.202(b).¹⁴⁵ The Bureau received no other comments specifically addressing proposed § 1092.200.

The Bureau is finalizing § 1092.200(a) and (b) as proposed, with a revision to reflect the Bureau's adoption of a revised § 1092.205(a) that provides that the Bureau "may" publish the information submitted to the nonbank registry pursuant to §§ 1092.202 and 1092.203.

¹⁴⁴ 12 U.S.C. 5514(b)(3), (4).

¹⁴⁵ See also the section-by-section discussion of §§ 1092.201(e) and 1092.203(a) below.

Section 1092.201 Definitions

In its proposal, the Bureau sought comment on various definitions set forth in proposed subpart B and any suggested clarifications, modifications, or alternatives.

The Bureau is finalizing a number of definitions for terms used in subpart B in § 1092.201. These definitions are each discussed in detail below. These definitions supplement the general definitions for the entirety of part 1092 provided in § 1092.101.

Section 1092.201(a) Administrative Information

Proposed Rule

Proposed § 1092.201(a) would have defined the term “administrative information” to mean contact information regarding persons subject to subpart B and other information submitted or collected to facilitate the administration of the NBR system. The Bureau explained that administrative information would have included information such as date and time stamps of submissions to the NBR system, contact information for nonbank personnel involved in making submissions, filer questions and other communications regarding submissions and submission procedures, reconciliation or correction of errors, information submitted under proposed §§ 1092.202(g) and 1092.203(f),¹⁴⁶ and other information that would be submitted or collected to facilitate the administration of the NBR system. Proposed § 1092.204(a) would have provided that the Bureau may determine not to publish such administrative information. The Bureau sought comment on whether any other information that might be collected through the NBR system should also be treated as administrative information.

Comments Received

A trade association commenter stated that the proposal’s definition of “administrative information” was unclear and thus could include a limitless breadth of information. As a result, the commenter argued, the proposal’s estimate of the rule’s burden was inaccurate. In particular, the commenter stated that entities would need to hire outside legal counsel in order to determine what constitutes “administrative information.”

Several Tribal commenters commented that good-faith notifications to the Bureau under proposed §§ 1092.202(g) and 1092.204(f) should

not be published, as publishing such notifications would invite debate and disagreement on the issues addressed in those notifications, require the utilization of limited Tribal resources to support the tribe’s position, and invite frivolous litigation.

Comments addressing the publication of information more generally are addressed in the section-by-section discussion of § 1092.205 below.

Response to Comments Received

The Tribal commenters expressed concern regarding publication of information with respect to good faith notifications submitted under proposed §§ 1092.202(g) and 1092.204(f). Under the final rule, the Bureau will not publish under § 1092.205(a) the administrative information collected under subpart B; for a discussion of this issue see the section-by-section discussion of § 1092.205 below. In addition, in the final rule, the Bureau has codified in the text of § 1092.201(a) its proposal to treat good faith notifications submitted under §§ 1092.202(g) and 1092.204(f) as “administrative information.” Thus, under the final rule, the Bureau will not publish the good faith notification information described in § 1092.201(a) under § 1092.205.

As discussed in the section-by-section discussion of § 1092.202(d) below, the Bureau is finalizing § 1092.202(d)(2) without proposed § 1092.202(d)(2)(v), under which the Bureau would have collected and published the names of a registered entity’s affiliates registered under subpart B with respect to the same covered order. Under the final rule, however, the Bureau may still collect such information under § 1092.202(c), which provides for the collection of “administrative information.” Should the Bureau determine to collect such information regarding affiliates, the Bureau’s filing instructions under § 1092.102(a) will categorize this information as “administrative information,” meaning that the Bureau will not publish the information under § 1092.205. For more information, see the section-by-section discussions of §§ 1092.202(d) and 1092.205(a) below.

The trade association commenter expresses concern that it will not be clear to covered nonbanks what “administrative information” they are required to submit under the rule. That comment, however, ignores that § 1092.202(c) only requires registered entities to submit the specific “administrative information” that is “required by” the nonbank registry, and the Bureau has made clear that it will

“specify the types of . . . administrative information registered entities would be required to submit” in “filing instructions . . . issue[d] under . . . § 1092.102(a).”¹⁴⁷ Therefore, covered nonbanks should have no need to hire outside legal counsel to ascertain what information qualifies as “administrative information” required to be submitted under the rule. Instead, the Bureau’s filing instructions will specify what categories of information covered nonbanks must submit as “administrative information.”

Further reducing potential uncertainty, the Bureau has identified certain categories of information that it currently intends to categorize as “administrative information” in its filing instructions—e.g., “contact information for nonbank personnel involved in making submissions.”¹⁴⁸ And, as discussed above, the Bureau is also finalizing the definition to expressly treat as “administrative information” good faith notification information submitted under §§ 1092.202(g) and 1092.204(f). Under § 1092.201(a), any new categories of administrative information that the Bureau might address in its filing instructions, and which were not already discussed in the Bureau’s notice of proposed rulemaking and this preamble, would include only contact information regarding persons subject to subpart B or other information submitted or collected to facilitate the administration of the nonbank registry. For example, the Bureau may require entities to comply with a login or identity-authentication process, and the Bureau may categorize information submitted in connection with such a process as “administrative information.”¹⁴⁹ Submitting required administrative information should not impose significant substantive burdens on covered nonbanks.

Final Rule

For the reasons discussed above and as follows, the Bureau is finalizing § 1092.201(a) as proposed, with a revision to expressly include “[i]nformation submitted under §§ 1092.202(g) and 1092.203(f)” within the definition of “administrative

¹⁴⁷ 88 FR 6088 at 6118.

¹⁴⁸ 88 FR 6088 at 6104.

¹⁴⁹ The Bureau has retained the discretion to adjust the contents of required administrative information through filing instructions in order to maintain the viability of the nonbank registry over time. For example, if some new form of electronic communication were to replace email as the preferred method for business communications, the Bureau’s filing instructions might designate as required administrative information contact information associated with that new medium.

¹⁴⁶ See discussion in the section-by-section discussion of these provisions below.

information.”¹⁵⁰ The Bureau’s filing instructions under § 1092.102(a) will also categorize this information as “administrative information.” The Bureau has already identified this information as information that it intended to categorize as “administrative information” in its filing instructions,¹⁵¹ but is finalizing this provision in the text of the regulation to provide further clarity that the Bureau will treat this information as “administrative information.” In addition to the notifications themselves, the Bureau may also choose to collect information to facilitate the administration of the notification process.

In addition, the Bureau does not intend to publish under § 1092.205(a) any Federal employer identification numbers (EIN) that may be obtained from covered nonbanks. The Bureau will not collect this information from covered nonbanks as “identifying information,” as that term is defined at § 1092.201(g), but may determine to collect this information as “administrative information” under § 1092.202(c). In filing instructions issued under § 1092.102(a), the Bureau will specify whether and how it will collect such information. The Bureau understands that EINs are not commonly used to identify covered nonbanks in covered orders and in related public databases that are maintained by relevant Federal, State, and local agencies. Thus, as with other administrative information, the publication of EINs may not in all instances be especially useful to external users of the registry, although the Bureau may find such information useful in its administration of the nonbank registry.

Section 1092.201(b) Attesting Executive Proposed Rule

Proposed § 1092.201(b) would have defined the term “attesting executive” to mean, with respect to any covered order regarding a supervised registered entity, the individual designated by the supervised registered entity to perform the supervised registered entity’s duties with respect to the covered order under proposed § 1092.203. In the section-by-section discussion of proposed § 1092.203, the Bureau proposed requirements regarding attesting executives.

Comments Received and Final Rule

The Bureau did not receive any comments specifically regarding proposed § 1092.201(b)’s definition of “attesting executive.” Comments addressing the proposal’s approach to the written statement, including requirements regarding designation of attesting executives and associated criteria for such a designation, are addressed in the section-by-section discussion of § 1092.204 below.

The Bureau is finalizing § 1092.201(b) as proposed, with a revision to reflect the renumbering of § 1092.204 in the final rule.

Section 1092.201(c) Covered Law Proposed Rule

Proposed § 1092.201(c) would have defined the term “covered law” to mean one of several types of laws, as described. The proposed term “covered law” would have been central to defining which orders and portions of orders would be subject to the requirements of proposed subpart B. Proposed § 1092.201(e) would have defined the term covered order to include certain orders that impose certain obligations on a covered nonbank based on an alleged violation of a covered law. Thus, the proposed term “covered law” would have helped determine the application of proposed subpart B’s registration requirements.

Under the proposal, a law listed in proposed § 1092.201(c)(1) through (6) would have qualified as a covered law only to the extent that the violation of law found or alleged arose out of conduct in connection with the offering or provision of a consumer financial product or service. The Bureau was interested in registering orders that relate to offering or providing consumer financial products or services. The Bureau recognized that the laws listed in proposed § 1092.201(d)(1) through (6) may apply to a wide range of conduct not involving consumer financial products or services. While the Bureau believed that reporting on such violations could still be probative of risks to consumers in the markets for consumer financial products and services—as misconduct in one line of business is not necessarily cabined to that line of business—the Bureau believed that a more limited definition of covered law would strike the right balance between ensuring that the Bureau remains adequately informed of risks to consumers in the offering or provision of consumer financial products and services and minimizing the potential burden of the reporting

requirements on nonbank covered persons.

The proposal listed categories of laws that would have constituted “covered laws” to the extent that the violation of law found or alleged arose out of conduct in connection with the offering or provision of a consumer financial product or service. For the reasons discussed in section V(C) of the proposal, the Bureau believed that orders issued under the types of covered laws described in the proposal are likely to be probative of risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.

First, proposed § 1092.201(c)(1) would have defined the term “covered law” to include a Federal consumer financial law, as that term was defined in proposed § 1092.101(a) and the CFPA.¹⁵² The Bureau explained that it is charged with administering, interpreting, and enforcing the Federal consumer financial laws, which include the CFPA itself, 18 enumerated consumer laws (such as the Fair Credit Reporting Act and the Truth in Lending Act),¹⁵³ and the laws for which authorities were transferred to the Bureau under subtitles F and H of the CFPA, as well as rules and orders issued by the Bureau under any of these laws.¹⁵⁴

The Bureau believed that requiring registration of covered nonbanks in connection with certain orders issued under Federal consumer financial laws would further the purposes of proposed subpart B. As the Bureau discussed in section IV of the proposal, “to support [the Bureau’s] rulemaking and other functions,” Congress mandated that the Bureau “shall monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.”¹⁵⁵ The Bureau noted that, in matters where an agency other than the Bureau has issued or obtained a final public order concluding that an entity has violated Federal consumer financial law in connection with the offering or provision of a consumer financial product or service, the Bureau will generally have jurisdiction over the conduct that resulted in that order. The Bureau explained that it therefore has a clear interest in identifying and understanding the nature of the risks to consumers presented by such conduct,

¹⁵⁰ See also the section-by-section discussion of § 1092.101(d) above regarding the Bureau’s adoption of the revised term “nonbank registry.”

¹⁵¹ 88 FR 6088 at 6104.

¹⁵² See 12 U.S.C. 5481(14).

¹⁵³ See 12 U.S.C. 5481(12).

¹⁵⁴ 12 U.S.C. 5481(14).

¹⁵⁵ 12 U.S.C. 5512(c)(1).

including the risk that the conduct continues outside the particular jurisdiction or in connection with other consumer financial products or services that are offered or provided by the covered nonbank. A pattern of similar alleged or found violations of Federal consumer financial law across multiple nonbank covered persons may indicate a problem that the Bureau can best address by engaging in rulemaking to clarify or expand available consumer protection to address emerging consumer risk trends, or by using other tools, such as consumer education, to address the identified risks. And, depending on the facts and circumstances, the Bureau may consider bringing its own supervisory or enforcement action in connection with the same or related conduct.¹⁵⁶ Thus, the Bureau believed that violations of the Federal consumer financial laws, and especially repeat violations of such laws, may be probative of risks to consumers and may indicate more systemic problems at an entity or in the relevant market related to the offering or provision of consumer financial products or services.

Second, proposed § 1092.201(c)(2) would have defined the term “covered law” to include any other law as to which the Bureau may exercise enforcement authority. As explained in section IV(C) of the proposal, the Bureau may enforce certain laws other than Federal consumer financial laws, such as the Military Lending Act.¹⁵⁷

The Bureau believed that the proposed registry should collect information regarding agency and court orders issued under any law that the Bureau may enforce, where the violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service. By definition, the conduct addressed in such orders would generally fall within the scope of the Bureau’s enforcement authority. More generally, the Bureau noted that in its experience, evidence of such conduct could be highly probative of a broader risk that the entity has engaged or will

engage in conduct that may violate Federal consumer financial laws. For example, violations of the Military Lending Act may overlap with, or be closely associated with, violations of the CFPA’s UDAAP prohibitions¹⁵⁸ or the Truth in Lending Act,¹⁵⁹ among other Federal consumer financial laws. In addition, the Bureau noted that a violation of one law within the Bureau’s enforcement authority may be indicative of broader inadequacies in an entity’s compliance systems that are resulting in or could result in other legal violations, including violations of Federal consumer financial laws. Furthermore, the Bureau believed that including in the registry orders issued under any law that the Bureau may enforce (where the violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service) would further the Bureau’s objective of creating a registry that could serve as a single, consolidated reference tool for use in monitoring for risks to consumers, thereby increasing the Bureau’s ability to use the registry to monitor for patterns of risky conduct of nonbank covered persons across entities, industries, and product offerings.

Third, proposed § 1092.201(c)(3) would have defined the term “covered law” to include the prohibition of unfair or deceptive acts or practices under section 5 of the FTC Act, 15 U.S.C. 45, or any rule or order issued for the purpose of implementing that prohibition. The proposal would *not* have included within the definition of “covered law” FTC Act section 5’s prohibition of “[u]nfair methods of competition in or affecting commerce,” or rules or orders issued solely pursuant to that prohibition.¹⁶⁰ The Bureau explained that it expected that entities would be aware in any specific case whether a provision of an applicable order has been issued under FTC Act section 5’s prohibition of unfair or deceptive acts or practices (or a rule or order issued for the purpose of implementing that prohibition), as opposed to section 5’s prohibition of “[u]nfair methods of competition in or affecting commerce” (or a rule or order issued thereunder), and thus whether the order provision was issued under a “covered law” or not. The Bureau understood that orders issued in connection with violations of FTC Act section 5 routinely distinguish between these two authorities, and that orders issued under FTC Act section 5’s

prohibition of “[u]nfair methods of competition in or affecting commerce” rarely, if ever, relate to UDAP violations involving the offering or provision of a consumer financial product or service.

As discussed further in section IV(C) of the proposal, the Bureau believed that an order issued under FTC Act section 5’s prohibition of unfair or deceptive acts or practices may be probative of violations of Federal consumer financial law, including CFPA sections 1031 and 1036(a)(1)(B).¹⁶¹ Because the CFPA’s prohibition of unfair or deceptive acts or practices is modeled after FTC Act section 5’s similar prohibition,¹⁶² conduct in connection with the offering or provision of a consumer financial product or service that constitutes a UDAP violation under FTC Act section 5 also likely violates the CFPA’s UDAAP provisions. The Bureau also believed that FTC Act section 5 unfairness and deception violations related to the offering or provision of consumer financial products or services may indicate more systemic problems at an entity that may impact the offering or provision of consumer financial products or services other than those issues specifically identified in the order. The Bureau noted that it would need to know about such findings so that it can assess whether the violation is indicative of a larger and potentially more systemic problem at the covered nonbank, or potentially throughout an entire market. And, the Bureau explained, information about such violations would inform the Bureau’s exercise of its various rulemaking, supervisory, enforcement, consumer education, and other functions.

“Covered law” under the proposal would have included not only FTC Act section 5, but also any rules or orders issued for the purpose of implementing FTC Act section 5’s UDAP prohibition.¹⁶³ Section 18 of the FTC Act, 15 U.S.C. 57a, authorizes the FTC to prescribe “rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce” within the meaning of FTC Act section 5(a)(1).¹⁶⁴ These FTC rules, which are known as “trade regulation rules,” would have been covered laws under the proposed

¹⁵⁶ The Bureau also proposed to require registration of orders that the Bureau has obtained or issued for violations of Federal consumer financial laws. In the proposal, the Bureau explained that, while it is of course aware of such orders, collecting all orders for violations of covered laws—including those obtained or issued by the Bureau—within the proposed registry would benefit the Bureau, other regulators, and the general public by providing a single point of reference for such orders. The Bureau explained that it would also benefit from receiving the written statements required under proposed § 1092.203 with respect to orders it obtains or issues.

¹⁵⁷ 10 U.S.C. 987(f)(6) (authorizing Bureau enforcement of the Military Lending Act).

¹⁵⁸ 15 U.S.C. 5531, 5536(a)(1)(B).

¹⁵⁹ 15 U.S.C. 1601 *et seq.*

¹⁶⁰ 15 U.S.C. 45(a)(1).

¹⁶¹ 12 U.S.C. 5531, 5536(a)(1)(B).

¹⁶² See, e.g., *Consumer Fin. Prot. Bureau v. ITT Educ. Servs.*, 219 F. Supp. 3d at 902–04.

¹⁶³ In certain circumstances, the Bureau may enforce a rule prescribed under the FTC Act by the FTC with respect to an unfair or deceptive act or practice. See 12 U.S.C. 5581(b)(5)(B)(ii). Such an FTC rule, where issued by the FTC to implement FTC Act section 5, would be a covered law under the proposed definition.

¹⁶⁴ 15 U.S.C. 57a(a)(1)(B).

definition to the extent the conduct found or alleged to violate such rules relates to the offering or provision of a consumer financial product or service. Violations of these rules generally constitute violations of FTC Act section 5 itself.¹⁶⁵ And the Bureau believed that, like violations of FTC Act section 5 itself, violations of the rules issued under FTC Act section 5, where they arise out of conduct in connection with the offering or provision of consumer financial products or services, would likely be probative of risks to consumers and warrant attention by the Bureau.

The proposed definition of “covered law” would also have included orders issued by the FTC itself under FTC Act section 5’s UDAP prohibition, as well as by other agencies. The Bureau believed that violations of such orders present similar risks to consumers as those presented by violations of FTC Act section 5 and the rules issued thereunder.

Fourth, proposed § 1092.201(c)(4) would have defined the term “covered law” to include a State law prohibiting unfair, deceptive, or abusive acts or practices that is identified in appendix A to part 1092. Proposed appendix A provided a list of State statutes that prohibit unfair, deceptive, or abusive acts or practices and that the Bureau had reviewed and proposed to define as a covered law under this provision. As with the other laws described in proposed § 1092.201(c), a State UDAAP law would only have qualified as a covered law to the extent the conduct found or alleged to violate the State UDAAP law relates to the offering or provision of a consumer financial product or service. The Bureau reviewed the State statutes identified in proposed appendix A, and as explained below, it believed that requiring registration of covered nonbanks that are subject to covered orders issued under such statutes would likely further the purposes of proposed subpart B.

Proposed appendix A included State laws of general applicability that prohibit unfair, deceptive, or abusive acts or practices and that might apply to the offering or provision of consumer financial products or services. Although the scope and content of these State laws may vary at the margin, the Bureau explained that it believed these statutes cover a core concept of unfairness, deception, or abusiveness that makes violations of them likely probative of

risks to consumers in the offering or provision of consumer financial products and services. These statutes may commonly be referred to as “UDAP” or “UDAAP” statutes, or “little FTC Acts,” and are often labeled in State statutes as State “consumer protection acts” or as laws addressing “unfair” or “deceptive” “trade practices.” State or local agencies may use these statutes to bring cases or actions with respect to practices that injure consumers. While these State statutes may also authorize private suits by consumers and other persons, the proposal would have only required registration with respect to covered orders issued at least in part in any action or proceeding brought by any Federal agency, State agency, or local agency (as described further below in the section-by-section discussion of § 1092.201(e)(1)(ii)).

The Bureau proposed to list these statutes in appendix A, and thus to include them in the proposed rule’s definition of covered law, in part because these statutes are generally analogous to CFPA sections 1031 and 1036(a)(1)(B) and FTC Act section 5.¹⁶⁶ Several of these State statutes specifically provide that “it is the intent of the legislature that in construing [the State statute], the courts will be guided by the interpretations given by the Federal Trade Commission and the Federal courts to section 5(a)(1) of the Federal Trade Commission Act,” or words to this effect.¹⁶⁷ The Bureau noted that obtaining a better understanding of entities’ compliance with State UDAP/UDAAP laws would assist the Bureau in the assessment and detection of risks for the same general reasons described with respect to alleged or found violations of FTC Act section 5. The Bureau believed that entities that have violated one of these State statutes, and especially repeat violators of such statutes, may pose heightened risks to consumers in the offering or provision of consumer financial products and services, including the risk that they have engaged, and may continue to engage, in unfair, deceptive, or abusive acts and practices in violation of CFPA section 1031. The Bureau also explained that information identifying patterns of such risky conduct across entities, industries, product offerings, or jurisdictions would be highly informative to the Bureau’s monitoring work. The Bureau attempted to identify all of the applicable State UDAP/UDAAP statutes of general

applicability in appendix A of the proposal but requested comment on whether it had comprehensively done so. The Bureau proposed to include in appendix A all such State statutes and sought comment on any additions, subtractions, or modifications to the State UDAP/UDAAP statutes of general applicability in appendix A.

The Bureau also proposed to include in appendix A, and thus to include in the definition of the term covered law, certain other industry-specific State statutes that prevent unfair, deceptive, or abusive conduct in connection with certain specific consumer financial industries or markets. For example, proposed appendix A included New York Banking Law section 719(2), regarding prohibited practices by student loan servicers. This State statutory provision prohibits “[e]ngag[ing] in any unfair, deceptive or predatory act or practice toward any person or misrepresent[ing] or omit[ting] any material information in connection with the servicing of a student loan.”¹⁶⁸ The Bureau proposed to include this New York State law and others like it in appendix A, to the extent that the conduct found or alleged to violate such law relates to the offering or provision of a consumer financial product or service.

As with State UDAP/UDAAP laws of general applicability, the Bureau believed that violation of such industry-specific State statutes that prohibit unfair, deceptive, or abusive acts or practices in connection with consumer financial industries or markets and in connection with the offering or provision of consumer financial products or services would be probative of potential violations of CFPA sections 1031 and 1036, and also of other related risks to consumers within the scope of the Bureau’s jurisdiction. The Bureau believed that omitting these industry-specific statutes from the definition of “covered law” may cause the information submitted to the proposed registry to be incomplete. Among other things, the Bureau understood that many State agencies typically rely upon such industry-specific statutes to enforce prohibitions on conduct by covered nonbanks that is similar to that prohibited under UDAP/UDAAP laws of general applicability. Thus, the Bureau believed registration of orders issued under such State statutes would provide information that is probative of the types of risks the Bureau believed to be associated with orders issued under State UDAP/UDAAP laws of general applicability. The Bureau attempted to

¹⁶⁵ 15 U.S.C. 57a(d)(3) (“When any rule under subsection (a)(1)(B) takes effect a subsequent violation thereof shall constitute an unfair or deceptive act or practice in violation of section 45(a)(1) of this title, unless the Commission otherwise expressly provides in such rule.”).

¹⁶⁶ 12 U.S.C. 5531, 5536(a)(1)(B); 15 U.S.C. 45.

¹⁶⁷ *E.g.*, Mass. Gen. Laws ch. 93A, sec. 2(b); Conn. Gen. Stat. sec. 42–110b(b).

¹⁶⁸ New York Banking Law sec. 719(2).

identify applicable State UDAP/UDAAP statutes related to applicable consumer financial industries or markets in proposed appendix A but requested comment on whether it had comprehensively done so. The Bureau proposed to include in appendix A all such State statutes.

The Bureau proposed to require registration of all orders issued under State laws listed in appendix A, as long as the conduct at issue related to the offering or provision of a consumer financial product or service, and the order satisfied the definition of “covered order” in proposed § 1092.201(e). The Bureau recognized that some State UDAP/UDAAP statutes listed in appendix A may prohibit conduct that regulated entities might argue is not prohibited under CFPA sections 1031 and 1036(a)(1)(B). For example, State UDAP/UDAAP statutes modeled after FTC Act section 5 may include provisions that, in addition to prohibiting “unfair” and “deceptive” conduct, also prohibit “unfair methods of competition” in connection with antitrust or anticompetition matters. While the Bureau acknowledged that it is possible that such orders *might* be less probative than other orders, the Bureau believed that limiting the scope of such covered laws to those involving the offering or provision of consumer financial products and services would sufficiently assure that most orders reported would be valuable in effectively monitoring for risks to consumers in the offering or the provision of such products and services. Moreover, the Bureau anticipated that it would not always be the case that an agency or court order will clearly distinguish whether it is issued under State statutory provisions preventing “unfair,” “deceptive,” or “abusive” acts and practices on the one hand, or “anticompetitive” acts or practices on the other—especially in cases where a State statute addresses all of them. Unlike orders issued under FTC Act section 5, it was not clear to the Bureau that orders issued under such State laws routinely distinguish between these two types of authorities. Therefore, the Bureau believed that attempting to carve out portions of State UDAP/UDAAP statutes that extend beyond the conduct prohibited by CFPA sections 1031 and 1036(a)(1)(B) would be impracticable and would risk undermining the effectiveness of the rule. The Bureau thus proposed to define the term “covered law” by listing specific State statutes. Where a State statute was listed in proposed appendix A and otherwise satisfied proposed § 1092.201(c), the

Bureau proposed to treat it as a covered law, regardless of whether any specific order issued under that law expressly referred to the State law’s prohibition of “unfair,” “deceptive,” or “abusive” acts and practices. In most cases, the Bureau anticipated that violations of the listed State statutes that relate to the offering or provision of a consumer financial product or service would be probative of risks to consumers within the Bureau’s jurisdiction.

The Bureau did not include laws of Tribal governments in appendix A of the proposal. While the Bureau believed that many orders issued under such laws may be highly probative of risks to consumers and could assist the Bureau in carrying out its market-monitoring obligations—as well as assist the Bureau in assembling an effective nonbank registry—the Bureau preliminarily concluded that considerations of administrative efficiency favored focusing on other orders.

Fifth, proposed § 1092.201(c)(5) would have included in the definition of the term “covered law” a State law amending or otherwise succeeding a law identified in appendix A, to the extent that such law is materially similar to its predecessor, and the conduct found or alleged to violate such law relates to the offering or provision of a consumer financial product or service.

The Bureau proposed § 1092.201(c)(5) in order to clarify that appendix A is intended to capture certain future changes made by States to the State laws listed therein. As the Bureau explained in the proposal, States may make immaterial changes from time to time, including renumbering or amending the statutes listed in appendix A, in a manner that could cause appendix A to become technically “incorrect” or “obsolete” in the view of some regulated entities. Proposed § 1092.201(c)(5) would have made clear that is not the Bureau’s intent. To the extent the amended or otherwise succeeding law is materially similar to its predecessor, proposed § 1092.201(c)(5) would have ensured that it would still qualify as a “covered law.” The proposed definition of covered law thus would have captured a successor to a law listed in appendix A if, for example, the conduct found or alleged to violate the successor law would have constituted a violation of the predecessor law were it still in effect.

Finally, proposed § 1092.201(c)(6) would have included in the definition of the term “covered law” a rule or order issued by a State agency for the purpose of implementing a State law described in proposed § 1092.201(c)(4)

or (5), to the extent the conduct found or alleged to violate such regulation relates to the offering or provision of a consumer financial product or service. As the Bureau explained, various State statutes authorize one or more State agencies to issue regulations implementing the terms of those statutes, thereby authorizing the State agency to further define specific unfair, deceptive, or abusive acts or practices.¹⁶⁹ Proposed § 1092.201(c)(6) would have included such State agency regulations within the meaning of the term “covered law.”

Comments Received

A consumer advocate commenter stated that the rule should clarify that, under certain specific circumstances, such as those involving certain misrepresentations by schools, orders would “arise out of conduct related to consumer financial products and services” as required under the definition of the term “covered order.”

An industry commenter stated that the registry should not require publication of orders or decisions involving the FTC’s authority under FTC Act section 5, on the grounds that such orders are outside the Bureau’s authority. Another industry commenter and a consumer advocate commenter supported including orders related to violations of the prohibition of unfair or deceptive acts or practices under FTC Act section 5, on the grounds of similarity to the CFPA’s UDAAP prohibitions. The consumer advocate commenter also supported the inclusion of State UDAP laws and the Military Lending Act, stating that violations of the Military Lending Act may overlap with, or be closely associated with, violations of the CFPA’s UDAAP prohibitions¹⁷⁰ or the Truth in Lending Act.

Several commenters stated that the definition of “covered law” should not include State laws. Commenters described the inclusion of such laws, which were included in the definition of “covered law” at proposed § 1092.202(c)(4) through (6), as an improper attempt by the Bureau to enforce laws that it lacks the authority to enforce or otherwise administer. In the opinion of the commenters, requiring covered nonbanks to register and submit information regarding orders issued under State laws would usurp the role of the appropriate State or local agency in issuing, enforcing, publishing, and interpreting its own State laws or its own orders. Commenters stated that the

¹⁶⁹ See, e.g., Cal. Fin. Code sec. 90009(c).

¹⁷⁰ 15 U.S.C. 5531, 5536(a)(1)(B).

registry would lead to the Bureau adjudicating whether a covered entity was in compliance with an order issued by another independent agency and would violate principles of federalism. Commenters—including an industry commenter, a joint letter from State regulators, and Members of Congress—stated that imposing the written-statement requirements described in proposed § 1092.203 would be particularly inappropriate with respect to orders issued under State laws for these reasons.

Commenters stated that the Bureau's assertions that violations of State law would be probative of risk to consumers were not supported or were highly speculative. An industry commenter stated that the Bureau should consider whether certain State laws are subject to Federal preemption in determining whether those laws should qualify as "covered laws."

Industry commenters stated that including State or local laws as "covered laws" would improperly distort or shift the focus of compliance programs, which could result in other aspects of compliance programs becoming deprioritized, create unnecessary risks for consumers, or raise costs that would ultimately be passed on to consumers.

Multiple consumer advocate commenters supported including both State and Federal laws because violations of both types of laws are probative of heightened risks to consumers and markets. A consumer advocate commenter stated that violations of the State laws listed in the proposal are almost certainly probative of potential violations of CFPB sections 1031 and 1036, and that the registry would be incomplete without their inclusion.

A joint letter from State regulators commented that the Bureau should clarify whether violations of certain administrative laws might be interpreted by the Bureau to be violations of "covered laws." The commenters voiced skepticism that this question could be adequately addressed in a final rule to the extent necessary for covered nonbanks to understand their obligations.

The notice of proposed rulemaking sought specific comment on whether to require registration, and to list in appendix A, additional State statutes that prohibit "unconscionable" conduct but do not also contain a specific reference to "unfair," "deceptive," or "abusive" conduct. A consumer advocate commenter stated that such "unconscionability" laws should be included, pointing to what it described

as the similarity between the standards of "unconscionability" and "unfairness" under UDAP law as recognized by courts. An industry commenter stated that the Bureau should not include State "unconscionability" laws.

A joint comment letter from State regulators stated that proposed appendix A, which lists State laws that are included as "covered laws" under § 1092.201(c)(4), did not adequately represent State consumer protection efforts, and contained laws that may be inapplicable or outdated in certain States. The comment did not specify any inapplicable or outdated State laws, but referred to payday lending laws in States that have recently enacted usury laws that cap rates at 36 percent. A consumer advocate commenter stated that proposed appendix A should be expanded to include other laws, specifically the Federal Racketeer Influenced and Corrupt Organizations Act ("RICO") and State counterparts. This consumer advocate commenter also stated that the rule should require that the Bureau periodically seek comment and update appendix A. An industry commenter stated that proposed appendix A was unmanageably large.

In the notice of proposed rulemaking the Bureau specifically sought comment on whether Tribal UDAP/UDAAP laws should be included among the list of "covered laws," and if so, which specific Tribal UDAP/UDAAP laws should be included in the list. A Tribal commenter stated that proposed appendix A should be expanded to include laws that have been enacted or may be enacted by federally recognized Indian tribes on the grounds that doing so would reflect the status of Tribal governments as equals to State governments under the Dodd-Frank Act. The commenter did not state which specific Tribal UDAP/UDAAP laws should be included.

Response to Comments Received

For the reasons given in the description of the proposal above, the Bureau is finalizing § 1092.201(c)'s requirement that a law listed in § 1092.201(c)(1) through (6) would qualify as a covered law only to the extent that the violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service. The Bureau does not choose to use the final rule as the vehicle for determining the circumstances under which violations of covered laws arise out of conduct "in connection with the offering or

provision of a consumer financial product or service." The term "consumer financial product or service" has a well-established statutory definition.¹⁷¹ While the question of whether a legal violation related to the offering or provision of a consumer financial product or service depends on the particular facts and circumstances involved, the answer to that question should be clear in most cases. The Bureau declines to provide further, general guidance on this issue in the context of this rulemaking. If a person has a good faith basis to believe that an order issued against it does not qualify as a "covered order" because it does not arise out of conduct in connection with the offering or provision of a consumer financial product or service, the person could choose not to register that order and instead submit a notification under § 1092.202(g). As explained in the section-by-section analysis of § 1092.202(g), in the event of a non-frivolous filing under that provision, the Bureau would not bring an enforcement action against the person based on the person's failure to register the order unless the Bureau first notifies the person that the Bureau believes registration is required and provides the person with a reasonable opportunity to comply with § 1092.202.

The Bureau is finalizing a definition of "covered law" at § 1092.201(c)(3) that includes the prohibition on unfair or deceptive acts or practices under FTC Act section 5, as well as any rule or order issued for the purpose of implementing that prohibition. As described in part IV, among other things, such orders may be probative of violations of Federal consumer financial law, including CFPB sections 1031 and 1036(a)(1)(B). Such orders also may indicate more systemic problems at an entity that may impact the offering or provision of consumer financial products or services, and will inform the Bureau's exercise of its various rulemaking, supervisory, enforcement, consumer education, and other functions. The Bureau does not see the force of any argument that including FTC Act section 5 in the definition of "covered law" usurps the role of the FTC in issuing, enforcing, or interpreting the FTC's public orders. Rather, the Bureau's rule is intended to collect and potentially publish information regarding such orders where they are relevant to the Bureau's assessment of risks to consumers within its jurisdiction, as well as information about the covered nonbanks that are

¹⁷¹ See 12 U.S.C. 5481(5); see also 12 U.S.C. 5481(15) (defining "financial product or service").

subject to such orders. The Bureau will continue to coordinate with the FTC as required by the CFPA, including CFPA sections 1024(c)(3) and 1061(b)(5).¹⁷²

The final rule requires registration in connection with orders issued under State laws prohibiting unfair, deceptive, or abusive acts or practices that are identified in appendix A to part 1092, to the extent that the violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service. The Bureau declines to finalize a definition of “covered laws” that does not include State laws. The Bureau concludes, as stated by consumer advocate commenters, that violations of both Federal and State consumer financial laws may be probative of heightened risks for consumers and borrowers. In particular, the Bureau concludes that orders based on violations of the State laws described in § 1092.202(c)(4) through (6) are likely to be probative of risk to consumers.

The final rule will not thereby empower the Bureau to enforce or interpret State laws (or orders). In particular, the Bureau does not intend to assert any jurisdiction to enforce the State laws described in § 1092.201(c)(4) through (6) and appendix A. For the reasons described in more detail in part IV(C), the Bureau concludes orders based on violations of these State laws are probative of the types of risks to consumers that the CFPA authorizes the Bureau to monitor, but the Bureau does not assert that it may directly enforce any of these laws. Rather, the final rule includes these State laws within the definition of “covered law” in order to define the covered orders that will require covered nonbanks to report identifying, administrative, and order information to the nonbank registry.

The Bureau finalizes its conclusion in the notice of proposed rulemaking¹⁷³ that collecting and registering public agency and court orders imposing obligations based upon violations of consumer law, including applicable State laws, would assist with monitoring for risks to consumers in the offering or provision of consumer financial products and services. The CFPA does not confine the Bureau to monitoring or supervising for risks related to violations of Federal consumer financial law. Neither the Bureau’s authority to monitor for risks to consumers in the offering or provision of consumer financial products or services under 12 U.S.C. 5512(c) nor the Bureau’s supervisory

authorities under 12 U.S.C. 5514 are limited solely to assessing entities’ compliance with Federal consumer financial law. Instead, the Bureau is charged with monitoring for risks to consumers more broadly in the offering or provision of consumer financial products or services, including developments in markets for such products or services.¹⁷⁴ In allocating its resources to perform market monitoring, the Bureau may consider “the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers.”¹⁷⁵ The types of “legal protections” to be considered by the Bureau are not restricted to protections under Federal law.

Likewise, the CFPA requires that the Bureau prioritize the use of its supervisory authority “in a manner designed to ensure that such exercise . . . is based upon the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets.”¹⁷⁶ In addition, the Bureau is tasked with requiring reports and conducting examinations under 12 U.S.C. 5514 for purposes not just of “assessing compliance with the requirements of Federal consumer financial law,”¹⁷⁷ but also of “obtaining information about the activities and compliance systems and procedures of” persons described in 12 U.S.C. 5514(a)¹⁷⁸ and “detecting and assessing risks to consumers and to markets for consumer financial products and services.”¹⁷⁹ And the CFPA authorizes the Bureau to issue rules under 12 U.S.C. 5514(b)(7)(A) to “facilitate supervision of persons described in [12 U.S.C. 5514(a)(1)] and assessment and detection of risks to consumers,” and under 12 U.S.C. 5514(b)(7)(B) “for the purposes of facilitating supervision of such persons and assessing and detecting risks to consumers.” None of these provisions state or even imply that the Bureau may not collect information regarding orders issued under State law that are probative of risks to consumers in the offering or provision of consumer financial products and services within the scope of the Bureau’s jurisdiction. The Bureau has its own expertise and authorities with respect to such risks. The Bureau needs to collect information

regarding such risks as relevant to its own purposes and the exercise of its own powers as provided under Federal law.

The imposition of § 1092.204’s written-statement requirements in connection with orders issued under State UDAP/UDAAP laws is similarly appropriate and will further the purposes of those requirements, as described in part IV(D) above and the section-by-section discussion of § 1092.204 below. Violations of such orders may be probative of heightened risks for consumers and borrowers that are relevant to the Bureau’s exercise of its supervisory authority; thus, for the reasons discussed in part IV(D) above and the section-by-section discussion of § 1092.204 below, the written-statement requirements will facilitate the Bureau’s supervision of supervised registered entities subject to such orders. The information collected under § 1092.204 regarding risks to consumers that may be associated with the orders, including potential violations of CFPA sections 1031 and 1036, and the applicable supervised registered entity’s compliance systems and procedures will be relevant to the Bureau’s supervisory authority even where those risks are associated with orders issued under State UDAP/UDAAP laws. In addition, for the reasons discussed in part IV(D) above and the section-by-section discussion below, § 1092.204’s requirements with respect to orders issued under State UDAP/UDAAP laws will also help ensure that supervised registered entities are legitimate entities and are able to perform their obligations to consumers. Contrary to commenters’ suggestions, the Bureau is not adopting the written-statement requirements to administer or enforce State laws or orders issued under such laws, but rather to further its statutory purposes under CFPA section 1024(b)(7)(A)–(C) with respect to risks to consumers that are relevant under Federal law, that are associated with entities that are subject to the Bureau’s supervisory and examination authority under CFPA section 1024(a), and that arise in connection with the offering or provision of consumer financial products and services subject to the Bureau’s jurisdiction.

The Bureau concludes that the final rule will not result in the Bureau usurping the role of any State or local agency in issuing, enforcing, or interpreting State law or orders issued or obtained by a State or local agency. Nor will the final rule violate principles of federalism or lead to the Bureau supplanting the proper role of State or other regulators with respect to such

¹⁷⁴ See 12 U.S.C. 5512(c)(1).

¹⁷⁵ 12 U.S.C. 5512(c)(2)(C).

¹⁷⁶ 12 U.S.C. 5514(b)(2). See the discussion of this provision in parts II, III, and IV(B) above.

¹⁷⁷ 12 U.S.C. 5514(b)(1)(A).

¹⁷⁸ 12 U.S.C. 5514(b)(1)(B).

¹⁷⁹ 12 U.S.C. 5514(b)(1)(C).

¹⁷² 12 U.S.C. 5514(c)(3), 5581(b)(5).

¹⁷³ 88 FR 6088 at 6094–6098.

orders. The final rule requires that covered nonbanks submit identifying information and other specified information related to such orders, but the Bureau's collection of that information via the nonbank registry will not interfere with any State or local agency's own actions related to enforcement of such orders.¹⁸⁰ To the contrary, the Bureau concludes that including the State laws described in § 1092.201(c)(4) through (6) within the definition of "covered law" will promote interagency coordination and cooperation among the various Federal, State, and local agencies that have an interest in financial consumer protection because the Bureau intends to establish under the rule a public, up-to-date, and easily accessible and searchable registry that contains relevant and useful information about covered orders and the covered nonbanks that are subject to them.

As discussed in part IV and in this section-by-section discussion, violations of covered laws are likely to be probative of the type of risk to consumers the Bureau is tasked with monitoring. The Bureau does not intend to utilize the final rule or the nonbank registry established under subpart B as a mechanism to opine regarding the proper application of any particular State law to covered nonbanks or any legal defenses, such as preemption, that might have been available to a covered nonbank. The Bureau concludes that, where all of the criteria established by the rule for registration of a covered order have been met, including that an applicable agency or court has issued or obtained a final and otherwise covered order against a covered nonbank based on one or more violations by the covered nonbank of a State law described at § 1092.201(c)(4) through (6), registration in connection with that covered order would serve the purposes of the rule. If a covered nonbank believes in good faith that any particular order is not a covered order, it may submit a notification under §§ 1092.202(g) and 1092.204(f).

The Bureau concludes that the final rule will not cause covered nonbanks to pay inappropriate attention to compliance with the types of State laws identified at § 1092.201(c)(4) through (6).¹⁸¹ First, an entity can (and should) comply with the law whether or not the Bureau is monitoring it, and other agencies also monitor compliance with covered orders issued or obtained under these State laws. Thus, covered nonbanks should already be dedicating appropriate resources to ensure compliance with such State laws, and the Bureau does not agree that the registration components of the rule will distort compliance programs, lead to compliance programs becoming deprioritized, or lead to related additional risks or costs for consumers. Likewise, were the Bureau to publish the information collected as described under § 1092.205, the Bureau does not believe such publication would provide an inappropriate incentive to dedicate unnecessary resources to compliance with these State laws. By definition, the covered orders that would be made available on the registry are already published or required to be published (§ 1092.201(e) and (m)); therefore, republication of those orders on the nonbank registry by the Bureau will not provide a meaningful incentive to covered nonbanks to reallocate their compliance resources.

Second, even if a covered nonbank were to view the final rule as a reason to dedicate additional resources to complying with the State laws described at § 1092.201(c)(4) through (6), so much the better. Enhanced compliance with those State laws, while not a goal of the final rule, will also likely reduce risk to consumers in the offering or provision of consumer financial products and services within the scope of the Bureau's jurisdiction. The Bureau does not agree that it should refrain from collecting or publishing information that may help it monitor for risks to consumers on the grounds that its efforts might also have the ancillary benefit of inducing covered nonbanks to

comply with the described State consumer protection laws.

The proposal's requirements to submit information in connection with covered orders were specific to the proposal and were not intended to impose any requirements on a covered nonbank's compliance management system or any of the covered nonbank's internal affairs, or to require any particular approach of allocating responsibility for complying with covered orders or with the law generally. The Bureau understands that compliance management at covered nonbanks will likely be managed differently from entity to entity and that compliance management systems will and should be adapted to a covered nonbank's business strategy and operations. The proposal did not purport to impose any restrictions on the manner in which covered nonbanks address such matters.

The final rule clearly establishes which laws are "covered laws." The Bureau has reviewed the State laws described in appendix A to part 1092 and has assessed whether they are probative of risk to consumers and otherwise should be included in appendix A at this time. State laws that are not listed in appendix A to part 1092 and not otherwise described at § 1092.201(c)(4) through (6) are not covered laws under the final rule. Therefore, commenters' concerns that the Bureau might treat as covered laws certain State "administrative" or other laws not described in § 1092.201(c)(4) through (6) are misplaced. As provided at § 1092.202(e)(4), an order that does not impose obligations that are described in § 1092.202(e)(3) on the covered nonbank based on an alleged violation of a "covered law" is not a "covered order" under the final rule. But an order that does impose such obligations based on a violation of a covered law may fall under § 1092.202(e)(3), even if the State agency issued its order under authority granted by other provisions of law. Additional discussion regarding when obligations are imposed "based on" violations of a covered law is contained in the section-by-section discussion of § 1092.201(e) below.

Commenters did not provide any citations for specific State laws that should either be added to or deleted from appendix A to part 1092. However, the Bureau has reviewed appendix A as proposed and is finalizing an appendix A to part 1092 that contains both additions and deletions from the version proposed. The Bureau is listing these additional statutes in appendix A, and thus including them in the final rule's

¹⁸⁰ See 12 U.S.C. 5551(a)(1) ("This title, other than sections 1044 through 1048, may not be construed as annulling, altering, or affecting, or exempting any person subject to the provisions of this title from complying with, the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that any such provision of law is inconsistent with the provisions of this title, and then only to the extent of the inconsistency.") (emphasis added); see also 12 U.S.C. 5552(d)(1) ("No provision of this section shall be construed as altering, limiting, or affecting the authority of a State attorney general or any other regulatory or enforcement agency or authority to bring an action or other regulatory proceeding arising solely under the law in effect in that State.").

¹⁸¹ With respect to one commenter's reference to "local laws," § 1092.201(c)'s definition of "covered law" refers to specific types of Federal and State laws but does not include any laws issued by local agencies. Therefore, an order that imposes applicable obligations on the covered nonbank based solely on alleged violations of a law issued by a local agency that does not qualify as a "covered law" under § 1092.201(c) would not satisfy § 1092.201(e)(1)(iv), and therefore would not be a "covered order" under the final rule. However, an order issued by a local agency (as that term is defined at § 1092.201(i)) under a State law that did qualify as a "covered law" under § 1092.201(c)(4) through (6) might constitute a "covered order" under § 1092.201(e) if the other elements of that provision were also satisfied.

definition of covered law, for the reasons discussed in the description of the proposal above with respect to the inclusion of other State laws in the proposed appendix A. As with the State laws that were included in the version of appendix A contained in the proposed rule, the Bureau believes that violation of the additional State UDAP/UDAAP laws included in the final appendix A to part 1092 that prohibit unfair, deceptive, or abusive acts or practices in connection with consumer financial industries or markets and in connection with the offering or provision of consumer financial products or services would be probative of potential violations of CFPB sections 1031 and 1036, and also of other related risks to consumers within the scope of the Bureau's jurisdiction. The Bureau believes that omitting these industry specific statutes from the definition of "covered law" may cause the information submitted to the proposed registry to be incomplete.

The Bureau is also finalizing several minor revisions to appendix A to part 1092 in order to correct several clerical errors in the proposed rule, such as duplicate listings, and to reflect certain changes to the State laws, such as the renumbering and repeal of certain provisions.

Other than these revisions, the Bureau declines to finalize other changes to appendix A at this time. The Bureau concludes appendix A to the final rule, as revised from the proposal in the ways discussed above, is appropriate and is not so large as to be unusable or unwieldy. Covered nonbanks should be able to quickly refer to appendix A in order to help determine whether any particular State law is a "covered law."

As the Bureau indicated in the notice of proposed rulemaking, orders based on conduct that violates State unconscionability laws may be probative of risk to consumers. But the Bureau declines at this time to include State unconscionability laws in appendix A to the final rule. Likewise, the Bureau declines at this time to include RICO laws in appendix A to the final rule. And the Bureau also declines to include in appendix A State payday lending laws imposing usury limits. Violations of State unconscionability, RICO, and usury laws may be indicative of risk to consumers within the Bureau's jurisdiction, especially in situations where the applicable violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service. But unlike the State UDAP/UDAAP laws included in appendix A, State unconscionability,

RICO, and usury laws are generally not modeled after FTC Act section 5 or CFPB sections 1031 and 1036(a)(1)(B), and the Bureau at this time has not determined whether such laws, as a class, are generally sufficiently similar in scope to FTC Act section 5 or CFPB sections 1031 and 1036(a)(1)(B) to warrant inclusion in appendix A. Considering RICO laws in particular, they often prohibit a wide range of criminal activity, including kidnapping, robbery, and dealing in narcotic drugs.¹⁸² The Bureau is concerned that including such laws as "covered laws" would result in an overinclusive and thus less useful and more burdensome registry.

Also, as the Bureau indicated in the notice of proposed rulemaking, orders based on conduct that violates certain Tribal laws may be probative of risk to consumers. But the Bureau declines at this time to include such Tribal laws in appendix A to the final rule. The Bureau finalizes its preliminary conclusion in the proposal¹⁸³ that considerations of administrative efficiency favor focusing on other orders.

The Bureau intends to monitor the orders submitted under the final rule and may determine at a later date to expand appendix A to include the categories of laws discussed above or other laws. The Bureau also agrees that it may prove useful to periodically review and update appendix A in order to enhance the usefulness and effectiveness of the nonbank registry and the information it collects. However, the Bureau declines to adopt such a requirement in the final rule obligating itself to do so. Among other things, such a requirement is unnecessary and would complicate the Bureau's administration of the nonbank registry.

Comments regarding the scope of the written-statement requirements are addressed in the section-by-section discussion of § 1092.204 below.

Final Rule

For the reasons set forth above, the Bureau is finalizing § 1092.201(c) as proposed, with minor technical edits. In addition, for the reasons described above, the Bureau is finalizing appendix A to part 1092 with several changes from the proposed version. Section 1092.201(c)(4) defines the term "covered law" to include a State law prohibiting unfair, deceptive, or abusive acts or practices that is identified in appendix A.

¹⁸² See, e.g., 18 U.S.C. 1961.

¹⁸³ See 88 FR 6088 at 6107.

Section 1092.201(d) Covered Nonbank Proposed Rule

The proposal would have defined the term "covered nonbank" to mean a covered person¹⁸⁴ that does not fall into one of five categories. First, the Bureau proposed to exclude from the definition insured depository institutions, insured credit unions, or related persons. The Bureau considered proposing to collect information about relevant orders in place against such persons under its authority to issue rules mandating collection of information set forth in CFPB section 1022(c)(4)(B)(ii). While the Bureau noted that it might at some point consider collecting or publishing the information described in the proposal from such persons, the Bureau believed that there is currently greater need to collect this information from the nonbanks under its jurisdiction. Among other things, the identity and size of all insured depository institutions and insured credit unions is known to the Bureau due to registration regimes maintained by the prudential regulators, which track and make public such information. Also, there are only four prudential regulators, and they regularly publish their consumer financial protection orders. In contrast, the Bureau explained that comprehensive, readily accessible information is currently lacking about the identity of, and orders issued against, nonbanks subject either to the Bureau's market-monitoring authority or to its supervisory authority across the various markets for consumer financial products and services. As a result, the Bureau believed that there is a unique need to identify nonbanks subject to orders through this proposed registry. In addition, the proposal would have conformed with the Bureau's registration authority under CFPB section 1022(c)(7), which states that the Bureau may impose registration requirements applicable to a covered person, other than an insured

¹⁸⁴ As provided in proposed § 1092.101(a), the proposal would have defined the term "covered person" to have the same meaning as in 12 U.S.C. 5481(6). The proposal would not have defined "service providers," as defined in 12 U.S.C. 5481(26), as covered nonbanks *per se*. Entities that are service providers, however, may nevertheless also be covered persons under the CFPB. Among other things, a person that is a service provider shall be deemed to be a covered person to the extent that such person engages in the offering or provision of its own consumer financial product or service. See 12 U.S.C. 5481(26)(C). And a service provider that acts as a service provider to its covered person affiliate is itself deemed to be a covered person as provided in 12 U.S.C. 5481(6)(B).

depository institution, insured credit union, or related person.¹⁸⁵

Second, the proposal would have excluded from the definition of the term “covered nonbank” a “State,” as defined in CFPA section 1002(27)—a term that includes “any federally recognized Indian tribe, as defined by the Secretary of the Interior” under section 104(a) of the Federal Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5131(a).¹⁸⁶ The Bureau has other avenues of collaborating with State partners (including Tribal partners) and, out of considerations of comity, did not seek to subject them to an information collection requirement in the proposal.

Third, the proposal excluded natural persons from the definition of “covered nonbank.” The Bureau was not proposing to impose subpart B’s registration requirements on natural persons, even though natural persons may be covered persons and may be subject to the types of orders described in the proposal. (For example, a sole proprietor not incorporated as a legal entity could qualify as a covered person.) Under the proposed exclusion, for example, natural persons subject to orders issued under FTC Act section 5, removal and prohibition orders or orders assessing civil money penalties issued by an appropriate Federal banking agency under section 8 of the Federal Deposit Insurance Act,¹⁸⁷ or State licensing orders or orders issued under the S.A.F.E. Mortgage Licensing Act of 2008¹⁸⁸ would not be subject to the proposal’s registration requirements. The “natural person” exception in proposed § 1092.201(c)(3) was intended only to exclude individual human beings from the definition of “covered nonbank.” The definition of “covered nonbank” would have included trusts and other entities that meet the definition of “covered person” under CFPA section 1002(6).¹⁸⁹ The Bureau was primarily interested in obtaining information regarding orders that apply to entities because it believed such orders will be most useful in identifying relevant risks to consumers. The Bureau believed that many of the agency and court orders enforcing the law issued

against individuals are highly specific to the facts and circumstances relevant to the individual’s conduct and are less likely to implicate broader risks to consumers and markets. In addition, the Bureau was primarily interested in obtaining and publishing registration information regarding nonbank entities that are subject to its jurisdiction, which among other things would enable consumers to better identify such entities and would provide information to the public and other regulators. The Bureau was concerned that, if the Bureau should extend the registration requirement to natural persons, the information provided would be less relevant to consumers and the other users of the registry. Therefore, the Bureau believed that the potential benefit of extending the registration requirement to natural persons likely would not justify the additional Bureau resources that would need to be allocated to implement and administer such an expansion of the Bureau’s registry. The Bureau also believed that proposed § 1092.203’s requirements to designate one or more attesting executives and submit written statements would not be appropriate for natural persons.

Fourth, the proposal excluded from the definition of “covered nonbank” a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, within the meaning of 12 U.S.C. 5519(a), except to the extent such a person engages in functions that are excepted from the application of 12 U.S.C. 5519(a) as described in 12 U.S.C. 5519(b). CFPA section 1029 provides an exclusion from the Bureau’s rulemaking authority for certain motor vehicle dealers.¹⁹⁰ However, CFPA section 1029(b) exempts certain persons from this exclusion. Persons covered by section 1029(a) would have qualified as “covered nonbanks” under the proposal so long as they engage in the functions described in section 1029(b)—in which case they would be “covered nonbanks.” Proposed § 1092.201(e), discussed below, would have further provided that the only orders issued to such motor vehicle dealers that would require registration would be those issued in connection with the functions that are excepted from the application of 12 U.S.C. 5519(a) as described in 12 U.S.C. 5519(b).

Fifth, the proposal excluded a person from the definition of “covered nonbank” if the person qualifies as a covered person based solely on conduct

that is the subject of, and that is not otherwise exempted from, an exclusion from the Bureau’s rulemaking authority under 12 U.S.C. 5517.¹⁹¹ This provision would have clarified that persons whose activities are wholly excluded from the rulemaking authority of the Bureau under one or more of the provisions of section 1027 of the CFPA are not “covered nonbanks.” However, where the CFPA provides that any of the activities engaged in by such persons *are* subject to the Bureau’s rulemaking authority, this limitation would not have excluded the person from qualifying as a “covered nonbank.” For example, the Bureau explained, CFPA section 1027(l)(1) provides an exclusion from the Bureau’s rulemaking authority for certain persons engaging in certain activities relating to charitable contributions.¹⁹² Under the proposal, a covered person would not have been deemed a “covered person” if it qualifies for this statutory exclusion and is not otherwise exempt from it. But CFPA section 1027(l)(2) exempts certain activities from this statutory exclusion by providing that “the exclusion in [CFPA section 1027(l)(1)] does not apply to any activities not described in [CFPA section 1027(l)(1)] that are the offering or provision of any consumer financial product or service, or are otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.”¹⁹³ As proposed, persons described in CFPA section 1027(l)(1) engaging in the activities described therein would have qualified as “covered nonbanks” so long as they engage in any of the activities described in CFPA section 1027(l)(2), and they would thus be subject to all of the information-collection requirements of the rule applicable to “covered nonbanks,” regardless of whether the applicable “covered order” addressed the conduct subject to the statutory exclusion.

Among other things, the Bureau sought comment regarding the overall scope of the proposed definition of “covered nonbank,” including whether the definition should be expanded or limited in light of the purposes and objectives of subpart B. The Bureau further sought comment on whether a more limited or expanded approach to the registration of covered persons would be appropriate instead of the proposed requirements, whether it should consider any other modifications to the scope of the rule, and how such

¹⁸⁵ The Bureau explained that an affiliate of an insured depository institution, insured credit union, or related person could be subject to the proposed rule if it is not itself an insured depository institution, insured credit union, or related person.

¹⁸⁶ 12 U.S.C. 5481(27).

¹⁸⁷ 12 U.S.C. 1818.

¹⁸⁸ 12 U.S.C. 5101 *et seq.*

¹⁸⁹ See 12 U.S.C. 5481(6). See also 12 U.S.C. 5481 (defining the term “person” to include, in addition to individuals, any “partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity”).

¹⁹⁰ 12 U.S.C. 5519 (“Exclusion for Auto Dealers”).

¹⁹¹ 12 U.S.C. 5517.

¹⁹² 12 U.S.C. 5517(l)(1) (“Exclusion for Activities Relating to Charitable Contributions”).

¹⁹³ 12 U.S.C. 5517(l)(2).

modifications would match the Bureau's policy goals.

Comments Received

The Bureau specifically sought comment as to whether it should adopt an alternative approach that would limit all of the proposal's registration requirements to covered persons that are subject to the Bureau's supervision and examination authority under CFPA section 1024(a). An industry commenter supported limiting the registration requirements to entities with annual receipts of more than \$10 million, which is the Bureau's larger participant threshold for the consumer debt collection market under section 1024(a).¹⁹⁴ While conceding that this approach would limit the number of orders subject to the rule, the commenter stated that it would greatly reduce the compliance burden on small businesses.

A consumer advocate commenter stated that the proposal should be modified in order to clarify that schools and State-affiliated student loan servicers satisfy the definition of "covered nonbanks." The commenter stated that such clarification was particularly desirable in light of the exception for States from the definition of "covered nonbank," as according to the commenter, certain entities accused of illegal conduct often falsely assert that they are agents or appendages of States.

The Bureau specifically requested comment on whether to include natural persons in the term "covered nonbank," even though natural persons may be covered persons and may be subject to the types of orders described in the proposal. A consumer advocate commenter stated that the proposal should be modified in order to include natural persons who otherwise meet the definition of "covered person." The commenter stated that including natural persons would provide consumers with an additional resource to identify bad actors in consumer financial services.

Commenters, including the SBA Office of Advocacy, stated that the proposal was insufficiently clear with respect to affiliates of insured depository institutions and insured credit unions. Commenters noted that certain bank holding companies and other nonbank affiliates of such entities meet the CFPA's definition of "covered person,"¹⁹⁵ but they would not have fallen within the exemptions to the term "covered nonbank" provided in proposed § 1092.201(d). Commenters

requested clarification as to which affiliates of banks and credit unions would qualify as "covered nonbanks" under the proposal. One industry commenter stated that the Bureau should ensure that the regulatory text expressly clarified the application of this definition to bank affiliates. Industry commenters also stated that the Bureau should exempt some or all of these bank-affiliated "covered persons" from the scope of the definition, and industry commenters stated that if the Bureau were to include affiliates of insured depository institutions and insured credit unions in the definition of the term "covered nonbank," the Bureau should issue a supplementary proposal in order to provide for additional notice and comment on that approach. A consumer advocate commenter stated that the Bureau should take an expansive approach in addressing this question.

Several industry and consumer advocate commenters approved of the proposal to collect and publish information about nonbanks, stating that the proposed registry would shed light on the large and growing nonbank financial sector. An industry commenter and a consumer advocate commenter stated that the proposed registry would help the Bureau identify nonbanks to bring under Bureau supervision. Industry commenters and a joint comment letter from members of Congress agreed that excepting banks and insured credit unions from the proposal was appropriate, although some commenters objected to the proposal's statement that the Bureau might consider including banks and credit unions in a future registry, stating that the Bureau lacked authority to do so or that collecting information from banks or credit unions would be unduly burdensome and duplicative. On the other hand, several commenters stated that the Bureau should not exempt banks and credit unions from the proposed rule's requirements. Industry commenters stated that this exemption was contrary to the proposal's rationale, and unfairly targeted nonbanks and put them at a competitive disadvantage. A consumer advocate commenter stated that the exemption was inconsistent with the publication of certain orders regarding nonbanks, and that nonbanks might attempt to evade the proposed rule's registration requirements by acquiring a banking charter.

A joint letter from State regulators stated that States have not witnessed widespread issues with or a growing trend of recidivism among nonbanks that would necessitate the creation of the proposed nonbank registry, and

stated that previous remarks by the Bureau's Director had not emphasized a recidivism problem among nonbanks. However, consumer advocate commenters stated that recidivism by nonbanks did pose risks to consumers and that the registry would help users identify such risks and would otherwise help prevent recidivism.

While noting the exclusion of federally recognized tribes from the proposed definition, Tribal commenters suggested that the proposal's use of the term "State" to define the exemption from proposed § 1092.201(d)'s definition of "covered nonbank" was inadequate to protect Tribal sovereignty, and stated that the rule should adopt a more specific and clear exclusion for economic arms of the tribe, or for Tribal instrumentalities or entities wholly owned by tribes. These commenters asserted that tribes, as self-determining bodies, are the only ones competent to determine the status of an entity as enjoying Tribal sovereignty. Thus, in their view, U.S. government institutions—whether the Bureau, other U.S. regulators, or U.S. courts—lack competence to make such determinations. Tribal commenters also stated that application of the rule to Tribal instrumentalities would expose Tribal treasuries to unfounded attacks that the registry would generate.

Industry commenters stated that in addition to the exemption in proposed § 1092.201(d)(1) for insured credit unions, the Bureau should also exempt from the definition of "covered nonbank" credit union service organizations (CUSOs). The commenters stated that CUSOs must register with the National Credit Union Administration (NCUA) and report financial activity, with annual affirmations and updates, that NCUA and State regulators regularly exercise established authority to request information regarding CUSO activity, that requiring registration of CUSOs would be duplicative and burdensome, and that consumers would be unlikely to find such registration useful.

An industry commenter stated that the Bureau should exempt institutions that are supervised by the Farm Credit Administration from the definition of "covered nonbank." The commenter stated that the reasons the proposal gives for excluding depository institutions and credit unions apply equally to Farm Credit institutions, and that such an exemption would be consistent with the unique treatment of such institutions under the CFPA.

An industry commenter stated that the Bureau should exempt attorneys and law firms from the scope of the proposal

¹⁹⁴ See 12 U.S.C. 5514(a)(1)(B); 12 CFR 1090.105.

¹⁹⁵ 12 U.S.C. 5481(6).

on the grounds that regulation of lawyers is properly placed not with the Bureau but with the judiciary and State bar associations, because of concerns that covered nonbanks that are attorneys or law firms could be required to divulge privileged communications between the lawyer and their client as well as information regarding their clients' confidential and proprietary business practices, and on the grounds that they are already heavily regulated and should otherwise not be subject to the rule.

Two industry commenters stated that the Bureau should exempt mortgage lenders and mortgage services from the scope of the proposal, or at a minimum, exempt such entities where they have satisfied the existing NMLS requirements for mortgage lenders/servicers to disclose such agency and court orders to the NMLS. These commenters stated that the proposed rule would have a disproportionate burden on such entities and would be largely duplicative of the orders that such entities report to the NMLS.

Response to Comments Received

Under the final rule, the Bureau will collect information under the nonbank registry in order to be informed about risks regarding a wide range of nonbank covered persons, and not just regarding the entities that are subject to its supervisory jurisdiction under CFPA section 1024(a). The Bureau finalizes its conclusion in the proposal¹⁹⁶ that collecting information from a wider range of covered persons is appropriate to achieve its market-monitoring objectives. The Bureau declines to finalize the alternative approach discussed in the notice of proposed rulemaking that would have limited the scope of the definition to covered persons that are subject to the Bureau's supervision and examination authority under CFPA section 1024(a). The Bureau's market-monitoring information collection authority under CFPA section 1022(c)(4)(B)(ii) applies to "covered persons" and "service providers" as defined at CFPA section 1002,¹⁹⁷ and the Bureau's registration authority under CFPA section 1022(c)(7) applies to all covered persons "other than an insured depository institution, insured credit union, or related person."¹⁹⁸ The Bureau concludes that the information that will be collected under the nonbank registry will be useful for purposes beyond conducting its supervisory

work, and that it should collect information in order to inform its regulatory, enforcement, and other functions, where the Bureau's authority extends to numerous entities that are not subject to its supervisory jurisdiction. Even with respect to informing the Bureau's supervisory work, it will be necessary to collect information from entities that are not subject to Bureau supervision under CFPA section 1024(a). For example, the Bureau could use information submitted to the nonbank registry to inform its decisions regarding whether to issue new larger participant rules under CFPA section 1024(a)(2) or whether to exercise its authority to designate a covered person for supervision because the Bureau has reasonable cause to determine that the covered person is engaging or has engaged in conduct that poses risk to consumers.¹⁹⁹ Thus, the Bureau will need to be informed about risks to consumers arising with respect to entities that are not presently supervised.

The Bureau declines to adopt a registration threshold or other exception from the rule's registration requirements based upon annual receipts or other size considerations. That approach would lead to the omission of relevant covered nonbanks from the registry, which would mean that the Bureau would not be notified regarding the existence of such entities and would not learn that they were subject to a covered order. Such an exception would unnecessarily limit the information that is provided to the Bureau and provide the Bureau with only a partial view of related risks. The Bureau concludes that the limited burden that will be imposed on such entities due to such information-collection requirements is warranted in light of the benefits to the Bureau and other users of the nonbank registry.²⁰⁰

The Bureau declines to use this rulemaking as an opportunity to finalize a position regarding whether any particular type of entity is a covered person or otherwise falls under the regulatory definition of the term "covered nonbank." The Bureau expects all entities subject to its jurisdiction to assess their own compliance obligations and to comply with the law. An entity that believes it has a good faith basis that it is not a covered nonbank or supervised registered entity, or that an order is not a covered order, but has concerns about whether the Bureau would agree, may file a good faith

notification under § 1092.202(g) or § 1092.204(f).

The Bureau declines at this time to include natural persons in the term "covered nonbank." For the reasons discussed in the proposal, the Bureau is primarily concerned about the risk to consumers that is presented by entities that are not natural persons, although it may consider expanding the registry in future. As the Bureau discussed in its proposal, the "natural person" exception in § 1092.201(c)(3) is intended only to exclude individual human beings from the definition of "covered nonbank." The definition of "covered nonbank" would include trusts and other entities that meet the definition of "covered person" under CFPA section 1002(6).

The Bureau declines to finalize an exemption for affiliates of insured depository institutions or insured credit unions from § 1092.201(d)'s definition of the term "covered nonbank." (As discussed in the section-by-section discussion of § 1092.201(q) below, that section's definition of the term "supervised registered entity" will not apply to an affiliate of an insured depository institution or insured credit union with total assets of more than \$10 billion as described in CFPA section 1025(a).²⁰¹ Therefore, such affiliates, even if they are "covered nonbanks," are not subject to the final rule's written-statement requirements.) As the notice of proposed rulemaking indicated,²⁰² an affiliate of an insured depository institution or insured credit union could be subject to the proposed rule if it is not itself an insured depository institution or insured credit union. While proposed § 1092.201(d)(1) would have excluded from the definition of "covered nonbank" insured depository institutions and insured credit unions (as well as "related persons," a term defined in CFPA section 1002(25)), the proposal did not contain an exemption from the definition of "covered nonbank" for affiliates of such persons where they otherwise would meet that definition. Like other covered nonbanks, such an affiliate would only be subject to the rule if it qualified as a "covered nonbank" under the criteria established in § 1092.201(d), including the requirement that the affiliate satisfy the CFPA definition of the term "covered person." With respect to the application of the final rule's written-statement requirements to such an affiliate, see the

¹⁹⁶ See 88 FR 6088 at 6109.

¹⁹⁷ See 12 U.S.C. 5481(6), (26); 12 U.S.C. 5512(c)(4)(B)(ii).

¹⁹⁸ See 12 U.S.C. 5512(c)(7).

¹⁹⁹ See 12 U.S.C. 5514(a)(1)(B), (C), (a)(2); 12 CFR part 1091.

²⁰⁰ See also the section-by-section discussion of § 1092.201(q) below.

²⁰¹ 12 U.S.C. 5515(a).

²⁰² 88 FR 6088 at 6108 n.139.

section-by-section discussion of § 1092.201(q) below.

The Bureau finalizes the approach described in the proposal. The Bureau acknowledges that, like the insured depository institutions and insured credit unions that are exempt from the definition of “covered nonbank” under § 1092.201(d)(1), affiliates of those entities are subject to certain requirements imposed by the prudential regulators. And those regulators make certain information available to the public regarding such affiliates, including information regarding their identity and certain orders to which such affiliates are subject. Nevertheless, the Bureau concludes that requiring such affiliates that otherwise meet the definition of “covered nonbank” to submit information to the nonbank registry as required under § 1092.202 will serve the purposes of the final rule described in part IV above. Covered nonbanks that are affiliates of insured depository institutions and insured credit unions present a different set of risks to consumers than do insured depository institutions and insured credit unions. For example, they are generally neither chartered nor insured by the Federal Government; they are generally subject to a general corporate or business charter as opposed to a more restrictive banking or credit union charter; and they are generally not subject to the same restrictions on corporate form and powers that apply to insured depository institutions and insured credit unions.²⁰³

The Bureau concludes that it is appropriate to distinguish affiliated nonbanks engaged in the offering or provision of consumer financial products and services from their affiliates that hold a bank or credit

union charter, are federally insured, and are engaged directly in the business of banking or providing credit union services, and to register and collect additional information from affiliated nonbanks for the purposes of identifying and assessing risk to consumers.

Furthermore, the approach taken in the final rule is consistent with CFPA section 1022(c)(7),²⁰⁴ which does not exempt such affiliate covered persons from the nonbank registration requirements that may be imposed by the Bureau under that statutory provision. In this case, Congress made a determination to extend the Bureau’s registration authority over such persons, which are nonbanks subject to the Bureau’s jurisdiction. Among other things, the Bureau needs to monitor risks to consumers presented by such nonbank affiliates in order to exercise its broad enforcement, supervisory, and regulatory authority over such persons. For example, Congress provided supervisory authority over nonbanks to the Bureau in order to ensure that the Bureau could exercise consistent Federal oversight of nondepository institutions based upon its assessment of the risk they pose to consumers.²⁰⁵ With respect to the affiliates of very large insured depository institutions and insured credit unions, Congress intended to address the preexisting “fragmented regulatory structure” by creating “one Federal regulator with consolidated consumer protection authority” that would monitor such entities.²⁰⁶ Consistent with this goal, the final rule will create a unified registry that will identify covered nonbanks that themselves participate in the markets for consumer financial products and services, as well as the orders to which they are subject, whether or not those covered nonbanks happen to be affiliates of banks or credit unions.

The Bureau is adopting an exception for insured depository institutions, insured credit unions, and related persons in § 1092.201(d)’s definition of the term “covered nonbank.”²⁰⁷ For the reasons stated in the proposal, the Bureau concludes that there is currently

greater need to collect information from the nonbanks under its jurisdiction than from insured depository institutions, insured credit unions, and related persons, that there is a unique need to identify nonbanks subject to orders through the nonbank registry, and that the final rule will conform with the Bureau’s registration authority under CFPA section 1022(c)(7), which states that the Bureau may impose registration requirements applicable to a covered person, other than an insured depository institution, insured credit union, or related person.²⁰⁸ As discussed at parts III and IV above, the Bureau is issuing this rule under separate authorities under CFPA sections 1022 and 1024. However, for clarity, the final rule will not cover persons who are not subject to the Bureau’s CFPA section 1022(c)(7)(A) authority.

In addition, the Bureau concludes that the final rule will facilitate the purposes of the nonbank registry described in part IV above even without registering insured depository institutions, insured credit unions, or related persons at this time. In light of the modest obligations imposed under the final rule, the Bureau does not think that the final rule will cause nonbanks to undergo the expense and effort involved in obtaining a banking charter to avoid their registration obligations under the final rule. The Bureau chooses at this time not to collect information from banks not only because orders against insured depository institutions and insured credit unions are public or required to be public—as are all covered orders, as provided at § 1092.201(e)—but also because the insured depository institutions and insured credit unions themselves are already subject to a comprehensive public Federal registration regime that identifies them to the public and is kept up to date.²⁰⁹ These requirements generally serve to distinguish orders issued against insured depository institutions and insured credit unions from orders issued against the covered nonbanks that the Bureau will register under the final rule.²¹⁰

²⁰³ See, e.g., 12 U.S.C. 24a (authorizing financial subsidiaries of national banks to engage in nonbanking activities); 12 U.S.C. 1843 (authorizing bank holding company interests in nonbanking organizations), 1864 (authorizing bank service companies to engage in nonbanking activities). See also, e.g., Patricia A. McCoy, 1 Banking Law Manual: Federal Regulation of Financial Holding Companies, Banks, and Thrifts (3rd ed. 2023) §§ 5.02–5.03 (discussing powers of national banks, bank holding companies, and financial holding companies). In addition, such affiliates are not subject by statute to the same frequency of examination by a Federal agency as are insured depository institutions. See 12 U.S.C. 1820(d) (generally requiring a “full-scope, on-site examination of each insured depository institution” either annually or, for certain small institutions, every 18 months). And certain affiliates are subject to a different system of ratings and supervision by the prudential regulators than are insured depository institutions. See, e.g., Large Financial Institution Rating System; Regulations K and LL, 83 FR 58724 (Nov. 21, 2018) (adopting ratings system for certain holding companies). See also the discussion below regarding credit union service organizations (CUSOs).

²⁰⁴ 12 U.S.C. 5512(c)(7).

²⁰⁵ See S. Rep. No. 111–176, at 167 (2010) (“The authority provided to the Bureau in this section will establish for the first time consistent Federal oversight of nondepository institutions, based on the Bureau’s assessment of the risks posed to consumers and other criteria set forth in this section.”).

²⁰⁶ See S. Rep. No. 111–176, at 168 (2010).

²⁰⁷ As explained below, the Bureau has adopted a revision to the proposed rule to clarify that a related person is excluded from the definition of “covered nonbank” only if the person qualifies as a “covered person” solely due to its related-person status.

²⁰⁸ 12 U.S.C. 5512(c)(7).

²⁰⁹ See, e.g., 12 U.S.C. 1786(s) (insured credit unions), 1818(u) (insured depository institutions).

²¹⁰ In addition, for the reasons discussed above and in the section-by-section discussion of § 1092.201(q), affiliates of insured depository institutions and insured credit unions may qualify as “covered nonbanks” subject to the final rule, and affiliates of insured depository institutions and insured credit unions with total assets of \$10 billion or less may qualify as “supervised registered entities” subject to § 1092.204. As discussed in those sections, the Bureau is concerned that such

As discussed in part IV above, the registry will accomplish a number of goals, with a particular focus on monitoring for risks to consumers related to repeat offenders of consumer protection law. As discussed above, recidivism poses particular risks to consumers, and the Bureau believes that adoption of the final rule is appropriate for the purposes of monitoring for recidivism and publishing information that may help potential users of the nonbank registry identify recidivism by nonbanks. The joint comment letter from State regulators neither asserts nor demonstrates that recidivism by nonbanks does not present risks to consumers, and consumer advocate commenters stated that recidivism by nonbanks does present risks to consumers. The Bureau intends to use the information collected via the nonbank registry to help detect and assess relevant risks to consumers related to recidivism by nonbanks. In addition, the Bureau is adopting the final rule not just to monitor and deter recidivism by nonbanks but also more generally to serve all of the purposes described under part IV, pursuant to its legal authorities as described in part III. For example, as discussed in the section-by-section discussion of § 1092.205(a) below and elsewhere in this preamble, even one covered order may be probative of significant risk to consumers, and the written-statement requirements will serve the purposes described in part IV(D) whether or not an applicable supervised registered entity is subject to multiple covered orders. Thus, the Bureau believes its adoption of the final rule is appropriate even if recidivism among nonbanks currently presents only limited risks to consumers.

Section 1092.201(d)(2) excludes from the definition of the term “covered nonbank” a “State,” as defined in CFPA section 1002(27)—a term that includes “any federally recognized Indian tribe, as defined by the Secretary of the Interior” under section 104(a) of the Federal Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5131(a). The Bureau declines to provide an express exemption from the final rule for Tribal instrumentalities or entities wholly owned by tribes because the Bureau does not choose to use this rulemaking as the vehicle for determining the circumstances under which tribally affiliated entities qualify as part of the tribe itself or are appropriately exempt from covered laws. At a minimum,

affiliates may present different types of risks to consumers than insured depository institutions and insured credit unions do.

where a covered nonbank becomes subject to a final court or agency order enforcing a covered law and otherwise satisfies the requirements of the rule, the Bureau believes that it is appropriate to register the entity and the order. The Bureau acknowledges that certain tribally affiliated entities may from time to time believe a court or agency has erred in imposing a covered order on them, based on grounds of sovereign immunity or otherwise. However, the Bureau believes that providing a blanket exemption for all such cases would improperly omit covered orders that are in fact probative of risk to consumers posed by entities subject to the Bureau’s jurisdiction and thus should be registered under the final rule.

In requiring registration in connection with such orders, the Bureau takes no position on the merits of the underlying case, proceeding, or order, or any related arguments, including any arguments regarding sovereign immunity or Tribal status. As discussed in the section-by-section discussion of §§ 1092.202(g) and 1092.204(f) below, the Bureau believes that the voluntary good-faith filing option provides a satisfactory mechanism for tribally affiliated entities to avoid the risk of an enforcement action where they decide not to register an order or submit a written statement based on a good-faith belief that they are not a covered nonbank or a supervised registered entity, such as on the grounds that they qualify as part of a federally recognized tribe and thus as a “State,” or that an order is not a covered order. Also as discussed in those sections, an entity may choose whether or not it wishes to submit such a filing, and the Bureau will treat such filings as “administrative information” that it will not publish under § 1092.205(a). Thus, the Bureau does not agree that application of the rule to tribally affiliated entities would expose Tribal treasuries to unfounded attacks.

The Bureau declines to finalize an exemption for CUSOs in § 1092.201(d)’s definition of “covered nonbank.”²¹¹

²¹¹ Like other covered nonbanks, a CUSO would only be subject to the rule if it qualified as a “covered nonbank” under the criteria established in § 1092.201(d), including the requirement that the CUSO satisfy the CFPA definition of the term “covered person.” And a CUSO would only be subject to § 1092.204’s written-statement requirements if it qualified as a “supervised registered entity” under the criteria established in § 1092.201(q). Under § 1092.201(q)(1), a CUSO that is subject to Bureau examination and supervision solely in its capacity as a service provider and that is not otherwise subject to Bureau supervision and examination will not be deemed to be a “supervised registered entity” under § 1092.201(q).

As discussed above, entities that are service providers may nevertheless also be covered persons

Unlike insured credit unions, which are exempt from the definition, CUSOs are not directly subject to the NCUA’s full examination and enforcement authority, and are not chartered or insured by the NCUA.²¹² And while presently the NCUA requires a federally insured credit union investing in or lending to a CUSO to obtain a written agreement requiring the applicable CUSO to “provide the NCUA with complete access to its books and records and the ability to review the CUSO’s internal controls” and to supply the NCUA with “operational and financial information” via a CUSO Registry,²¹³ the NCUA nevertheless has previously emphasized in Congressional testimony that “this does not provide access to examine all of the CUSO’s operations.”²¹⁴ The Bureau concludes that requiring covered nonbanks that are CUSOs to register will provide valuable information to the Bureau and others regarding risks such covered nonbanks may present to consumers. Among other things, if—as the Bureau intends—the Bureau publishes registry information, requiring CUSOs that qualify as covered nonbanks to register with the nonbank registry will facilitate credit union due diligence in using a CUSO to provide services to the credit union in connection with the offering or provision of consumer financial products and services.

The Bureau also notes that the credit union exemption provided under § 1092.201(d)(1) applies only to *insured* credit unions, as that term is defined by § 1092.101(a), which in turn defines the term “insured credit union” to have the meaning given to that term in the CFPA.²¹⁵ Thus, this exemption does not apply to credit unions, such as certain uninsured or privately insured credit unions, that do not meet the definition of “insured credit union” under the CFPA and the final rule. Such credit unions must comply with the rule’s

under the CFPA. For example, a CUSO, such as a CUSO wholly owned by a credit union, that acts as a service provider under the CFPA to its covered person credit union affiliate would itself be deemed to be a covered person as provided in 12 U.S.C. 5481(6)(B), and thus would qualify as a “covered nonbank” under § 1092.201(d) if the other criteria of that definition are satisfied.

²¹² See NCUA Office of Inspector General, Report #OIG–20–07, “Audit of the NCUA’s Examination and Oversight Authority Over Credit Union Service Organizations and Vendors” 4 (Sept. 1, 2020), <https://ncua.gov/files/audit-reports/oig-audit-cusos-vendors-2020.pdf> (OIG Report) (“CUSOs are not directly subject to NCUA regulation or examination and are not chartered or insured by the NCUA.”).

²¹³ OIG Report at 6–8; see also 12 CFR 712.3; CUSO Registry, <https://ncua.gov/regulation-supervision/regulatory-reporting/cuso-registry>.

²¹⁴ OIG Report at 16 (describing NCUA testimony seeking additional statutory authority from Congress).

²¹⁵ See 12 U.S.C. 5481(17).

registration and other provisions with respect to covered nonbanks and supervised registered entities where they would otherwise be applicable.²¹⁶

The Bureau declines to adopt an express exemption from the definition of “covered nonbank” for institutions supervised by the Farm Credit Administration. The industry commenter that requested such an exemption has not shown that it is necessary or appropriate.²¹⁷ The commenter discusses one category of orders that institutions regulated by the Farm Credit Administration might register under the rule—namely, orders from the Farm Credit Administration enforcing compliance with certain Federal consumer financial laws. Under current Farm Credit Administration policy, however, the agency does not “identify the institution and/or persons involved” when it issues an order enforcing the law against an institution it regulates.²¹⁸ An order that does not publicly “[i]dentify a covered nonbank by name as a party subject to the order” would not qualify as a “covered order” required to be registered under the final rule.²¹⁹ Moreover, in the event a person regulated by the Farm Credit Administration has concerns that it may be deemed a covered nonbank or that any particular order may be deemed a covered order notwithstanding its good-faith belief to the contrary, it may file one or more good-faith notifications under § 1092.202(g) or § 1092.204(f), as applicable.

The Bureau also does not choose to finalize an express exemption for attorneys or law firms in the final rule. Individual attorneys already fall outside

the definition of covered nonbank under the § 1092.201(d)(4) exclusion for natural persons. Where a law firm satisfies the final rule’s definition of the term “covered nonbank,” the Bureau concludes that entry of a covered order against such a covered nonbank is likely to be probative of risk to consumers, and that it is appropriate to require registration under such circumstances, consistent with the Bureau’s statutory jurisdiction and authority. In addition, the final rule does not require the submission of any information to the nonbank registry that is protected by the attorney-client privilege or any other legal privilege. As stated in part III(B), the Bureau’s registry is designed to not collect any protected proprietary, personal, or confidential consumer information, and thus, the Bureau will not publish, or require public reporting of, any such information. Further discussion of the publication provisions of the final rule is provided in the section-by-section discussion of § 1092.205 below.

With respect to commenters’ requests for exemptions for mortgage lenders and servicers, the Bureau is finalizing a one-time registration option for NMLS-published covered orders at § 1092.203; this provision is discussed in more detail in part IV(E) and the section-by-section discussion of § 1092.203 below. Under the final rule, with respect to any NMLS-published covered order, a covered nonbank that is identified by name as a party subject to the order may elect to comply with the one-time registration option described in § 1092.203 in lieu of complying with the requirements of §§ 1092.202 and 1092.204. The Bureau is adopting this provision in part to address the concerns of commenters that requiring mortgage lenders and servicers to register orders that are already available on the public NMLS Consumer Access website would be duplicative and burdensome.

The Bureau declines to finalize an additional express exemption from § 1092.202(d) for covered nonbanks that are mortgage lenders or mortgage servicers. The CFPA expressly subjects these entities to the Bureau’s supervisory authority,²²⁰ and the legislative history of the CFPA indicates that Congress viewed this authority as integral to the Bureau’s mandate.²²¹ In

addition, the Bureau is the only Federal regulator with supervisory and enforcement jurisdiction over all of these entities, which are chartered by the various States. The option provided at § 1092.203 will help eliminate redundant filings by nonbank mortgage lenders and mortgage servicers while notifying the nonbank registry when an applicable order has been issued or obtained against a covered nonbank. Thus, the Bureau believes that requiring such entities to register covered orders, subject to the one-time registration option described in § 1092.203 for NMLS-published covered orders where it applies, would serve the purposes of the final rule described in part IV above.

Final Rule

For the reasons set forth above and as follows, the Bureau is finalizing § 1092.201(d) as proposed, with revisions to clarify the treatment of “related persons.” The final rule renumbers the items in § 1092.201(d) accordingly.

The Bureau had proposed to exclude “related persons,” as that term is defined at § 1092.101(a) and CFPA section 1002(25), from the proposed definition of “covered nonbank.”²²² Final § 1091.201(d)(1) and (2) have been revised to retain this exclusion, but to clarify these provisions to provide that the final rule does not include within the definition of “covered nonbank” a person who is a covered person solely by virtue of being a related person as defined in CFPA section 1002(25). Under CFPA section 1002(25), certain persons are “deemed to [be] a covered person for all purposes of any provision of Federal consumer financial law[.]”²²³ However, CFPA section 1022(c)(7)(A) excludes related persons from the type of covered persons covered by Bureau rules regarding registration issued under CFPA section 1022(c)(7) authority.²²⁴ As discussed at parts III and IV above, the Bureau is issuing this rule under separate authorities under CFPA sections 1022 and 1024. However, for clarity, the final rule will not cover persons who are not subject to the

services. These entities contributed to the housing crisis that led to the near collapse of the financial system.”), 229 (“The CFPB would have been able to head off the subprime mortgage crisis that directly led to the financial crisis, because the CFPB would have been able to see and take action against the proliferation of poorly underwritten mortgages with abusive terms.”). As discussed in part II(A) above, the Bureau was created in the wake of the 2008 financial crisis, which was caused by a variety of overlapping factors including systemic malfeasance in the mortgage industry.

²²² 88 FR 6088 at 6108.

²²³ 12 U.S.C. 5481(25)(B).

²²⁴ 12 U.S.C. 5512(c)(7)(A).

²¹⁶ Likewise, the exemption at § 1092.201(d)(1) would not apply to any bank or savings association that is not an “insured depository institution” or “insured credit union” as defined in the final rule. See § 1092.101(a), 201(h) of the final rule.

²¹⁷ The industry commenter states that institutions regulated by the Farm Credit Administration do not fall within other exclusions from the definition of “covered nonbank” in § 1092.202(d), such as the exclusion for a “person that qualifies as a covered person based solely on conduct that is the subject of, and that is not otherwise exempted from, an exclusion from the Bureau’s rulemaking authority under 12 U.S.C. 5517.” Cf. 12 U.S.C. 5517(k) (providing that the Bureau “shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Farm Credit Administration,” but not referring to the Bureau’s rulemaking authority (emphasis added)).

²¹⁸ Farm Credit Administration, Policy Statement: Disclosure of the Issuance and Termination of Enforcement Documents (effective Jan. 27, 2005), <https://www3.fca.gov/readingrm/Handbook/ layouts/15/WopiFrame.aspx?sourcedoc={92F0A1E-1839-493C-BE19-E13751EA460D}&file=Disclosure%20of%20the%20Issuance%20of%20Termination%20of%20Enforcement%20Documents.docx&action=default>.

²¹⁹ See § 1092.201(e)(1)(i) of the final rule.

²²⁰ See 12 U.S.C. 5514(a)(1).

²²¹ See, e.g., S. Rep. No. 111–176 at 11–14 (2010) (discussing the “mortgage crisis” that began in the 2000s), 167 (“Specifically, the Bureau will have the authority to supervise all participants in the consumer mortgage arena, including mortgage originators, brokers, and servicers and consumer mortgage modification and foreclosure relief

Bureau's CFPB section 1022(c)(7)(A) authority. Therefore, the final rule excludes related persons from the definition of "covered nonbank," to the extent that they are not covered persons for any other reason than being deemed covered persons pursuant to CFPB section 1002(25). For example, this exclusion generally would not apply to a nonbank entity that qualifies as a covered person because it offers or provides a consumer financial product or service,²²⁵ even if that entity also happens to be a related person.

Section 1092.201(e) Covered Order Proposed Rule

The Bureau proposed § 1092.201(e) to define the term "covered order." The proposal would have defined the term to include only orders that are both public and final. The term "public" was defined at proposed § 1092.201(k). The proposed term "covered order" was intended to cover only final settlement or consent orders, or final agency or court orders resulting from litigation or adjudicated agency proceedings. By "final" order, the proposal meant to exclude such orders as preliminary injunctions, temporary restraining orders, orders partially granting and partially denying motions to dismiss or summary-judgment motions, and other interlocutory orders.²²⁶ The proposed term would also have excluded temporary cease-and-desist orders that come into effect pending the resolution of an underlying contested matter but would have included a related final cease-and-desist or other order resolving the matter. The proposed term would have also excluded notices of charges, accusations, or complaints that are part of disciplinary or enforcement proceedings but do not constitute a final order. The Bureau proposed to include orders that are final by their own terms or under applicable law, even where Federal, State, or local law allows for the appeal of such orders. Proposed § 1092.201(f), defining the term "effective date," would have addressed situations where an order is subject to a stay following issuance. The Bureau sought comment on whether the term "final" should be further defined in the regulatory text.

The proposed definition included orders issued by either an agency or a court. The proposal would have clarified that the definition would include an otherwise covered order whether or not issued upon consent.

Accordingly, under the proposal, "covered orders" could have been issued upon consent or settlement. They could also have been issued after the filing of a lawsuit or complaint and a process of litigation or adjudication. The proposed term would not have included corporate resolutions adopted by an entity and not issued by an agency or court. Nor would the proposed term have generally included licenses, including conditional licenses; but the term would have included an order suspending, conditioning, or revoking a license based on a violation of law. Nor would the proposed term have included related stipulations or consents, where those documents are not incorporated into or otherwise made part of the order.

Proposed § 1092.201(e)(1) would also have included, as a component of the definition of the term "covered order" for a given covered nonbank, a requirement that the order identify the covered nonbank by name as a party subject to the order. Thus, for example, orders that indirectly refer to a covered nonbank as an "affiliate" of a named party, but do not name the covered nonbank as itself a party subject to the order, would not have been covered orders under proposed § 1092.201(e) with respect to the covered nonbank. Nor would orders that apply to a covered nonbank only as a "successor and assign" of a named party, where the order does not expressly identify the covered nonbank by name as a party subject to the order. The proposal would have included in the definition a covered nonbank that is listed by name as a party somewhere within the body of the order, even if the covered nonbank is not listed in the order's title or caption. In other words, to fall within the proposed § 1092.201(e) definition, it would have been sufficient that the order identifies the covered nonbank by name as a party subject to the order even if the covered nonbank is not listed in the title or caption of the order, or as the primary respondent, defendant, or subject of the order. A covered nonbank may have satisfied the proposed definition even if the issuing agency or court did not list the covered nonbank as a party in related press releases or internet links.

Proposed § 1092.201(e)(2) would have included, as a component of the definition of the term "covered order," a requirement that the order have been issued at least in part in any action or proceeding brought by any Federal agency, State agency, or local agency. The Bureau believed that limiting the registration requirement to orders involving such agencies would provide sufficient information to support Bureau

functions. This proposed requirement would have included orders issued by the Bureau itself, the "prudential regulators," as that term is defined at CFPB section 1002(24),²²⁷ and any "Executive agency," as that term is defined at 5 U.S.C. 105. The proposed requirement would have also included orders issued by "State agencies" as defined at proposed § 1092.201(n) and "local agencies" as defined at proposed § 1092.201(i). An order issued by a local agency would have satisfied this proposed requirement, but such an order would not have satisfied the requirement set forth in proposed § 1092.201(e)(4) (described below) unless the order imposed the obligations described in proposed § 1092.201(e)(3) on the covered nonbank based on one or more violations of a covered law. While certain Federal and State laws were included in the § 1092.201(c) definition of the term covered law, local laws were not.

Proposed § 1092.201(e)(3) further would have included, as a component of the definition of the term "covered order," a requirement that the order contain public provisions that impose obligations on the covered nonbank to take certain actions or to refrain from taking certain actions. Such obligations may have included, for example, injunctions or other obligations to cease and desist from violations of the law; to pay civil money penalties, refunds, restitution, disgorgement, or other money; to amend certain policies and procedures, including but not limited to instances where the order requires submission of the proposed amendments to policies and procedures for nonobjection; to maintain records or to provide them upon request; or to take or to refrain from taking other actions. An order suspending, conditioning, or revoking a license based on a violation of law would have met this requirement. An order that lacks any public provision imposing such an obligation on the covered nonbank would not have met the requirement in proposed § 1092.201(e)(3). The Bureau explained that an example of the type of orders that might not have satisfied this requirement would be a declaratory judgment order finding that an entity has violated the law, but not imposing any remedial obligations. Other examples, the Bureau explained, might include orders whose only public provisions are releases and general contractual terms frequently contained in consent orders, such as severability and counterpart signature provisions, but only to the extent these provisions

²²⁵ See 12 U.S.C. 5481(6)(A).

²²⁶ See, e.g., *Gelboim v. Bank of Am. Corp.*, 574 U.S. 405, 408–09 (2015) (discussing the meaning of "final decision" under 28 U.S.C. 1291).

²²⁷ 12 U.S.C. 5481(24).

do not impose any other obligations described by proposed § 1092.201(e)(3).

The proposed § 1092.201(e)(3) requirement would have excluded order provisions that are not “public” as that term was defined in proposed § 1092.201(k). For example, obligations imposed by non-public provisions that constitute confidential supervisory information of another agency would not have been considered when determining whether a particular order satisfies this proposed requirement. Proposed § 1092.201(e)(3) would have also excluded orders that lack any public provision imposing an obligation on the covered nonbank to take certain actions or to refrain from taking certain actions. The Bureau explained that, for example, an order that describes unlawful conduct but does not contain any such public provisions imposing obligations described at proposed § 1092.201(e)(3) would not have satisfied this requirement. The Bureau proposed to exclude from the rule’s information-collection requirements nonpublic orders and portions of orders in order to help protect the confidential processes of other agencies, including their supervisory processes. The Bureau was concerned that requiring registration of confidential supervisory information might have interfered with the functions and missions of other agencies and did not believe that requiring such registration was necessary to accomplish the purposes of the proposed rule. The Bureau noted that, to the extent that it has a need to review nonpublic orders or nonpublic portions of orders, the Bureau may seek access to relevant information through inter-agency information sharing that protects applicable privileges and confidentiality. In addition, as discussed in the section-by-section discussion of § 1092.201(m) below, the Bureau believed that publication of nonpublic information, including but not limited to confidential supervisory information of the Bureau or other agencies, would be inappropriate.

Proposed § 1092.201(e)(4) would have also included, as a component of the definition of the term covered order, a requirement that the order impose one or more of the obligations described in proposed § 1092.201(e)(3) on the covered nonbank based on an alleged violation of a covered law. The Bureau explained that, under the proposal, a covered order need not have included an admission of liability or any particular factual predicate. The Bureau anticipated that agency and court orders would vary widely in form and content, depending in part on such matters as the relevant individual laws being

enforced, the historical practices of the various enforcement agencies, and the negotiations and facts and circumstances underlying specific orders. Because of these expected variations in form and content in the orders that the Bureau expected to be registered under the proposal, the Bureau believed that requiring registration only of orders that contain an admission of liability, or a statement setting forth certain types of findings or other factual predicates underlying the order, would omit relevant orders. The Bureau believed that an order that contains neither an admission of liability nor a statement setting forth the factual predicate underlying the order may nevertheless be probative of risks to consumers of the type that the Bureau is obligated to monitor.

The Bureau explained that, for purposes of this proposed definition, an obligation would have been “based on” an alleged violation where the order identifies the covered law in question, asserts or otherwise indicates that the covered nonbank has violated it, and imposes the obligation on the covered nonbank at least in part as a result of the alleged violation.²²⁸ This would have included, for example, obligations imposed as “fencing-in” or injunctive relief, so long as those obligations were imposed at least in part as a result of the entity’s violation of a covered law. This element of the proposed definition would also have been satisfied, for example, by any obligation imposed as part of other legal or equitable relief granted with respect to the violation, as well as by any obligation imposed in order to prevent, remedy, or otherwise address a violation of a covered law, or the conditions resulting from the violation. The Bureau noted, however, that an order that does not identify a covered law as at least one of the legal bases for the obligations it imposes on a covered bank would not satisfy the requirement set forth at proposed § 1092.201(e)(4). The Bureau explained that an order may identify a covered law as a legal basis for the obligations imposed by referencing another document, such as a written opinion, stipulation, or complaint, that shows that a covered law served as the legal basis for the obligations imposed in the order. The Bureau, however, stated that the requirements of proposed

§ 1092.201(e)(4) would not have been satisfied where the legal basis for the obligations imposed is specified only in extrinsic documents not referenced in the order at issue, such as a press release or blog post.

The Bureau explained that the proposed § 1092.201(e)(4) requirement would have included an order issued by an agency exercising any powers conferred on such agency by applicable law to enforce a covered law, so long as the order imposes one or more of the obligations described in proposed § 1092.201(e)(4) on the covered nonbank based on an alleged violation of a covered law. For example, the Bureau noted, certain Federal agencies may issue an order predicated on violation of a Federal consumer financial law under the authority of another enabling enforcement or licensing statute. Among other examples, an appropriate Federal banking agency may issue orders in connection with certain violations of Federal consumer financial law under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), the Administrator of the National Credit Union Administration may issue such orders under the Federal Credit Union Act (12 U.S.C. 1751 *et seq.*), and the Securities and Exchange Commission may issue such orders under the Federal securities laws. The Bureau noted that such an order issued in connection with violations of Federal consumer financial law would satisfy the requirement set forth in proposed § 1092.201(e)(4) in cases where the order imposes the obligations described in proposed § 1092.201(e)(3) on the covered nonbank based on one or more violations of Federal consumer financial law (or another covered law).

The Bureau noted that other agencies also may rely upon their enforcement authorities under other laws in issuing orders in connection with violations of FTC Act section 5 (and rules and orders issued thereunder). For example, an appropriate Federal banking agency may issue orders in connection with violations of FTC Act section 5 by relying on its enforcement authorities under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818). The Bureau explained that such an appropriate Federal banking agency order would have satisfied the requirement set forth in proposed § 1092.201(e)(4) in cases where the order imposed the obligations described in proposed § 1092.201(e)(3) on the covered nonbank based on one or more violations of the prohibition on unfair or deceptive acts or practices under FTC Act section 5 (or a rule or order issued for the purpose of implementing that

²²⁸ The Bureau explained that an obligation imposed based on multiple violations, some of covered laws and some of other laws, would qualify as an “obligation[] . . . based on an alleged violation of a covered law” within the meaning of proposed § 1092.201(e)(4), even if the violations of the non-covered laws would themselves have sufficed to warrant the imposition of the obligation.

prohibition) or another covered law. The order, the Bureau explained, would satisfy the requirement provided in proposed § 1092.201(e)(4) even though the FTC Act does not expressly authorize the Federal banking agencies to enforce FTC Act section 5.

Similarly, the Bureau considered an obligation to be “based on” an alleged violation of a covered law where: (i) a State agency issues an order pursuant to certain State statutes that treat violations of Federal or State laws as violations of the State statute;²²⁹ and (ii) the order (or, as discussed above, an extrinsic document referenced in the order) states that one or more violations of a covered law (e.g., a Federal consumer financial law) served as the legal basis for imposing the obligations under such statute. In such cases, while the majority of these State laws would not themselves have qualified as covered laws under proposed subpart B—and therefore were not captured in appendix A—the underlying law violation would have so qualified. The Bureau believed including such instances was important, as it understood that State agencies sometimes issue orders in connection with violations of Federal consumer financial law relying on their authorities under these State licensing and other statutes that do not themselves satisfy the definition of covered law. Importantly, however, such an order would *not* have met the proposed definition of “covered order” unless the order itself (or, as discussed above, an extrinsic document referenced in the order) stated that a covered law served as the legal basis for the obligations imposed in the order. A State order that relied upon such a statute, but that did not identify a covered law as the legal basis for the obligations imposed thereunder, would not have satisfied the requirement set forth in proposed § 1092.201(e)(4).²³⁰ Nor would an order that imposed obligations solely based on violations of other laws, even laws that are analogous to covered laws but do not themselves qualify as covered laws under proposed subpart B. Section

1092.201(e)(4), the Bureau explained, was intended to capture only orders that impose obligations based upon an agency’s or court’s determination that the applicable covered nonbank has actually violated the covered law itself.

Under proposed § 1092.201(e)(5), the proposal would also have defined “covered order” to mean an order that has an effective date on or later than January 1, 2017. The Bureau believed that limiting the registration requirement to orders with more recent effective dates would provide sufficient information to support Bureau functions. The Bureau explained that many orders issued by Federal, State, and local agencies do not have expiration dates or do not expire until after the passage of many years. While the Bureau believed that many earlier-in-time orders remain highly probative of ongoing risks to consumers and could assist the Bureau in carrying out its market-monitoring obligations—as well as assist the Bureau in assembling an effective nonbank registry—the Bureau preliminarily concluded that considerations of administrative efficiency favored focusing on orders issued within approximately the first several years preceding any final rule. The Bureau sought comment on this proposed approach.

Finally, proposed § 1092.201(e) would have provided that the term “covered order” would not include an order issued to a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, within the meaning of CFPA section 1029(a),²³¹ except to the extent such order is in connection with the functions that are excepted from the application of CFPA section 1029(a) as described in CFPA section 1029(b).²³² This provision would have excluded certain orders issued to motor vehicle dealers that are described in CFPA section 1029(a), and would have incorporated the definitions provided at CFPA section 1029(f).²³³ CFPA section 1029(a) establishes a statutory exclusion from the Bureau’s authority; CFPA section 1029(b) excepts certain functions of motor vehicle dealers from that exclusion.²³⁴ The Bureau noted, therefore, that an order that is issued to a motor vehicle dealer that relates to the functions described in section 1029(a)—that is, the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both—generally

would not have been a “covered order” under the proposed definition. However, if the order related at least in part to a function excepted from the application of CFPA section 1029(a) as described in CFPA section 1029(b), this limitation would not apply, and the order would have qualified as a “covered order.” The functions described in 1029(b) include: “provid[ing] consumers with any services related to residential or commercial mortgages or self-financing transactions involving real property;” “operat[ing] a line of business—(A) that involves the extension of retail credit or retail leases involving motor vehicles; and (B) in which—(i) the extension of retail credit or retail leases are provided directly to consumers; and (ii) the contract governing such extension of retail credit or retail leases is not routinely assigned to an unaffiliated third party finance or leasing source;” and “offer[ing] or provid[ing] a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.”²³⁵

Comments Received

The Bureau specifically sought comment on whether certain types of orders should be categorically excluded from registration.²³⁶ Commenters stated that the registry should not collect or publish information regarding consent orders. Commenters stated that including consent orders would unfairly include orders that do not involve any adjudication of wrongdoing; that such orders often are based on errors or inaccurate or contested allegations, or result from a change in a regulator’s interpretation of the law; and that such orders often contain provisions clearly stating that the entity does not concede or admit liability. Commenters also stated that companies often only settle matters in order not to incur the cost, delay, and uncertainty of litigation, that consent orders often involve matters that might not have been determined to be violations if fully litigated, and that regulators are often uncertain about whether they can prove the violations alleged. Industry commenters stated that consent orders represent only a crude predictor of risk, and including them would provide an inaccurate, inconsistent, or misleading picture of risk to consumers. Industry commenters stated that including consent orders

²²⁹ See, e.g., Wash. Rev. Code sec. 19.146.0201(11).

²³⁰ The Bureau explained that the obligations imposed in an order issued or obtained by a State agency under a State law that incorporates Federal law may be “based on” an alleged violation of Federal consumer financial law under proposed § 1092.201(e)(4), even if the Federal consumer financial law itself does not expressly authorize that State agency to enforce it. The Bureau noted that, so long as the State agency states that the relevant order provisions are based on one or more violations of the Federal consumer financial law, it would be a covered order under the proposed definition.

²³¹ 12 U.S.C. 5519(a).

²³² 12 U.S.C. 5519(b).

²³³ 12 U.S.C. 5519(f).

²³⁴ 12 U.S.C. 5519(a), (b).

²³⁵ 12 U.S.C. 5519(b).

²³⁶ See 88 FR 6088 at 6110.

would penalize companies that have agreed to settle matters instead of litigating them, and that including consent orders would be unfair because it would lead to registering only those businesses who are not able to afford defending themselves from government attacks.

Commenters, including the SBA Office of Advocacy, specifically objected to the Bureau's publication of consent orders, stating that such publication would be unfair because it would have negative reputational consequences and lead to a decrease of business; would prejudice the entities involved; would otherwise provide inaccurate information to the Bureau and to consumers; would lead to higher compliance costs; would likely encourage class action lawsuits and spurious litigation claims; and could result in unintended consequences.

Commenters stated that, in particular, publication of consent orders would deter covered nonbanks from consenting to covered orders in future. Commenters stated that the deleterious effects of being identified on the registry would have a chilling effect on consents and would discourage settlement in future proceedings, including those brought by agencies other than the Bureau, and would induce covered nonbanks to litigate enforcement or civil actions instead of settling. Thus, commenters argued, the registry would prolong litigation, raise costs, and worsen outcomes, and could be disruptive to the State and local oversight process, in particular as regulators might become less likely to bring enforcement actions. Commenters stated that these effects would be especially pronounced for smaller settlements. The joint letter from State regulators stated the imposition of the proposed written-statement requirements, in particular, could frustrate a State regulator's ability to effectively resolve supervisory matters or to finalize enforcement matters. An industry commenter stated that the proposed registry would create a disincentive for entities to self-report violations, for fear of becoming subject to the proposed rule's registration requirements. Commenters stated that because of these effects, the registry would lead to additional harm to consumers. But a consumer advocate commenter stated that the argument that the registry will deter entities from being cooperative or forthcoming is an inappropriate threat not to cooperate that should not be rewarded with lax oversight.

Industry commenters stated that the proposed registry would be unfair because other companies are likely

engaging in conduct similar to the conduct that resulted in a covered order but are not getting caught.

An industry commenter objected to the Bureau's proposal to register orders issued or obtained by the Bureau itself, stating that an additional registry of such orders would be superfluous.

Commenters objected to the Bureau's proposal to register orders issued by State agencies and local agencies, and by State courts, and to impose written-statement requirements in connection with such orders. Commenters stated that the Bureau lacks authority, expertise, and knowledge of relevant circumstances applicable to such orders, and has no legitimate interest in them. An industry commenter indicated that the proposal would give the Bureau enforcement power over other agencies' orders for violations of State and Federal laws that the Bureau has no jurisdiction to enforce. A Tribal commenter stated that including such orders in a public database would interfere with the other government's sovereign decision regarding whether and how to publish its own orders. An industry commenter stated that orders issued by local agencies should not be included because local regulatory and enforcement agencies may be subject to more local, provincial issues, local control, and local political trends, and be less likely to produce orders that are based on broader consumer financial protection issues.

A Tribal commenter stated that the definition of "covered order" should be amended to require that the order be "enforceable" in addition to final and public. The Tribal commenter also stated that the rule should clarify when an order is issued "at least in part" in an action or proceeding brought by an applicable agency.

An industry commenter stated that it was unclear under the proposed definition whether nonpublic NCUA letters of recommendation would be covered.

An industry commenter stated the Bureau should further clarify the definition of "covered order" because State agencies vary in their approaches to enforcing and interpreting orders. The commenter stated that one State agency may consider a final order that involves a corrected issue to be closed, while another State may not.

The Bureau specifically sought comment on the scope of proposed § 1092.201(e)(1), which included a requirement that the covered order identify a covered nonbank by name as a party subject to the order, and whether proposed § 1092.201(e)(1) should also include affiliates, successors and

assigns, or other methods of identifying entities subject to orders, even though they are not expressly named in the order. A consumer advocate commenter stated that the rule should apply to successors and assigns, not just named parties as provided under proposed § 1092.201(e)(1).

Commenters stated generally that the proposed registry was overbroad and too prescriptive. Industry commenters suggested that the Bureau attempt to limit those covered orders that require registration to orders that involve more serious or direct consumer harm, as opposed to those that involve only clerical or administrative errors, or that do not meet a minimum threshold of harm to consumers. Commenters stated that the proposed registry should not lump small orders together with large important orders. Commenters stated that the proposal's approach would result in overreporting of minor infractions that would confuse or mislead the public, overwhelm the nonbank registry, or render the nonbank registry less useful, and would improperly impose reputational harm.

Under proposed § 1092.201(e)(5), the proposal would have defined "covered order" to mean an order that has an effective date on or later than January 1, 2017. A consumer advocate commenter stated that the term "covered order" should include all orders for 10 years prior to the effective date of the final rule. The commenter stated that this change would correspond with proposed § 1092.202(e), which would have provided that a covered order shall cease to be a covered order for purposes of this subpart as of the later of: (1) ten years after its effective date; or (2) if the covered order expressly provides for a termination date more than ten years after its effective date, the expressly provided termination date.

An industry commenter stated that the 2017 date should be moved forward to 2019 or later to better distinguish nonbanks with only a few consent orders, or that have taken appropriate remedial steps related to the order, from actors with a clear record of consistent consumer or other abuse.

Industry commenters stated that the nonbank registry should not apply to prior orders at all, but only to orders issued after the effective date of the rule. An industry commenter stated that the proposal would violate the right to due process, as entities would not have agreed to consent to covered orders if they had been aware of the Bureau's registry. Another commenter stated that the proposal's registration of existing orders contravened legal tradition barring *ex post facto* laws.

Tribal and industry commenters stated that orders should not be considered “final” as provided under proposed § 1092.201(e) until all avenues of appeal have been exhausted.

A joint letter by State regulators stated that the proposal introduced other complexities and confusion for covered entities and consumers due to ambiguities relating to the rule’s registration requirement, and that these ambiguities could not be satisfactorily addressed because most covered orders will not be issued by the Bureau. In particular, the joint comment letter questioned how the same or similar violations across different business lines would be treated, and how the registration requirements would apply if multiple States take unilateral action for a firm’s violation of the same consumer financial law. The comment expressed concern that nonbanks would be unable to understand or comply with the obligations of the rule due to questions about if, when, and how a nonbank might be required to report an order to the Bureau.

An industry commenter stated that the Bureau should clarify that an affiliate of a covered person need not register with respect to a covered order unless it is itself named in the covered order.

The Bureau received a question in interagency consultation regarding whether “assurances of voluntary compliance” would be covered orders.

Response to Comments Received

The Bureau is finalizing the definition of “covered order” to include an otherwise covered order whether or not issued upon consent. Accordingly, “covered orders” may be issued upon consent or settlement. The Bureau is adopting this approach for several reasons. First, under § 1092.201(e)(1)(iv), the final rule will only apply to orders in which an agency or court has imposed applicable obligations on the covered nonbank based on an alleged violation of a covered law. Where a court or agency makes a decision to issue an order based on one or more violations of a covered law, such an order is clearly relevant to and probative of risk to consumers (including risks related to developments in markets for consumer financial products and services), whether or not the entity agrees with the issuing agency or court’s determination. The Bureau acknowledges that certain covered nonbanks may from time to time believe a court or agency has erred in issuing or obtaining a covered order against them, even in cases where the entity has consented to the imposition of the

order. For example, the entity may believe that the order is based on inaccurate or contested allegations of fact or law, or that it resulted from an improper change in a regulator’s interpretation of the law. The Bureau concludes that a covered order is likely probative of risk to consumers even in such cases. In most cases, the fact that an agency has devoted its limited resources to an action to enforce a covered law, and a covered nonbank has agreed to take on obligations based on the alleged violation rather than litigate the issue, indicates a heightened likelihood that the covered nonbank may present risks to consumers that may warrant the Bureau’s attention, even if the covered nonbank believes that it had arguments for why it was not liable. Excluding consent orders or orders that do not contain an admission of liability from the rule would unduly restrict the information that would be collected regarding many orders that are highly probative of risk to consumers, such as orders based upon clearly established and significant violations of covered laws, and would limit the rule’s usefulness. Collecting information about consent orders also will assist the Bureau in identifying and evaluating patterns of risks associated with orders across companies, industries, products, and regions. For example, in conducting its assessments of consumer risk, the Bureau will often find it useful to know whether a covered nonbank, or type of nonbank, has (or has not) become subject to multiple orders across a period of time, or from multiple agencies, or based on violations of multiple covered laws, or across product lines, or in particular geographic regions, even where such orders were entered into upon consent. Thus, it is appropriate to collect information about such orders and the entities subject to such orders, and to publish such information as provided under § 1092.205.

Second, the Bureau’s collection of information regarding consent orders, and its potential republication of those consent orders, does not imply any admission of fault or additional liability by the applicable covered nonbank. The Bureau acknowledges that many consent orders do not contain admissions of wrongdoing, and that entities may consent to the imposition of such orders while disagreeing with the findings of the agency or court. Such orders may contain provisions clearly stating that the entity does not concede or admit liability. However, the final rule is intended to provide the Bureau with the ability to monitor relevant

orders and to inform relevant nonbank registry users and the public about them. As stated in the notice of proposed rulemaking,²³⁷ the Bureau believes that requiring registration only of orders that contain an admission of liability, or a statement setting forth certain types of findings or other factual predicates underlying the order, would omit relevant orders. The Bureau believes that an order that contains neither an admission of liability nor a statement setting forth the factual predicate underlying the order may nevertheless be probative of risks to consumers of the type that the Bureau is obligated to monitor. Just as entities may consent to an order in order not to incur the cost, delay, and uncertainty of litigation, so to a Federal agency, State agency, or local agency may accept an entity’s consent to an order without requiring an admission of liability, for similar reasons. Therefore, the final rule includes as “covered orders” consent orders as well as orders obtained after a contested or litigated hearing, lawsuit, or other process. As discussed in the description of the proposal above, for purposes of this definition, an obligation is “based on” an alleged violation where the order identifies the covered law in question, asserts or otherwise indicates that the covered nonbank has violated it, and imposes the obligation on the covered nonbank at least in part as a result of the alleged violation, even where the order contains provisions clearly stating that the entity does not concede or admit liability. But the Bureau’s collection and potential publication of information about a consent order does not somehow imply that the covered nonbank admits liability with respect to the order. Nor does the final rule otherwise affect the entity’s obligations under the order or any other liability that may result from the matters addressed by the order.

Third, the Bureau concludes that its potential publication of information related to consent orders as described at § 1092.205 will not impose unfair costs on consenting entities. As discussed in part VIII, the final rule will not make public any non-public orders, limiting the likely costs on covered nonbanks of publishing consent orders. Nor will the Bureau’s potential publication of information relating to consent orders as described at § 1092.205 provide inaccurate, inconsistent, or misleading information to consumers, as the Bureau will simply be collecting and presenting factual information regarding such orders that are already published (or required to be published) elsewhere. For

²³⁷ 88 FR 6088 at 6111.

further discussion of publication, see the section-by-section discussion of § 1092.205 below.

Fourth, the Bureau disagrees with the assertions by commenters that the potential deleterious effects of being listed on the registry will materially deter entities from agreeing to consent orders or otherwise impair the ability of other agencies to administer and enforce the laws subject to their jurisdiction. Covered orders are already public. The Bureau expects that the disincentive effect of the additional visibility for these orders via the nonbank registry would be minimal and would be outweighed by benefits of the registry. Likewise, the Bureau does not believe that the additional burden associated with either the information-collection or the written-statement requirements of the final rule is so great as to deter a covered nonbank from self-reporting, or from entering into a consent agreement or stipulation that would otherwise be in its best interests.

Covered orders are probative of risk to consumers (including risks related to developments in markets for consumer financial products and services), even if it may be true that not all violations of covered laws result in covered orders. The Bureau still has an interest in collecting and publishing information regarding such covered orders, and in imposing the other requirements of the rule in connection with such orders, even if there are other violations of covered laws occurring that the nonbank registry does not detect.

The Bureau is finalizing the definition of the term “covered order” to include orders issued or obtained by the Bureau itself. The Bureau believes the final rule’s requirements will provide additional useful information in connection with such orders. The identifying information submitted by covered nonbanks, and the final rule’s obligation to update that information in the event of changes, could provide new and useful information to the Bureau and the registry. For example, a company that moves or changes its name will be required to update the registry. Also, § 1092.204’s written-statement requirements will provide new information on an annual basis about the Bureau’s orders and the applicable supervised registered entity’s compliance with them, including the name and title of the supervised registered entity’s attesting executive. In addition, including orders issued or obtained by the Bureau will contribute to the registry’s comprehensiveness, which in turn will make the registry a more useful resource for the Bureau and others in conducting research regarding

general trends in the enforcement of consumer financial protection laws.²³⁸

Final § 1092.201(e) includes orders issued or obtained by State or local agencies. As also discussed in the section-by-section discussion of § 1092.201(c) above, the final rule will not provide the Bureau with enforcement power over other agencies’ orders or with authority with respect to violations of Federal and State laws that the Bureau lacks jurisdiction to enforce. The Bureau defers to other agencies’ and courts’ interpretations of the orders they have issued or obtained under their own authority against persons subject to their jurisdiction, and to those agencies’ and courts’ decisions about whether and how to enforce such orders. The Bureau has not and does not assert that it may enforce all covered orders or covered laws, nor is the final rule a mechanism for it to do so. (To be sure, the definition of “covered order” does encompass certain orders that the Bureau may enforce, such as its own orders issued under Federal consumer financial law or the other laws described in § 1092.201(c)(2). But the final rule does not affect the Bureau’s authority to do so.)²³⁹

Instead, the purposes of the final rule are as described herein, including to inform the Bureau regarding risks related to covered orders issued or obtained by State agencies and local agencies.²⁴⁰ The Bureau has a legitimate interest in learning about such orders and the entities that are subject to them. Collecting and registering such orders will assist with monitoring for risks to consumers in the offering or provision of consumer financial products and services. The Bureau concludes that the information that will be provided via the nonbank registry regarding orders issued or obtained by State agencies and local agencies will inform the Bureau’s functions even though the Bureau may lack jurisdiction to enforce the order and may not be involved in the issuance or implementation of the order. For the reasons described in part IV, covered orders are nevertheless probative of risk to consumers (including risks related to developments in markets for consumer

financial products and services) that is of concern to the Bureau, and the Bureau has a legitimate interest in becoming informed regarding such orders even where they have been issued or obtained by State or local agencies (as opposed to Federal agencies). And the identifying information submitted to the nonbank registry will help the Bureau identify and monitor the covered nonbanks that are subject to such orders, which will also inform the Bureau’s functions.

Nothing in the CFPA confines the risks to consumers that must be monitored by the Bureau to risks related solely to the Federal Government, or solely to orders issued or obtained by Federal agencies. To the contrary, the Bureau is tasked with monitoring a wide range of sources to inform its assessments of risks to consumers, specifically including matters within the jurisdiction of State agencies and local agencies. For example, as discussed in part IV(B), CFPA section 1024(b)(2)(D) provides that the Bureau, in making risk-based supervisory prioritization determinations, shall take into account “the extent to which . . . institutions are subject to oversight by State authorities for consumer protection.”²⁴¹ The existence of one or more orders issued or obtained by the types of State agencies described in the final rule in connection with violations of covered law would provide important and directly relevant information regarding the extent to which nonbanks are subject to oversight by State authorities for consumer protection.²⁴² Likewise, in allocating its resources to perform market monitoring, the Bureau may consider “the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers.”²⁴³ As the types of “legal

²⁴¹ 12 U.S.C. 5514(b)(2)(D).

²⁴² In addition, as discussed in part IV(B), the Bureau concludes that the existence of an order issued or obtained by a State agency or a local agency requiring registration under the final rule would be probative of risks to consumers as described in 12 U.S.C. 5514(b)(2)(C) (referring to “the risks to consumers created by the provision of such consumer financial products or services”), and determines that the existence of such an order is a relevant factor for the class of covered persons subject to the final rule under 12 U.S.C. 5514(b)(2)(E) (providing that the Bureau shall also take into account “any other factors that the Bureau determines to be relevant to a class of covered persons”). Thus, knowledge of such orders issued or obtained by State agencies or local agencies will be relevant information in prioritizing and scoping the Bureau’s supervisory activities under CFPA section 1024(b) with respect to the covered persons subject to that provision.

²⁴³ 12 U.S.C. 5512(c)(2)(C).

²³⁸ See also the section-by-section discussion of § 1092.201(k) below regarding the exclusion of orders issued or obtained by the Bureau from the final rule’s definition of the term “NMLS-published covered order.”

²³⁹ Excluding orders issued or obtained by State agencies from the definition of “covered order” would also improperly exclude orders issued or obtained by State attorneys general and State regulators under 12 U.S.C. 5552.

²⁴⁰ For discussion of the purposes of the final rule’s written-statement requirements, see part IV(D) and the section-by-section discussion of § 1092.204 below.

protections” to be considered by the Bureau are not restricted solely to protections related to Federal agencies, the Bureau concludes that it may consider the information that will be obtained under the final rule regarding covered orders issued or obtained by State agencies or local agencies under this provision. Another provision, CFPB section 1024(b)(3), requires coordination with State supervisory authorities with respect to nonbanks supervised by the Bureau.²⁴⁴ The final rule will enhance the Bureau’s ability to stay informed and up to date regarding recent covered orders issued or obtained by State agencies and local agencies against covered nonbanks that are subject to its jurisdiction, and thus will facilitate coordination with relevant State authorities.

For similar reasons, the Bureau concludes that it is appropriate to impose the final rule’s written-statement requirements in connection with covered orders issued or obtained by State agencies and local agencies against supervised registered entities. The Bureau disagrees with commenters’ assertions that the Bureau lacks authority to impose these requirements with respect to such State agency and local agency orders or that such imposition is otherwise inappropriate. As discussed above, such orders are probative of the risks to consumers that the Bureau is tasked with detecting and assessing as part of its supervisory work. Violations of such orders may be probative of heightened risks for consumers and borrowers that are relevant to the Bureau’s exercise of its supervisory authority; thus, for the reasons discussed in part IV(D) above and the section-by-section discussion of § 1092.204 below, the written-statement requirements will facilitate the Bureau’s supervision of supervised registered entities subject to such orders. The information collected under § 1092.204 regarding risks to consumers that may be associated with the orders, including potential violations of CFPB sections 1031 and 1036, and the applicable supervised registered entity’s compliance systems and procedures will be relevant to the Bureau’s supervisory authority even where those risks are associated with State agency and local agency orders. For the reasons discussed in part IV(D) and the section-by-section discussion of § 1092.204, imposing § 1092.204’s requirements with respect to orders issued or obtained by State or local agencies also will help ensure that the supervised registered entities subject to such orders

are legitimate entities and are able to perform their obligations to consumers. Contrary to commenters’ suggestions, the Bureau is not adopting the written-statement requirements to administer or enforce orders issued or obtained by State or local agencies, but rather to further its statutory purposes under CFPB section 1024(b)(7)(A)–(C) with respect to risks to consumers that are relevant under Federal law, that are associated with entities that are subject to the Bureau’s supervisory and examination authority under CFPB section 1024(a), and that arise in connection with the offering or provision of consumer financial products and services subject to the Bureau’s jurisdiction.

In the proposal, the Bureau described a number of types of orders that would and would not be considered “final” orders under the proposal. The Bureau finalizes these descriptions, which are recounted in the summary of the proposed rule above. The Bureau’s discussion of examples of non-final orders, however, was not intended to be exhaustive. Other orders that are not final orders are also excluded from § 1092.201(e)’s definition of the term “covered order.”

The Bureau is finalizing § 1092.201(e) to include orders issued or obtained by local agencies. Even if, as a commenter suggests, such agencies are less likely than are other agencies to issue or obtain relevant consumer protection orders,²⁴⁵ information about such covered orders as they do issue will be relevant and informative to the Bureau. As stated in the description of the proposal above, some local agencies have authority to enforce State consumer protection laws, and the Bureau believes it is important to include orders issued or obtained by such local agencies in the definition.

Also, as discussed in part IV(B), it is important for the Bureau to collect information about such public orders across markets and agencies as provided in the final rule, which will improve the Bureau’s efforts to determine where entities, either as a group or individually, are repeatedly violating the law. The registry will provide a valuable mechanism to help ensure that the Bureau is rapidly made aware of such repeat offenders across a range of markets and enforcement agencies, including State agencies and local agencies. Confining the orders collected

to those issued or obtained only by Federal agencies would unnecessarily limit the information that is provided to the Bureau and provide the Bureau with only a partial view of such risks.

With respect to publication, final § 1092.201(e) requires that a “covered order” be “public” as defined at § 1092.201(m). Thus, the covered orders issued or obtained by a State agency or local agency that may be published by the nonbank registry under § 1092.205 will have already been published, or are required to be published under governing laws, rules, or orders. As a result, the registry will not interfere with but rather reflect the decisions of State or local agencies in that regard.

The Bureau is finalizing the definition of “covered order” without a requirement that the order be “enforceable.” Such a requirement would lead to confusion and imprecision as to the final rule’s submission requirements, as it will not always be clear whether any particular covered order is “enforceable.” The Bureau does not wish to invite arguments from covered nonbanks as to whether any particular covered order is or is not actually “enforceable.” For example, an entity may consent to the imposition of an order while privately believing that the order may not properly be enforced against it under the correct understanding of the law. The Bureau concludes that the nonbank registry should collect and potentially publish information about such orders and that they should not be excepted from the final rule’s definition of “covered order.” Moreover, as discussed in the section-by-section discussion of § 1092.202(f) below, a covered nonbank must submit a final filing to the nonbank registry if a covered order is terminated, modified, or abrogated (whether by its own terms, by action of the applicable agency, or by a court). Amending the definition of “covered order” to require that the order be “enforceable” would reduce the information provided by these final filings, at least under certain circumstances. For example, where a covered nonbank has registered a covered order with the nonbank registry and the order is subsequently terminated, modified, or abrogated by action of the applicable agency or court, the order would at least theoretically no longer satisfy the “enforceability” requirement and would therefore no longer qualify as a “covered order.” Thus, the covered nonbank would not be required to submit the final filing required by § 1092.202(f), which is a valuable mechanism to clarify the current status of covered orders to the

²⁴⁵ The Bureau does not express an opinion on this question. The Bureau intends to use the information it obtains through the final rule to better understand the quantity and content of covered orders and the types of agencies that issue them.

²⁴⁴ 12 U.S.C. 5514(b)(3).

Bureau and other users of the nonbank registry.

Section 1092.201(e)(1)(ii) includes, as a component of the definition of the term “covered order,” a requirement that the order have been issued at least in part in any action or proceeding brought by any Federal agency, State agency, or local agency. By requiring that the order be issued “at least in part” in such an action or proceeding, the Bureau will require registration of orders that may include certain elements that are not directly related to the action or proceeding brought by the agency. For example, an order may impose obligations on a covered nonbank in a lawsuit brought by both an agency and a set of private plaintiffs. So long as the agency brought the action or proceeding, and the order was issued at least in part in that action or proceeding, this component of the definition would be satisfied with respect to the entire order.

The commenter’s question about nonpublic NCUA letters of recommendation appears to refer to a type of confidential NCUA supervisory communication. First, “insured credit unions” as that term is defined at § 1092.101(a) are not covered nonbanks and thus are not subject to any of the requirements of the rule. Second, only “public” orders, as the term “public” is defined at § 1092.201(k), are covered orders. To the extent an entity receives a confidential letter or other communication from the NCUA that is not “public” as defined, the communication would not be a covered order. This would include any order (or portion of any order) that constitutes confidential supervisory information of any Federal or State regulator.

One industry commenter stated the definition of “covered order” should be clarified because State agencies vary in their approaches to enforcing and interpreting orders. While the Bureau does not necessarily disagree with the latter statement, the Bureau does not believe these differences among State agencies require modification of the definition. The Bureau does not believe, and does not intend by finalizing the rule to suggest, that all covered orders are somehow equivalent. The Bureau has considered the types of orders that it believes are probative of risk to consumers and require registration. The final rule contains a number of elements, each of which must be satisfied in order to cause an order to require registration. An order that satisfies the definition of the term “covered order” is subject to the final rule’s requirements with respect to such orders, to the extent they apply. It is not

clear how any differences among State interpretations or approaches would be relevant to determining whether an entity must comply with the rule’s requirements. Nor does the Bureau believe that any such differences would render publication of such orders or the other registration information required by the rule to be misleading or inappropriate. Differences among State treatment of when orders are resolved or closed should not affect filing obligations under the final rule. Under § 1092.202(f)(1), if a covered order is terminated, modified, or abrogated (whether by its own terms, by action of the applicable agency, or by a court), the applicable covered nonbank should submit a final filing under that section. The covered nonbank should not submit such a final filing based solely on a State supervisory or other communication that does not result in the termination, modification, or abrogation of the order. Finally, where an entity believes in good faith it is not subject to a covered order, but is not certain the Bureau would agree with its interpretation, it may file a good faith notification under § 1092.202(g).

The Bureau is finalizing § 1092.201(e)(1) (renumbered as § 1092.201(e)(1)(i)) without revisions that would have the effect of requiring successors or assigns who are not named as parties in an order to continue satisfying the rule’s requirements with respect to that order. The Bureau finalizes its preliminary conclusion in the proposal²⁴⁶ that the approach described in the proposed rule will effectively achieve the Bureau’s market-monitoring objectives with greater administrative ease. The Bureau is concerned that in many cases the application of covered orders to successors and assigns may be unclear, and that registration of new entities that are not expressly named in the order may cause confusion for the Bureau and other users. Also, the Bureau anticipates that, at least in some cases, the issuing agency or court will modify its order to ensure that a successor or assignee entity will remain subject to the order, and that the new entity would then be required to register under § 1092.202. However, the Bureau notes that while a new successor or assignee entity would not be subject to the rule’s requirements with respect to an order that did not expressly identify it by name as a party subject to the order, the Bureau does not intend to exclude entities that simply change their legal name or doing-business-as name following the issuance

of the order, so long as the same legal entity remains subject to the order.²⁴⁷

The Bureau is finalizing § 1092.201(e) without narrowing the definition to encompass only orders that involve direct consumer harm, as opposed to those that involve only clerical or administrative errors. The Bureau also declines to adopt any specific minimum quantitative or other thresholds for consumer harm with respect to the covered orders that require registration under the final rule. While the Bureau agrees that not every covered order will represent an equivalent amount of risk, the Bureau is finalizing the rule in a manner designed to capture relevant risks. As explained above, when an agency issues an order, or seeks a court order, enforcing the law, it typically has determined that the problems at the applicable entity are sufficiently serious to merit the expenditure of that agency’s limited resources and perhaps the attention of the courts. Further, in the Bureau’s experience, the existence of an order identifying a legal violation is often probative of broader potential inadequacies in an entity’s compliance systems, even if the violation addressed in the order might be described as “clerical,” “administrative,” or otherwise technical in nature. The Bureau thus concludes that covered orders as defined at § 1092.201(e) are likely to be probative of relevant risk to consumers. The final rule establishes multiple criteria for an order to be a “covered order” that is subject to the rule’s requirements. The Bureau believes these criteria are sufficient to identify and distinguish certain kinds of orders that are likely to be probative of risk to consumers and that the Bureau has the authority to monitor. The Bureau declines to adopt additional criteria that would further narrow this definition.

In addition, the Bureau is concerned that adopting the types of distinctions commenters propose would not be administrable. It is not clear what would constitute a violation of law that only amounted to a “clerical” or “administrative” error, as opposed to a more “serious” violation of a covered law. The Bureau believes that the final rule appropriately describes and encapsulates orders that are likely to be probative of risk to consumers without adding a carveout for “clerical” or “administrative” violations. Thus, the collection and publication of information about such orders, even ones that address matters that could appear to some audiences as

²⁴⁶ 88 FR 6088 at 6117.

²⁴⁷ See also the section-by-section discussion of § 1092.202(b) below.

comparatively “minor,” will serve the purposes of the final rule described in part IV above. Providing for a minimum threshold would also add undue complexity to the final rule, depending upon the criteria that might be adopted, and could make compliance more difficult or burdensome. For example, if the Bureau were to impose registration only with respect to orders where a minimum dollar threshold of consumer harm or number of consumers affected was related to the order, it is not clear that such dollar amounts or numbers would be calculated in all cases. Even where such an amount might be determined, the full extent of related consumer harm might not be known for some time after the issuance of the order, or might be confidential supervisory information or otherwise confidential (and the Bureau does not intend to reveal such confidential information to the public via the nonbank registry). The Bureau declines to introduce such complexities into the final rule. While such questions might be reasonably answerable with respect to certain types of orders, and many individual orders may be structured to permit calculation and public disclosure of such threshold amounts, the Bureau intends the requirements of the final rule to be sufficiently flexible to collect information regarding a wide range of agency and court orders that may provide evidence regarding risk to consumers. The Bureau also declines to impose materiality requirements as to the type of violations that must be declared in written statements submitted under § 1092.204; see the section-by-section discussion of this section below for additional discussion of these issues.

Publication of information collected by the registry as intended by the Bureau will enable users of the registry to access relevant and accurate information about covered orders, including the violations that may be associated with such orders, and will not cause but rather help prevent confusion and the distribution of misleading information. See the section-by-section discussion of § 1092.205 below for additional discussion of related issues involving the potential publication of registry information.

The Bureau finalizes § 1091.201(e)(5) (renumbered as § 1091.201(e)(1)(v)) as proposed. For the reasons stated in the proposal, the Bureau believes that registering orders with an effective date on or after January 1, 2017, is likely to lead to collecting useful information and otherwise will best serve the purposes of the final rule described in part IV above. The Bureau declines at

this time to amend the definition of covered order to include orders with an effective date prior to January 1, 2017. While, as discussed in the proposal, the Bureau believes earlier orders are highly probative of consumer risk, the Bureau finalizes its preliminary conclusion in the proposal²⁴⁸ that considerations of administrative efficiency favor focusing on orders issued within approximately the first several years preceding the final rule.

The Bureau also declines to finalize a later date for this provision. This approach would lead to the omission of covered orders that are recent enough to be relevant to risk to consumers, and would impair the ability of the Bureau and others to identify trends and patterns in the information collected. The Bureau acknowledges that in the intervening time following the issuance of a covered order and before registration, it is possible that many entities will have taken steps to address the violations and other issues identified in the covered order. The Bureau encourages covered nonbanks to take the steps necessary to protect consumers and comply with covered orders and other laws. Nevertheless, the Bureau concludes that registration of such orders will serve the purposes of the final rule described in part IV above. Information regarding the existence of past covered orders will inform the Bureau regarding risk to consumers posed by the applicable covered nonbank. The issuance of a covered order, and the information that will be collected under the final rule about the covered nonbank and the order, such as the violations of covered law and related obligations identified in such an order, are not rendered irrelevant for the purposes of the final rule simply because a covered nonbank has taken steps to address the underlying violations or issues. In some cases, the existence of a past covered order might prompt the Bureau to seek additional information, from the covered nonbank itself or other sources, to assess whether the remedial steps taken by the covered nonbank have been successful. In other cases, the Bureau might include the past covered order in a more general research project aimed at assessing trends in orders enforcing the law over time. See the section-by-section discussion of § 1092.205 below for additional discussion of related issues involving the potential publication of registry information.

The Bureau disagrees with commenters’ suggestions that the registry would impose an unlawfully

retroactive effect or is incompatible with constitutional principles relating to *ex post facto* laws. The mere fact that the Bureau is requiring registration based on previously issued public orders does not render that requirement impermissibly retroactive.²⁴⁹ “[T]he judgment whether a particular [law] acts retroactively should be informed and guided by familiar considerations of fair notice, reasonable reliance, and settled expectations.”²⁵⁰ Taking into account those considerations, the registration and publication provisions of §§ 1092.202, 1092.203, and 1092.205 do not operate in an impermissibly retroactive manner. The Bureau is requiring covered nonbanks prospectively to register information with the Bureau. Going forward, the Bureau plans to use that information as a source of market intelligence to use in identifying areas of greater—or reduced—risk to consumers, to inform the allocation of the Bureau’s own resources, and to better understand the entities’ compliance management systems and processes. Further, § 1092.202 merely requires covered nonbanks to report covered orders that are already published (or required by law, rule, or order to be published). Requiring covered nonbanks to submit to the Bureau information about such public orders imposes little meaningful burden, and thus does not present significant concerns regarding fair notice or upsetting reasonable reliance or settled expectations. Nor would any publication by the Bureau of registration information as provided at § 1092.205 impose a meaningful additional burden on entities, given that registered orders would already be a matter of public record. It is therefore highly unlikely that covered nonbanks would have made different decisions with respect to past enforcement actions—e.g., whether to settle or vigorously litigate such actions—had they known that the enforcement actions could one day subject them to such a low-burden registration requirement. As a result, the imposition of the registration requirement does not have impermissible retroactive effect.²⁵¹

²⁴⁹ See *Landgraf v. USI Film Prods.*, 511 U.S. 244, 269 n.24 (1994) (“[A] statute ‘is not made retroactive merely because it draws upon antecedent facts for its operation.’” (quoting *Cox v. Hart*, 260 U.S. 427, 435 (1922))).

²⁵⁰ *INS v. St. Cyr*, 533 U.S. 289, 321 (2001) (citation omitted).

²⁵¹ Commenters do not appear to argue that § 1092.204’s written statement requirements would have impermissible retroactive effect. Nor could they. As discussed in the section-by-section discussion of § 1092.204 below, that section’s written statement requirements apply only to covered orders with an effective date after the

Nor does the Bureau believe the U.S. Constitution's prohibition on *ex post facto* laws would apply to the rule, which is adopted under the Bureau's civil rulemaking authorities in the CFPB. Under longstanding precedent, civil laws generally are not within the protective reach of the Ex Post Facto Clause.²⁵²

For the reasons discussed in the proposal, the final rule includes orders that are final by their own terms or under applicable law, even where Federal, State, or local law allows for the appeal of such orders. The Bureau declines to exempt a broader category of orders as to which Federal, State, or local law allows for an appeal. Section 1092.201(f) states, "If the issuing agency or a court stays or otherwise suspends the effectiveness of the covered order, the effective date [of the covered order] shall be delayed until such time as the stay or suspension of effectiveness is lifted." The requirements set forth in § 1092.202(b)(2) with respect to any applicable covered order are tied to the order's effective date as defined. Thus, § 1092.202 already adequately addresses situations where a reviewing agency or court has issued a stay or has otherwise suspended the effectiveness of a covered order. In such cases, the covered nonbank will not be required to register the covered order until 90 days after its new effective date. In contrast, the Bureau believes that a covered order that has not been stayed by the issuing agency or a court, and has been allowed to come into effect, is likely to be probative of risk to consumers, even if

applicable nonbank registry implementation date (and thus after the final rule's effective date as well). While some covered orders with an effective date after the applicable nonbank registry implementation date might relate to violations of covered laws committed before the final rule's effective date, the Bureau does not believe that the prospect of becoming subject to the written-statement requirements would have had a significant marginal impact on a supervised registered entity's decision whether to engage in conduct that risked violating covered laws, given the negative consequences already associated with committing such legal violations.

²⁵² See, e.g., *Smith v. Doe*, 538 U.S. 84, 92 (2003); *Calder v. Bull*, 3 U.S. (3 Dall.) 386, 391 (1798); see also U.S. CONST. art. I, sec. 9, cl. 3 (prohibiting Congress from enacting *ex post facto* laws). While the Bureau believes that the final rule neither is unlawfully retroactive nor violates the Ex Post Facto Clause, if a court were to conclude that the Bureau cannot apply the rule's registration requirements to previously issued covered orders "that remain in effect as of the effective date" of subpart B, as § 1092.202(a) provides, the Bureau intends for that language in § 1092.202(a) to be severable under § 1092.103. Under the remaining language of § 1092.202(a), the rule's registration requirements would apply after severance "only with respect to covered orders with an effective date on or after the effective date" of subpart B.

avenues of appeal remain available.²⁵³ For that reason, the Bureau has determined not to exempt such orders from the rule's requirements. A covered nonbank should register such an order within 90 days of its effective date as required by § 1092.202(b)(2)(i). Should the covered order be terminated, modified, or abrogated, including by a reviewing court's decision that renders the order ineffective or void, the covered nonbank should submit a final filing under § 1092.202(f)(1), after which it would have no further obligation to update its registration information. The Bureau is also finalizing a revision to § 1092.204(a) to clarify that a supervised registered nonbank is not required to comply with § 1092.204's written-statement requirements in cases where the applicable covered order has not been registered under § 1092.202 due to a stay or other agency or court action.²⁵⁴

The Bureau does not share the concern expressed in the joint letter from State regulators that covered nonbanks will be unable to understand or comply with the final rule. With respect to the comment that ambiguities in the rule's registration requirements could not be satisfactorily addressed because most covered orders will not be issued by the Bureau, the Bureau agrees that covered nonbanks will need to apply § 1092.201(e)'s definition of "covered order" in connection with a wide range of orders, many of which will not be drafted by the Bureau. However, the Bureau believes that, in the vast majority of cases, entities subject to the final rule will be able to clearly discern whether they must comply with the registration and written-statement requirements in connection with any particular order, and that such registration will serve the purposes of the rule as stated. Moreover, in the event a covered nonbank has concerns that any particular order may be deemed a covered order notwithstanding its good-faith belief to the contrary, it may file one or more good-faith notifications under § 1092.202(g) or § 1092.204(f) with respect to that order.

²⁵³ The Bureau's determination on this issue accords with the general principle that an unstayed judgment can be enforced even while an appeal is pending. See, e.g., *Acevedo-Garcia v. Vera-Monroig*, 368 F.3d 49, 58 (1st Cir. 2004) ("The federal rules contemplate that, absent a stay, a victorious plaintiff may execute on the judgment even while an appeal of that judgment is pending."); 16A Catherine T. Struve, *Federal Practice and Procedure* § 3949.1 (5th ed. 2023) ("Unless the judgment is stayed, the district court may (pending appeal) act to enforce the judgment . . .").

²⁵⁴ See the section-by-section discussion of § 1092.204(a) below.

Regarding the comments in the joint letter questioning how the same or similar violations across different business lines would be treated as well as how the registration requirements would apply if multiple States take unilateral action for a firm's violation of the same consumer financial law, a covered nonbank must satisfy the rule's requirements with respect to all applicable covered orders that satisfy § 1092.201(e)'s definition. For a discussion of the final rule's treatment of multiple orders, see the section-by-section discussion of § 1092.201(l) below.

If the public portions of an order do not "identify [the applicable] covered nonbank by name as a party subject to the order" as provided at § 1092.201(e)(1)(i), then the order is not a covered order with respect to that covered nonbank. Thus, under the final rule, an affiliate of a covered person need not register with respect to a covered order unless it is itself named as a party in the public portions of the covered order. As discussed in the proposal,²⁵⁵ orders that indirectly refer to a covered nonbank as an "affiliate" of a named party, but do not name the covered nonbank as itself a party subject to the order, would not be covered orders under final § 1092.201(e) with respect to the covered nonbank. While § 1092.202(c) provides that the Bureau's filing instructions may require joint or combined submissions to the nonbank registry by covered nonbanks that are affiliates as defined in § 1092.101(a), the final rule will not require an affiliate to submit information to the nonbank registry under this provision in connection with a covered order unless public portions of the order identify the affiliate by name as a party subject to the order.

Under § 1092.201(e), the term "covered order" may include legally enforceable written agreements under sections 8 and 50 of the Federal Deposit Insurance Act²⁵⁶ or any State counterparts, as well as assurances of discontinuances embodied in orders or judgments issued by agencies or courts. Likewise, an "assurance of voluntary compliance" (AVC) accepted by a State agency under State law may qualify as a "covered order" where it satisfies all of the criteria established under § 1092.201(e), including that the AVC contains public provisions that impose obligations on the covered nonbank to take certain actions or to refrain from taking certain actions, and imposes such obligations on the covered nonbank

²⁵⁵ 88 FR 6088 at 6110.

²⁵⁶ 12 U.S.C. 1818, 1831aa.

based on an alleged violation of a covered law. As with other orders, an AVC is not excepted from the definition of “covered order” solely because it contains neither an admission of liability nor a statement setting forth the factual predicate underlying the order. A State agency’s acceptance of a legally enforceable AVC, as with an agency’s acceptance of a legally enforceable written agreement, would generally occur in an “action or proceeding brought by any Federal agency, State agency, or local agency” for purposes of § 1092.201(e)(1)(ii).

Final Rule

For the reasons discussed above, the Bureau is finalizing § 1092.201(e) as proposed, with minor technical edits. The Bureau finalizes its preliminary conclusion in the proposal that these categories of public orders would assist with monitoring for risks to consumers in the offering or provision of consumer financial products and services.

Section 1092.201(f) Effective Date

Proposed Rule

The proposal would have defined the term “effective date” to mean, in connection with a covered order, the effective date as identified in the covered order; however, if no other effective date is specified, then the date on which the covered order was issued would have been treated as the effective date for purposes of subpart B of the proposal. The Bureau anticipated that the effective date for many covered orders would be evident from the face of the order, and in nearly all cases should be relatively easy to identify.

Proposed § 1092.201(f) would also have provided that if the issuing agency or a court stays or otherwise suspends the effectiveness of the covered order, the effective date shall be delayed until such time as the stay or suspension of effectiveness is lifted. Thus, the registration obligations under proposed subpart B would also have been delayed accordingly. The Bureau anticipated that such situations would be rare and sought comment on whether this proposal would adequately address them.

Comments Received and Final Rule

The Bureau did not receive any comments specifically regarding proposed § 1092.201(f)’s definition of the term “effective date.” See the section-by-section discussion of § 1092.201(e) above for a discussion of comments addressing which orders should be included in the term “covered orders.” For the reasons set forth in the description of the proposed rule above,

the Bureau is finalizing § 1092.201(f) as proposed.

Section 1092.201(g) Identifying Information

Proposed Rule

Proposed § 1092.201(g) would have defined the term “identifying information.” This term would have described the scope of identifying information a covered nonbank may be required to submit pursuant to proposed § 1092.202(c). Proposed § 1092.201(g) would have limited this information to information that is already available to the covered nonbank, and which uniquely identifies the covered nonbank. As described in proposed § 1092.201(g), this information would have included, to the extent already available to the covered nonbank, legal name, State of incorporation or organization, principal place of business address, and any unique identifiers issued by a government agency or standards organization. The Bureau explained that examples of the latter identifiers that entities might have been required to provide under proposed § 1092.202(c) would include an NMLS identifier, a Home Mortgage Disclosure Act (HMDA) Reporter’s Identification Number, the Legal Entity Identifier (LEI) issued by a utility endorsed by the LEI Regulatory Oversight Committee or endorsed or otherwise governed by the Global LEI Foundation (GLEIF, or any successor of the GLEIF),²⁵⁷ and a Federal Tax Identification number.

The Bureau believed that this information would help it to identify covered nonbanks with specificity, including ensuring that the Bureau can identify covered nonbanks’ submissions to other registries and databases where applicable, such as the NMLS, and HMDA submissions. Furthermore, the Bureau believed that, upon publication, this information would facilitate the ability of consumers to identify covered persons that are registered with the Bureau. The proposal would not have required the entity to obtain an identifier. Thus, for example, if the proposed NBR system were to have asked about a particular type of identifier and that type of identifier had not been assigned to the covered nonbank, then under the proposal, the covered nonbank would have been able to indicate the identifier is not applicable.

Comments Received

A nonprofit commenter supported the inclusion of the legal entity identifier

²⁵⁷ See 12 CFR 1003.4(a)(1)(i)(A) (addressing LEIs).

(LEI) in proposed § 1092.201(g) and the inclusion of the LEI as a public data element in the nonbank registry. The commenter suggested that the Bureau, when an LEI is submitted, could also obtain the applicable covered nonbank’s legal name, legal address, and headquarters address from the Global LEI System.

Response to Comments Received

In response to the comment about using LEI information, the Bureau may require covered nonbanks to submit such information to the registry and will consider further opportunities to obtain relevant information from other sources including the Global LEI System.

Final Rule

For the reasons set forth above, the Bureau is finalizing § 1092.201(g) as proposed, with revisions as described below.

The proposal would have collected information regarding a covered nonbank’s State of incorporation or organization. The Bureau is adopting a revision to provide that the Bureau may require a covered nonbank that is not incorporated or organized in a State to submit to the registry the names of any other jurisdiction in which it is incorporated or organized. For example, a covered nonbank that is incorporated or organized under Federal law or the laws of a foreign government should provide that information. If collected, such information would be categorized as “identifying information” under filing instructions issued under § 1092.102(a). The Bureau concludes that since certain covered nonbanks may not be incorporated or organized under State law, collecting and potentially publishing such information may be useful to the Bureau and to other potential users of the registry information that the Bureau intends to publish under § 1092.205(a).²⁵⁸ Under the final rule, where applicable, this information will include information regarding the State or other jurisdiction where a covered nonbank that is not organized as a corporation was formed—for example, where a covered nonbank organized as a partnership filed its partnership agreement, where a covered nonbank organized as a limited liability company was organized, or where the covered nonbank was otherwise formed.

The Bureau is adopting a revision to provide that the Bureau may require a

²⁵⁸ As discussed in the section-by-section discussion of § 1092.205(a) below, the Bureau is retaining the discretion not to publish information under § 1092.205 based on operational considerations.

covered nonbank to submit to the registry any doing business as or fictitious business names, which if collected would be categorized as “identifying information” under filing instructions issued under § 1092.102(a). The Bureau concludes that collecting and potentially publishing doing business as or fictitious business names (including trade names or previously-used names) as “identifying information” under § 1092.202(c) may be useful to the Bureau and to other potential users of the registry information that the Bureau intends to publish under § 1092.205(a). Since some companies may use different names in different contexts, and it may not always be obvious whether a particular doing business as or fictitious business name may apply to a covered nonbank, such information may help the Bureau and other potential users identify the covered nonbanks that are registered with the nonbank registry as well as the covered orders to which they are subject.

In filing instructions adopted under § 1092.102(a), the Bureau will specify the “unique identifiers issued by a government agency or standards organization” that will be collected under § 1092.202(c). As discussed in the proposal, examples of the latter identifiers that entities may be required to provide under proposed § 1092.202(c) include an NMLS identifier, a HMDA Reporter’s Identification Number, and LEI information. The Bureau may also specify other unique identifiers in filing instructions in addition to the examples discussed in the proposal. The Bureau also may collect, for example, an RSSD ID, a unique identifier assigned to financial institutions by the Federal Reserve System, and an Electronic Data Gathering, Analysis, and Retrieval system (EDGAR) Central Index Key (CIK), a unique identifier assigned by the Securities and Exchange Commission (SEC) to persons that submit filings to the SEC.

Under the final rule, the Bureau will not collect or publish Federal employer identification numbers (EIN) from covered nonbanks as “identifying information” as that term is defined at § 1092.201(g), but may determine to collect this information under § 1092.202(c) as “administrative information” that the nonbank registry will not publish under § 1092.205(a). In filing instructions issued under § 1092.102(a), the Bureau will specify whether and how it will collect such information. In addition, a registered entity should not submit any Social Security numbers, individual taxpayer identification numbers, or other similar

personally identifying tax information to the nonbank registry, even if the registered entity uses an individual’s Social Security number in tax documents filed by or associated with the entity. As stated in part III(B), the Bureau’s registry is designed to not collect any protected proprietary, personal, or confidential consumer information, and thus, the Bureau will not publish, or require public reporting of, any such information.

Section 1092.201(h) Insured Depository Institution

Proposed Rule

The proposal would have defined the term “insured depository institution” to have the same meaning as in 12 U.S.C. 5301(18)(A). Section 5301(18)(A), in turn, incorporates the meaning of “insured depository institution” provided in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813.²⁵⁹

Comments Received and Final Rule

The Bureau did not receive any comments specifically regarding proposed § 1092.201(h)’s definition of “insured depository institution.” See the section-by-section discussion of § 1092.201(d) above for a discussion of the final rule’s treatment of such institutions and their affiliates. For the reasons set forth above, the Bureau is finalizing § 1092.201(h) as proposed.

Section 1092.201(i) Local Agency

Proposed Rule

The proposal would have defined the term “local agency” to mean a regulatory or enforcement agency or authority of a county, city (whether general law or chartered), city and county, municipal corporation, district, or other political subdivision of a State, other than a State agency. The term would not have included State agencies.

The Bureau proposed to require registration in connection with applicable orders issued or obtained by local agencies. The Bureau understood that local agencies do issue or obtain public orders under covered laws.²⁶⁰ For the reasons described above with respect to orders issued by Federal and State agencies, the Bureau believed that such orders may indicate risk to consumers, and that obtaining

²⁵⁹ See 12 U.S.C. 1813(c)(2) (defining “insured depository institution” as “any bank or savings association the deposits of which are insured by the [Federal Deposit Insurance] Corporation pursuant to this chapter”).

²⁶⁰ See, e.g., Cal. Bus. & Prof. Code sec. 17204 (authorizing enforcement of Cal. Bus. & Prof. Code sec. 17200 by certain county counsel and city attorneys).

information about these orders would support Bureau functions.

Comments Received and Final Rule

The Bureau did not receive any comments specifically regarding proposed § 1092.201(i)’s definition of “local agency.” For the reasons set forth in the description of the proposed rule above, the Bureau is finalizing § 1092.201(i) as proposed.

Section 1092.201(j) NMLS

Proposed Rule

The proposal did not contain an exemption for covered orders published on the NMLS Consumer Access website.

Comments Received

See the section-by-section discussion of § 1092.203(a) below for a discussion of comments received regarding duplication of the proposed registry with the NMLS and discussing or requesting an exemption for orders that are already published or available via NMLS, and the Bureau’s responses thereto.

Final Rule

The Bureau is finalizing a new paragraph (j) to § 1092.201 and is renumbering the remainder of the paragraphs accordingly. Section 1092.201(j) provides that the term “NMLS” means the Nationwide Multistate Licensing System. As the NMLS’s website explains, the NMLS is the system of record for non-depository financial services licensing or registration for participating State agencies.²⁶¹ The NMLS is overseen and operated by the State Regulatory Registry LLC, which was established by the Conference of State Bank Supervisors in cooperation with the American Association of Residential Mortgage Regulators.²⁶²

Section 1092.201(k) NMLS-Published Covered Order

Proposed Rule

The proposal did not contain an express alternative registration option for covered orders published on the NMLS Consumer Access website.

Comments Received

See the section-by-section discussion of § 1092.203(a) below for a discussion of comments received regarding duplication of the proposed registry with the NMLS and discussing or requesting an exemption for orders that

²⁶¹ NMLS Resource Center, About NMLS, <https://mortgage.nationwidelicensing.com/about/Pages/default.aspx>.

²⁶² *Id.*

are already published on NMLS Consumer Access or otherwise available to other regulators via NMLS, and the Bureau's responses thereto.

Final Rule

The Bureau is finalizing a new paragraph (k) to § 1092.201 and is renumbering the remainder of the paragraphs accordingly. Section 1092.201(k) provides that the term NMLS-published covered order generally means a covered order that is published on the NMLS Consumer Access website, www.NMLSConsumerAccess.org.

For the reasons discussed in the section-by-section discussion of § 1092.203 below, this section would further provide that no covered order issued or obtained at least in part by the Bureau shall be an NMLS-published covered order. Thus, where the Bureau has issued a covered order, or has obtained a covered order from a court, that covered order will not be an NMLS-published covered order under the final rule. Covered nonbanks must comply with the requirements of § 1092.202 and (where applicable) § 1092.204 with respect to such Bureau orders, and may not elect to comply with the one-time registration option described in § 1092.203 with respect to such Bureau orders.

Section 1092.201(l) Order

Proposed Rule

The proposal would have defined the term “order” to include any written order or judgment issued by an agency or court in an investigation, matter, or proceeding. The Bureau explained that the term would have included orders or judgments issued after trials or agency hearings. It would also have included default judgments or orders issued after an entity fails to properly respond to charges or claims made against it. In addition, it would have included orders or judgments issued to resolve matters without the need for further litigation, including stipulated or consent orders, decrees, or judgments, as well as settlements, multistate settlements, or assurances of discontinuances embodied in orders or judgments issued by agencies or courts. Furthermore, the term would have included cease-and-desist orders and orders suspending, conditioning, or revoking a license based on a violation of law. The proposed definition would also have included legally enforceable written agreements under sections 8 and 50 of the Federal Deposit Insurance Act ²⁶³ or any State counterparts.

The Bureau explained that the proposed definition of the term “order” would have included an order or judgment issued by one agency or a single order or judgment jointly issued by multiple agencies. However, where more than one agency issues a distinct order under its own authority, or a court issues distinct orders with respect to the different parties in connection with various actions or proceedings, even where the orders involve the same subject matter or laws, each order would have been considered a separate order under the proposed definition.

Comments Received

An industry commenter stated that the Bureau should limit the number of times a single instance of a violation needs to be reported where multiple agencies issue orders based on the same facts. The commenter stated that entities should only need to submit to the NBR system one order per violation to avoid reporting multiple listings for one incident in a multi-State enforcement action, and that this approach would not deprive the public or the Bureau of any information, since under the proposed rule registered entities would already need to identify the government entity that issued the order.

Response to Comments Received

In response to the industry commenter, if multiple agencies join a single order, that order would be the only “covered order” requiring registration under the final rule. However, if multiple agencies issue distinct and different orders in connection with the same facts or matter, each such order (if it satisfies the other criteria established by the final rule) would be a distinct “covered order” that would require separate registration (and, where applicable, designation of an attesting executive and submission of a written statement under § 1092.204).

The Bureau declines to adopt the commenter's suggestion to treat multiple orders as a single order under certain circumstances. As stated in the notice of proposed rulemaking, the Bureau “anticipates that agency and court orders will vary widely in form and content, depending in part on such matters as the relevant individual laws being enforced, the historical practices of the various enforcement agencies, and the negotiations and facts and circumstances underlying specific orders.” ²⁶⁴ The Bureau anticipates that such orders will often contain different findings of fact and law, impose

different obligations, and otherwise contain meaningful differences such that requiring registration of each such order would be useful to the Bureau and other users of the nonbank registry. Also, permitting certain orders to be treated as a single order would create unnecessary complexity and confusion for registrants and other users of the nonbank registry. Among other things, the final rule would have to establish which orders would be sufficiently similar to warrant such treatment. The Bureau declines to require such determinations as part of the registration process.

Final Rule

For the reasons set forth above, the Bureau is finalizing § 1092.201(j) (renumbered as § 1092.201(l)) as proposed.

Section 1092.201(m) Public

Proposed Rule

The proposal would have defined the term “public” to mean, with respect to a covered order or any portion thereof, published by the issuing agency or court, or required by any provision of Federal or State law, rule, or order to be published by the issuing agency or court. The proposal would have clarified that the term “public” does not include orders or portions of orders that constitute confidential supervisory information of any Federal or State agency.

The Bureau explained that the proposed term would have included orders that are actually published by the issuing agency or court, as well as orders that are required by any provision of Federal or State law, rule, or order to be published by the issuing agency or court. For example, section 8(u) of the Federal Deposit Insurance Act ²⁶⁵ requires the publication of certain types of Federal banking agency orders. The proposed definition was intended to include those orders, as well as those required to be published by any other similar Federal or State law.

The Bureau explained that, under the proposal, an order would only be “public” if it has been released or disseminated (or is required to be released or disseminated) in a manner such that the order is accessible by the general public—for example, by posting the order on a publicly accessible website or by publishing it in a written format generally available to members of the public. The proposed term, however, would not have included documents that are not made generally

²⁶³ 12 U.S.C. 1818, 1831aa.

²⁶⁴ 88 FR 6088 at 6111.

²⁶⁵ 12 U.S.C. 1818(u).

available but are disclosed to specific persons, such as in response to Federal or State Freedom of Information Act or open records law requests or as part of litigation discovery proceedings. Under the proposal, an order also would have only qualified as “public” if it is published (or required to be published) “by the issuing agency or court.”

Therefore, independent publication by a third party, such as publication that may occur in connection with a covered person’s securities disclosures, would not make an order “public” within the meaning of the proposal.²⁶⁶ The Bureau did not anticipate that requiring registration of orders disclosed only through such methods as freedom-of-information requests or securities disclosures would materially improve the quantity and quality of the information provided to the nonbank registry. To the contrary, the Bureau anticipated that third-party disclosures in the securities context, or pursuant to freedom-of-information requests, may sometimes fail to capture all significant aspects of an order. The Bureau was also concerned that if such types of disclosures were included in the final rule, subpart B’s registration requirements might affect an entity’s decisions regarding securities or litigation disclosures in a manner not intended by the Bureau.

The proposed term would have excluded orders or portions of orders that constitute confidential supervisory information of any Federal or State agency. The Bureau was concerned that requiring registration and disclosure of confidential supervisory information might interfere with the functions and missions of other agencies and did not believe that requiring such registration and disclosure was necessary to accomplish the purposes of the proposed rule. The Bureau noted that such agencies may rely on confidential communications with covered nonbanks in order to, for example, foster full cooperation between those institutions and their regulators and to protect those institutions and the public from harm that could result from the disclosure of agency concerns regarding the integrity and security of these institutions. The proposed definition would have therefore expressly excluded confidential supervisory information. Where an order is not clearly marked or otherwise designated by the regulator as confidential supervisory information,

the Bureau would have expected the entity to have confirmed the confidential supervisory information status of any order or portion of an order with its regulator before relying on that status in connection with the proposed subpart B’s registration requirements.

Comments Received

A Tribal commenter stated that although many State agency orders are publicly available, this is not the case for State court orders, and requested that the Bureau clarify this proposed definition.

An industry commenter stated that the proposal’s requirement to submit redacted orders would confuse the public, and that in cases where a portion of a covered order is redacted or confidential, the whole order should stay off the registry.

Response to Comments Received

In response to the Tribal commenter, the Bureau believes that this definition clearly describes the term “public” with respect to orders that are issued by State courts as well as other orders that may be issued or obtained by a Federal agency, State agency, or local agency, as described in § 1092.201(e)(1)(i). As detailed in the above description of the proposal, an order (or a portion of an order) issued by a State court would only be “public” if it has been released or disseminated (or is required to be released or disseminated) in a manner such that the order (or portion thereof) is accessible by the general public—for example, by posting the order (or portion thereof) on a publicly accessible website or by publishing it in a written format generally available to members of the public. If the issuing court (including a State court) or agency does not publish an order (or portion thereof) in this way, and the order (or portion thereof) is not required to be so published, then the order (or portion thereof) is not “public” under the definition. On the other hand, if the issuing court or agency does publish an order (or portion thereof) in this way, or the order (or portion thereof) is required to be so published, then the order (or portion thereof) is “public” under the definition. The Bureau declines to further narrow or otherwise amend this definition, as it concludes the definition as finalized will help ensure that the registry will obtain adequate information regarding relevant orders to achieve the registry’s objectives.

Under the final rule, registrants should submit only the public portions of covered orders. The Bureau believes that both submission of and publication of public portions of such orders, and

only public portions of such orders, will best serve the purposes of the registry. The Bureau disagrees that either the submission of or the publication of redacted orders will confuse the public or other users of the nonbank registry, especially considering that the unredacted portions of orders submitted to the Bureau will, by definition, already be published (or required to be published) elsewhere. As discussed in the section-by-section discussion of § 1092.201(e) above, the Bureau is excluding from the rule’s information collection requirements nonpublic portions of orders in order to help protect the confidential processes of other agencies, including their supervisory processes. But the Bureau believes that the other portions of such orders remain relevant and should be collected and potentially published under the final rule.²⁶⁷

Final Rule

For the reasons set forth below above and as follows, the Bureau is finalizing § 1092.201(k) (renumbered as § 1092.201(m)) as proposed, with revisions to provide that the term “public” (1) encompasses covered orders required to be published by the issuing agency or court under any provision of *local* law, rule, or order, and (2) does not include orders or portions of orders that constitute confidential supervisory information of any *local* agency. The Bureau is finalizing these revisions to reflect that under § 1092.201(e)(1)(i), covered orders can be issued or obtained by local agencies, which may operate under local laws, rules, or orders regarding publication requirements, and which might claim to have “confidential supervisory information.”

201(n) Registered Entity

Proposed Rule

The proposal would have defined the term “registered entity” to mean any person registered or required to be registered under proposed subpart B. The Bureau explained that, under the proposal, entities that fail to comply

²⁶⁷ In the proposal, the Bureau considered requiring covered nonbanks to submit to the Bureau portions of orders that constitute confidential supervisory information under proposed § 1092.202, but then exempting those confidential portions from publication under proposed § 1092.204. See 88 FR 6088 at 6114. The Bureau finalizes its preliminary conclusion in the proposal that the administrative burden associated with implementing such an approach likely outweighs the advantage of collecting such confidential portions of orders under the proposed rule. See *id.* The Bureau notes that it can use other mechanisms to obtain confidential supervisory information from other regulators in appropriate cases.

²⁶⁶ By contrast, the Bureau explained, an order would qualify as “public” where the issuing agency or court makes the order available to a third-party printing service or reporter for the purpose of publishing the order in a publicly available format.

with a requirement to register under proposed subpart B would have nonetheless still been subject to all of the requirements applicable to registered entities under proposed subpart B. If such an entity were a supervised registered entity, it would have also been subject to the requirements applicable to a supervised registered entity under proposed subpart B.

Comments Received and Final Rule

The Bureau did not receive any comments specifically regarding proposed § 1092.201(l)'s definition of "registered entity." For the reasons set forth in the description of the proposed rule above, the Bureau is finalizing § 1092.201(l) (renumbered as § 1092.201(n)) as proposed.

Section 1092.201(o) Remain(s) In Effect Proposed Rule

The proposal would have defined the terms "remain in effect" and "remains in effect" to mean, with respect to any covered order, that the covered nonbank remains subject to public provisions that impose obligations on the covered nonbank to take certain actions or to refrain from taking certain actions based on an alleged violation of a covered law.

Proposed § 1092.202(a) would have used this proposed term in defining the scope of proposed § 1092.202's registration requirement. Proposed § 1092.202(f) would have used this proposed term in specifying when a covered nonbank would be required to submit a final filing to the NBR system and would be permitted to cease updating its registration information and filing written statements with respect to a covered order.

Comments Received and Final Rule

The Bureau did not receive any comments specifically regarding proposed § 1092.201(m)'s definition of "remain(s) in effect." For the reasons set forth in the description of the proposed rule above, the Bureau is finalizing § 1092.201(m) (renumbered as § 1092.201(n)) as proposed.

Section 1092.201(p) State Agency

Proposed Rule

The proposal would have defined the term "State agency" to mean the attorney general (or the equivalent thereof) of any State and any other State regulatory or enforcement agency or authority. The Bureau intended this definition to encompass all State government officials and regulators authorized to bring actions to enforce any covered law, including actions to

enforce the CFPA's provisions or regulations issued under the CFPA pursuant to CFPA section 1042(a)(1).²⁶⁸ The term would also have included regulatory or enforcement agencies of certain Tribal governments that are included in the CFPA's definition of the term "State."²⁶⁹

Comments Received and Final Rule

The Bureau did not receive any comments specifically regarding proposed § 1092.201(n)'s definition of "State agency." For the reasons set forth in the description of the proposed rule above, the Bureau is finalizing § 1092.201(n) (renumbered as § 1092.201(o)) as proposed.

Section 1092.201(q) Supervised Registered Entity

Proposed Rule

The proposal would have defined the term "supervised registered entity" to mean a registered entity that is subject to supervision and examination by the Bureau pursuant to CFPA section 1024(a),²⁷⁰ with certain exceptions.²⁷¹ The Bureau explained that the CFPA authorizes the Bureau to require reports and conduct examinations of certain persons, as described in CFPA section 1024(a)(1)(A)–(E); the proposed term would have referred to a registered entity that is subject to supervision and examination by the Bureau pursuant to any of those provisions.²⁷²

For purposes of proposed § 1092.201(o), the proposal would have clarified that the term "subject to supervision and examination by the Bureau pursuant to CFPA section 1024(a)" would include an entity that qualifies as a larger participant of a market for consumer financial products or services under any rule issued by the Bureau pursuant to CFPA section 1024(a)(1)(B) and (a)(2) (providing Bureau supervisory authority over larger participants in certain markets as defined by Bureau rule), or that is

²⁶⁸ 12 U.S.C. 5552(a)(1).

²⁶⁹ See 12 U.S.C. 5481(27) (defining "State" to include "any federally recognized Indian tribe, as defined by the Secretary of the Interior under" 25 U.S.C. 5131(a)).

²⁷⁰ 12 U.S.C. 5514(a).

²⁷¹ The Bureau explained that an affiliate of an insured depository institution that is subject to examination and supervision by the Bureau under 12 U.S.C. 5515(a) would not be included in the proposed definition of supervised registered entity, where the affiliate is not subject to examination and supervision by the Bureau under 12 U.S.C. 5514(a). See 12 U.S.C. 5514(a)(3)(A) (providing that 12 U.S.C. 5514 shall not apply to persons described in 12 U.S.C. 5515(a) or 5516(a)).

²⁷² The Bureau explained that the proposal would not increase the number of entities subject to Bureau examinations or otherwise modify the scope of the Bureau's supervisory jurisdiction.

subject to an order issued by the Bureau pursuant to CFPA section 1024(a)(1)(C) (providing Bureau supervisory authority over certain nonbank covered persons based on risk determination). The Bureau proposed this language only to clarify and make express that such persons would be included in the proposed definition of the term supervised registered entity. The Bureau explained that it was not proposing by means of this language to limit the scope of the term "supervised registered entity."

Under the proposed definition of "supervised registered entity," the Bureau explained that it need not have previously exercised its authority to require reports from, or conduct examinations of, a particular registered entity for that entity to qualify as a supervised registered entity. A registered entity would have qualified as a supervised registered entity if the Bureau *could* require reports from, or conduct examinations of, that entity because it is a person described in CFPA section 1024(a)(1). Such an entity would have been "subject to supervision and examination" within the meaning of the proposal even if the Bureau has never previously exercised its authority to require reports or conduct examinations with respect to that entity.

The Bureau explained that persons would be subject to the proposal's requirements applicable to "supervised registered entities" so long as they satisfy the proposed definition of that term. The Bureau recognized that certain entities may, in certain circumstances, satisfy the definition only for a limited period of time. For example, the Bureau noted that an entity's activity levels may change in such a manner as to cause the entity to cease to qualify as a larger participant of a market for consumer financial products and services as defined by CFPA section 1024(a)(1)(B) and 12 CFR part 1090,²⁷³ or an entity may cease to be a person subject to Bureau supervision under CFPA section 1024(a)(1)(C) and 12 CFR part 1091.²⁷⁴ An entity would have been required to comply with the proposal's

²⁷³ The Bureau explained that such a determination would be made under the provisions of 12 CFR part 1090. See, e.g., 12 CFR 1090.102 (providing that "[a] person qualifying as a larger participant under subpart B of [12 CFR part 1090] shall not cease to be a larger participant under [12 CFR part 1090] until two years from the first day of the tax year in which the person last met the applicable test under subpart B").

²⁷⁴ The Bureau explained that such a determination would be made under the provisions of 12 CFR part 1091. See, e.g., 12 CFR 1091.113 (regarding petitions for termination of an order issued under 12 CFR 1091.109).

requirements applicable to “supervised registered entities” so long as it qualifies as such an entity, but not once it ceases to so qualify. Thus, for example, the Bureau explained that depending upon the timing of events, a supervised registered entity might be required to register with, and submit information to, the NBR system under proposed § 1092.202 but not subsequently submit a written statement under proposed § 1092.203 if it ceases to qualify as a supervised registered entity before § 1092.203(d)’s submission deadline.

The Bureau believed that applying proposed § 1092.203’s requirements to supervised registered entities so long as they satisfy the proposed definition of that term, even if they do so for limited periods of time, would serve its goals in imposing such requirements, as described in section IV(D) of the proposal. The Bureau did not believe that it should exempt, or otherwise distinguish for purposes of the proposal, entities that are subject to supervision under CFPA section 1024(a) for limited periods of time. The Bureau believed that it is important to obtain reports from such supervised registered entities under proposed § 1092.203 for the reasons discussed in section IV(D) of the proposal, including to ensure they are legitimate entities and able to perform their obligations to consumers, to detect and assess risks to consumers related to entities subject to Bureau supervision, and to facilitate its assessments in connection with its risk-based supervisory program under CFPA section 1024(b)(2). In addition, the Bureau explained that requiring regular submission of written statements from such entities would assist the Bureau in determining whether the entity should continue to be subject to Bureau supervision under CFPA section 1024(a)(1)(C), for example. However, the Bureau preliminarily concluded that obtaining such written statements from entities that are no longer subject to the Bureau’s supervision and examination authority under CFPA section 1024(a) is not necessary to serve these purposes.²⁷⁵

The Bureau explained that its proposed approach to applying the term “supervised registered entity” would also have extended to the recordkeeping requirements proposed in § 1092.203(e). Proposed § 1092.203(e) would have required a supervised registered entity to maintain certain documents and other records for five years after the submission of a written statement is

required, and to make such documents and other records available to the Bureau upon request. The Bureau explained that, once a supervised registered entity ceased to qualify as a supervised registered entity under proposed § 1092.201(o), it would no longer have been subject to § 1092.203(e)’s requirement to maintain and provide such records. (The Bureau noted that the entity may nevertheless be subject to other requirements to maintain and provide such records, where such requirements are imposed by Federal consumer financial law or other applicable law.) The Bureau further explained that if, because of a change in circumstances, the entity later once again qualifies as a supervised registered entity, the entity would once again have become subject to proposed § 1092.203(e)’s recordkeeping requirement, but only as to conduct undertaken to comply with proposed § 1092.203 that occurs after the entity requalifies as a supervised registered entity.

The proposal would have provided that the term “supervised registered entity” would not include a service provider that is subject to Bureau examination and supervision solely in its capacity as a service provider and that is not otherwise subject to Bureau supervision and examination. The Bureau noted that CFPA section 1024(e) authorizes the Bureau to exercise supervisory authority with respect to a service provider to a person described in CFPA section 1024(a)(1).²⁷⁶ Additionally, CFPA sections 1025(d) and 1026(e) authorize the Bureau to exercise supervisory authority with respect to certain other service providers.²⁷⁷ The Bureau explained that this provision of the proposed definition clarifies that the term “supervised registered entity” would not have included a registered entity that is subject to Bureau examination and supervision solely in its capacity as a service provider under any of these provisions. However, the Bureau explained, the term supervised registered entity would have included a registered entity if the registered entity is otherwise subject to Bureau supervision and examination under CFPA section 1024(a)—i.e., if the registered entity is a person that is described in CFPA section 1024(a)(1)—even if the registered entity is also a service provider for some purposes

under the CFPA.²⁷⁸ The Bureau preliminarily concluded that, at least in the first instance, the requirements set forth in proposed § 1092.203 are best directed at persons described in CFPA section 1024(a). The Bureau believed that it could achieve the anticipated benefits described above without extending its coverage to service providers subject to supervision under CFPA section 1024.

Proposed § 1092.201(o)(2) would have provided that the term “supervised registered entity” would not include a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, within the meaning of 12 U.S.C. 5519(a), except to the extent such a person engages in functions that are excepted from the application of CFPA section 1029(a) as described in CFPA 1029(b).²⁷⁹ Proposed § 1092.201(e), discussed above, would have further provided that the only orders issued to such motor vehicle dealers that would subject the dealer to the requirements of proposed §§ 1092.202 and 1092.203 would be those issued in connection with the functions that are excepted from the application of CFPA section 1029(a) as described in CFPA 1029(b).

Proposed § 1092.201(o)(3) would have provided that the term “supervised registered entity” would not include a person that qualifies as a covered person based solely on conduct that is the subject of, and that is not otherwise exempted from, an exclusion from the Bureau’s supervisory authority under CFPA section 1027.²⁸⁰ The Bureau explained that this proposed component of the term “supervised registered entity” would have been similar to a component in the proposed definition of the term “covered nonbank,” as discussed in more detail in the section-by-section discussion of proposed § 1092.201(d), above. However, while proposed § 1092.201(d) would have

²⁷⁸ As discussed above, entities that are service providers may nevertheless also be covered persons under the CFPA.

²⁷⁹ 12 U.S.C. 5519 (“Exclusion for Auto Dealers”). The Bureau explained that, as with other supervised registered entities, the motor vehicle dealer would only qualify as a “supervised registered entity” if it were subject to the Bureau’s supervisory jurisdiction under 12 U.S.C. 5514(a). Technically, the Bureau noted, the exclusion in proposed § 1092.201(o)(2) should be unnecessary because it is identical to the proposed exclusion from the definition of “covered nonbank” in proposed § 1092.201(d)(4), and only covered nonbanks can qualify as supervised registered entities. Nevertheless, the Bureau proposed § 1092.201(o)(2) to reiterate that the exclusion described in proposed § 1092.201(d)(4) also limits which entities qualify as “supervised registered entities.”

²⁸⁰ 12 U.S.C. 5517.

²⁷⁵ The Bureau is adopting the proposal’s approach to this issue in the final rule and finalizes its preliminary conclusion to this effect.

²⁷⁶ 12 U.S.C. 5514(e).

²⁷⁷ 12 U.S.C. 5515(d), 5516(e).

described exclusions from the Bureau's rulemaking authority, proposed § 1092.201(o)(3) would have described exclusions from the Bureau's supervisory authority. This provision would have clarified that persons excluded from the supervisory authority of the Bureau under one or more of the provisions of section 1027 of the CFPA would not be "supervised registered entities." However, where the CFPA provides that any of the activities engaged in by such persons *are* subject to the Bureau's supervisory authority, the Bureau noted that this limitation would not have excluded the person from qualifying as a "supervised registered entity." For example, the Bureau noted, CFPA section 1027(l)(1) provides an exclusion from the Bureau's supervisory authority for certain persons engaging in certain activities relating to charitable contributions.²⁸¹ Under the proposal, a person would not have been deemed a "supervised registered entity" if it qualifies for this statutory exclusion and is not otherwise exempt from it. But CFPA section 1027(l)(2) exempts certain activities from this statutory exclusion by providing that "the exclusion in [CFPA section 1027(l)(1)] does not apply to any activities not described in [CFPA section 1027(l)(1)] that are the offering or provision of any consumer financial product or service, or are otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H."²⁸² Under proposed § 1092.201(o), an entity described in CFPA section 1027(l)(1) engaging in the activities described therein *would* have qualified as a "supervised registered entity" so long as it also engages in any of the activities described in CFPA section 1027(l)(2). And, as a "supervised registered entity" under the proposed § 1092.201(o), such entity would have been subject to all of proposed § 1092.203's requirements applicable to "supervised registered entities" with respect to any "covered order," regardless of whether the applicable "covered order" addressed conduct subject to the statutory exclusion in CFPA section 1027(l)(1).

Finally, proposed § 1092.201(o)(4) would have provided that the term "supervised registered entity" would not include a person with less than \$1 million in annual receipts. The exclusion would have been based on the receipts resulting from offering or providing all consumer financial products and services described in

CFPA section 1024(a).²⁸³ The Bureau proposed to define the term "annual receipts" to have the same meaning as it has in § 1090.104(a) of the Bureau's regulations, including the provisions of that definition at paragraph (i) regarding receipts, paragraph (ii) regarding period of measurement, and paragraph (iii) regarding annual receipts of affiliated companies.²⁸⁴ The Bureau proposed the exclusion in proposed § 1092.201(o) for two reasons. First, the Bureau noted that providers of consumer financial products and services with significantly lower levels of receipts generally pose lower risks because they engage with fewer consumers, obtain less money from those consumers, or both. Second, the Bureau explained that the information collection burdens on entities with receipts of \$1 million or less, on a relative basis, generally would be higher than for larger entities.

The Bureau noted that the proposed exclusion from the definition of "supervised registered entity" based on volume of annual receipts would have also been consistent with the CFPA's requirement that the Bureau take entity size into account as part of its risk-based supervision program.²⁸⁵ Accordingly, the Bureau proposed to exclude persons with less than \$1 million in annual receipts from the proposed annual reporting requirements applicable to supervised registered entities under proposed § 1092.203.

However, the Bureau did not propose to exclude such smaller entities from the information-collection requirements provided in proposed § 1092.202. The Bureau believed that the limited burden that would be imposed on such entities due to such information-collection requirements would be warranted in light of the market-monitoring benefits to the Bureau and other users of the NBR system. The Bureau explained that it could evaluate the need for additional supervisory attention related to a smaller supervised nonbank based on its submissions under proposed § 1092.202 and any additional information at its disposal. As discussed in section IV of the proposal and the section-by-section discussion of proposed § 1092.202, those submissions would have provided additional information relevant to the Bureau's assessments of risk in connection with its prioritization efforts under CFPA section 1024(b)(2).²⁸⁶

²⁸³ 12 U.S.C. 5514(a).

²⁸⁴ 12 CFR 1090.104(a).

²⁸⁵ See 12 U.S.C. 5514(b)(2)(A), (B) (requiring the Bureau to take into consideration "the asset size of the covered person" and "the volume of transactions involving consumer financial products or services in which the covered person engages").

²⁸⁶ 12 U.S.C. 5514(b)(2).

Comments Received

A consumer advocate commenter objected to proposed § 1092.201(o)(1), which would have provided that the term "supervised registered entity" does not include a service provider that is subject to Bureau examination and supervision solely in its capacity as a service provider and that is not otherwise subject to Bureau supervision and examination. The consumer advocate commenter stated that third party service providers can present risk even when they are not supervised by the Bureau.

Industry commenters stated that the Bureau should raise the \$1 million amount described in proposed § 1092.201(o)(4), which would have excluded from the definition of "supervised registered entity" a person with less than \$1 million in annual receipts resulting from offering or providing all consumer financial products and services described in 12 U.S.C. 5514(a). Commenters stated that the proposed \$1 million annual receipts amount was essentially meaningless because it would not exclude most nonbanks, and in particular that the proposed \$1 million annual receipts amount was unlikely to exclude a meaningful number of mortgage lenders and mortgage servicers. An industry commenter also stated that the proposed \$1 million annual receipts amount was contrary to CFPA section 1024(b)(2)'s requirements regarding the Bureau's risk-based supervision program for nonbanks.²⁸⁷

A consumer advocate commenter stated that the Bureau should eliminate the exception described at proposed § 1092.201(o)(4) and instead require written statements from all entities that otherwise would qualify as "supervised registered entities." The commenter stated that the Bureau had not explained why the written-statement requirements should not be as expansive as the Bureau's supervisory authority, that smaller companies were likely to present risks to consumers, and that they were less likely to have sophisticated internal controls.

Commenters stated that the proposal was insufficiently clear with respect to the obligations of affiliates of insured depository institutions and insured credit unions to comply with the proposed rule's written-statement requirements. Industry commenters stated that such affiliates should not be required to comply with such requirements, and an industry commenter requested that the text of the

²⁸¹ 12 U.S.C. 5517(l)(1) ("Exclusion for Activities Relating to Charitable Contributions").

²⁸² 12 U.S.C. 5517(l)(2).

²⁸⁷ 12 U.S.C. 5514(b)(2).

final rule include an express exception for affiliates subject to Bureau supervision under CFPA section 1025(a).²⁸⁸ A consumer advocate commenter stated that the rule should clearly include banks and bank affiliates, including holding companies and the nonbank subsidiaries of bank holding companies, and that the Bureau should take as expansive of a view as possible of the registry's reach.

Response to Comments Received

The Bureau declines to extend the written statement requirement to service providers that are subject to Bureau examination and supervision solely in their capacity as service providers and that are not otherwise subject to Bureau supervision and examination.²⁸⁹ The Bureau also declines to extend the rule's requirements, including the written statement requirement, to service providers that do not qualify as "covered persons" under CFPA section 1002(6). The Bureau finalizes its preliminary conclusion in the notice of proposed rulemaking²⁹⁰ that, at least in the first instance, the requirements of the rule are best directed at covered persons, and the written-statement requirements set forth in § 1092.204 are best directed at persons described in CFPA section 1024(a). The Bureau currently believes that it likely can achieve the anticipated benefits detailed in the description of the proposed rule above without extending the final rule's coverage to service providers *per se*.²⁹¹ The Bureau notes that the scope of the final rule would also need to be modified significantly from the proposed rule in order to require service providers that do not qualify as "covered persons" to register with the nonbank registry and file written statements. Among other things, many of the service providers subject to the Bureau's jurisdiction are not "covered persons" as defined by CFPA section 1002(6), and therefore would be neither "covered nonbanks" as defined by § 1092.201(d) nor "supervised registered entities" as defined by § 1092.201(q). Further, the Bureau is likely to obtain information regarding service providers from the information that will be

collected under the final rule as well as its supervisory reviews of supervised registered entities. To the extent the Bureau becomes aware of service providers that may present risk to consumers, it may obtain additional information under its existing statutory authorities, including its supervisory authorities with respect to service providers that are subject to the Bureau's supervisory and examination authority under the CFPA.²⁹²

The Bureau is adopting a revision to proposed § 1092.201(q)(4), which will exclude from the rule's definition of "supervised registered entity," and thus from the rule's written-statement requirements under § 1092.204, persons with less than \$5 million in annual receipts resulting from offering or providing all consumer financial products and services described in 12 U.S.C. 5514(a). This revised \$5 million amount described at § 1092.201(q)(4) represents an increase from the \$1 million annual receipts amount for this exclusion that was described in the proposed rule. The Bureau concludes that increasing the amount of the exclusion, while still imposing the written-statement requirements described at § 1092.204 on supervised registered entities with \$5 million or more in annual receipts as described, will allow the Bureau to achieve the objectives of the written-statement requirements while reducing burden on smaller entities.

The Bureau declines to adopt the consumer advocate commenter's suggestion to eliminate the § 1092.201(q)(4) exception entirely from the definition of "supervised registered entity." As described above and in the notice of proposed rulemaking,²⁹³ providers of consumer financial products and services with significantly lower levels of receipts generally pose lower risks overall because they engage with fewer consumers, obtain less money from those consumers, or both. And the information-collection burdens on entities with applicable annual receipts of less than \$5 million, on a relative basis, generally would be higher than for larger entities. In addition, imposing the annual written-statement requirements on such smaller entities would impose additional administrative costs on the Bureau. The Bureau believes that applying the written-statement requirements to "supervised registered entities" as defined at § 1092.201(q) will strike the appropriate balance in terms of obtaining information that is useful to the Bureau

without imposing undue burdens on either industry or the Bureau. However, for the reasons stated in the description of the proposal above and the section-by-section discussion of § 1092.201(d) above, the final rule does not exclude such smaller entities from the information-collection requirements provided in § 1092.202.

As described above and in the notice of proposed rulemaking,²⁹⁴ the Bureau had proposed the § 1092.201(o) exclusion from the definition of "supervised registered entity" based on volume of applicable annual receipts precisely because such an exclusion would also be consistent with the CFPA's requirement that the Bureau take entity size into account as part of its risk-based supervision program under CFPA 1024(b)(2).²⁹⁵ The \$5 million annual receipts amount for the exclusion adopted in the final rule will likewise be consistent with this CFPA requirement.

With respect to the industry commenters' specific concerns regarding burden on mortgage lenders and mortgage servicers, the Bureau further notes that, under the final rule, such supervised registered entities will no longer be required to file written statements with respect to NMLS-published covered orders as defined at § 1092.201(k) if they elect the one-time registration option set forth in § 1092.203. In addition to the change being adopted to § 1092.201(q)(4), § 1092.203 will further reduce, perhaps substantially, the number of mortgage lenders and mortgage servicers that will

²⁹⁴ 88 FR 6088 at 6116.

²⁹⁵ See 12 U.S.C. 5514(b)(2)(A), (B) (requiring the Bureau to take into consideration "the asset size of the covered person" and "the volume of transactions involving consumer financial products or services in which the covered person engages"). Furthermore, while the Bureau does not believe that it needs to rely on its authority under 12 U.S.C. 5512(b)(3) to exempt classes of covered persons from rules in proposing this small-entity exclusion, the Bureau believes that the exclusion would be warranted as an exercise of its section 1022(b)(3) exemption authority, to the extent that provision is applicable. See 12 U.S.C. 5512(b)(3). As under 12 U.S.C. 5514(b)(2), an entity-size-based exclusion accords with 12 U.S.C. 5512(b)(3)(B)(i) and (ii), which instruct the Bureau to consider "the total assets of the class of covered persons" and "the volume of transactions . . . in which the class of covered persons engage" in issuing exemptions. 12 U.S.C. 5512(b)(3)(B)(i)–(ii). In addition, given the relatively smaller scope of the harm to consumers that entities with annual receipts not exceeding \$5 million would generally be able to cause when compared with entities with annual receipts exceeding that threshold, the Bureau does not believe that on balance the factor articulated in 12 U.S.C. 5512(b)(3)(B)(iii) ("existing provisions of law which are applicable to the consumer financial product or service and the extent to which such provisions provide consumers with adequate protection") weighs against adopting the proposed small-entity exclusion.

²⁸⁸ 12 U.S.C. 5515(a).

²⁸⁹ 12 U.S.C. 5481(26) defines the term "service provider" for the purposes of the CFPA.

²⁹⁰ 88 FR 6088 at 6115.

²⁹¹ As discussed above, entities that are service providers may nevertheless also be covered persons under the CFPA. For example, a service provider that acts as a service provider to its covered person affiliate would itself be deemed to be a covered person as provided in 12 U.S.C. 5481(6)(B), and thus would qualify as a "covered nonbank" under § 1092.201(d) if the other criteria of that definition are satisfied.

²⁹² See 12 U.S.C. 5514(e), 5515(d), 5516(e).

²⁹³ 88 FR 6088 at 6116.

be required to comply with the rule's written-statement requirements.

See below for discussion of the application of § 1092.201(q) to affiliates of insured depository institutions and insured credit unions.

Final Rule

For the reasons set forth above and below, the Bureau is finalizing § 1092.201(o) (renumbered as § 1091.201(q)) as proposed, with minor technical edits and a clarification described below regarding the application of this section to affiliates of an insured depository institution or insured credit union with total assets of more than \$10,000,000,000 (\$10 billion), as well as a revision to clarify how annual receipts are calculated under § 1091.201(q)(4).

In response to comments, the Bureau clarifies the application of § 1092.201(q)'s definition of "supervised registered entity" to affiliates of insured depository institutions and insured credit unions. The final rule defines the term "supervised registered entity" as "a registered entity that is subject to supervision and examination by the Bureau pursuant to 12 U.S.C. 5514(a)" (subject to certain exceptions). CFPA section 1024(a)—which is codified as 12 U.S.C. 5514(a)—encompasses section 1024(a)(3)(A), which provides that "[t]his section shall not apply to persons described" in section 1025(a) or 1026(a).²⁹⁶ Section 1025(a) grants the Bureau supervisory authority over insured depository institutions and insured credit unions with more than \$10 billion in total assets, as well as "any affiliate thereof."²⁹⁷ Therefore, because affiliates of such very large insured depository institutions and insured credit unions are included within the scope of section 1025(a), and thus are excluded from the scope of section 1024(a) via section 1024(a)(3)(A), affiliates of insured depository institutions and insured credit unions with more than \$10 billion in total assets do *not* qualify as "supervised registered entities" under the final rule. That is the case even if the affiliate offers or provides consumer financial products and services described in CFPA section 1024(a)(1). For example, a bank holding company, savings and loan holding company, or subsidiary of a bank or savings association that is an affiliate of an insured depository institution or insured credit union with total assets of more than \$10 billion is not covered by the definition of "supervised registered

entity," even if it offers or provides consumer financial products or services described in CFPA section 1024(a)(1), such as mortgage lending. Such an affiliate is not subject to the final rule's written-statement requirements even if it is a "covered nonbank."²⁹⁸

By contrast, CFPA section 1026(a), which addresses Bureau authority over insured depository institutions and insured credit unions with \$10 billion or less in total assets, makes no mention of "affiliates" of such entities. Section 1024(a)(3)(A) thus does not exclude affiliates of insured depository institutions and insured credit unions with \$10 billion or less in total assets from the scope of section 1024(a). As a result, affiliates of such entities *may* qualify as "supervised registered entities," unless an exception set forth in § 1092.201(q)(1) through (4) applies. With the above clarification of how the interlocking texts of § 1092.201(q) and CFPA sections 1024(a), 1025(a), and 1026(a) operate with respect to affiliates of insured depository institutions and insured credit unions, the Bureau concludes that no revisions to the text of § 1092.201(q) are required to address this issue.

The Bureau is finalizing this approach to affiliates of insured depository institutions and insured credit unions for several reasons. First, the Bureau is issuing the final rule in part based on its authority under CFPA section 1024(b)(7)(A)–(C). As explained above, CFPA section 1024(a)(3)(A) provides that CFPA section 1024 shall not apply to persons described in CFPA section 1025(a), including affiliates of insured depository institutions or insured credit unions with more than \$10 billion in assets. Therefore, excluding such affiliates from the definition of "supervised registered entity" will help ensure that the written statement provisions of the final rule are consistent with the scope of CFPA section 1024. Second, while the Bureau might at some point consider collecting information from covered persons other than those described in CFPA section 1024(a), the Bureau believes that there is currently greater need to collect this information from such persons. The Bureau acknowledges the consumer advocate commenter's concerns regarding risks that may be posed to consumers by affiliates of insured depository institutions and insured credit unions, including affiliates of

insured depository institutions and insured credit unions with total assets of more than \$10 billion. These affiliate entities remain subject to the Bureau's supervisory and examination authority under CFPA section 1025, as well as other applicable Bureau authorities, and the Bureau may choose to utilize its supervisory and other authorities in monitoring and assessing such risks. Third, the Bureau concludes that exempting the affiliates of such very large insured depository institutions and insured credit unions from the final rule's written-statement requirements is consistent with its rationale for exempting insured depository institutions and insured credit unions from the scope of subpart B at this time.

The Bureau has also added to the final rule the new § 1092.201(q)(4)(ii). That provision clarifies that a person's receipts from offering or providing a consumer financial product or service subject to a larger participant rule under CFPA section 1024(a)(1)(B) count as receipts for purposes of the \$5 million exclusion in § 1092.201(q)(4), regardless of whether the person qualifies as a larger participant. As described in the proposal, under § 1092.201(q)(4), the exclusion is based on the receipts resulting from offering or providing all consumer financial products and services described in CFPA section 1024(a). The new provision makes clear that such receipts include the receipts resulting from offering or providing any of the consumer financial products and services subject to a rule defining larger participant covered persons issued under CFPA section 1024(a)(1)(C) and (2), which for purposes of this exclusion are consumer financial products and services described in CFPA section 1024(a). For purposes of this exclusion, receipts that count toward determining larger participant status under a larger participant rule would count toward this exclusion, even if the person ultimately did not qualify as a larger participant. For example, a person may engage in offering or providing both consumer mortgages, private student loans, or payday loans, on the one hand, and consumer financial products or services identified in a larger participant rule, on the other hand. In that example, even if the person did not meet the threshold for larger participant status under the applicable larger participant rule, the receipts from offering or providing the consumer financial product or service covered by the larger participant rule still would count as receipts for purposes of this exclusion.

²⁹⁶ 12 U.S.C. 5514(a)(3)(A).

²⁹⁷ 12 U.S.C. 5515(a).

²⁹⁸ Such an affiliate would still be subject to the final rule's other requirements applicable to covered nonbanks, including § 1092.202's requirements to register covered orders. See the section-by-section discussion of § 1092.201(d) above.

Section 1092.202 Registration and Submission of Information Regarding Covered Orders

Proposed § 1092.202 would have required covered nonbanks to register with the NBR system by timely submitting information to the NBR system regarding covered orders. The proposed section would have established requirements regarding the timing and content of information to be submitted.

The Bureau believed that requiring covered nonbanks to register with the NBR system would further the objectives of proposed subpart B even in the event the Bureau were not to finalize proposed requirements that supervised registered entities submit written statements as described in proposed § 1092.203. Proposed § 1092.202 would have applied to a broader set of entities than would proposed § 1092.203, and the Bureau believed that requiring registration of entities under proposed § 1092.202 would have provided independent benefit to the Bureau and to consumers.

The Bureau is finalizing § 1092.202 largely as proposed, with certain changes discussed in the analysis of particular paragraphs below. Below, the Bureau first addresses comments regarding the Bureau's legal authority to impose the requirements in § 1092.202 and then discusses § 1092.202's individual paragraphs.

Certain Comments Received Regarding the Bureau's Authority Under CFPA Section 1022 To Impose the Requirements in the Final Rule

Some commenters expressed the view that the Bureau is pursuing a novel and legally impermissible approach to its authorities under CFPA section 1022. Other commenters stated that the Bureau has statutory authority to issue the proposed rule under section 1022. The Bureau finalizes its conclusion that section 1022 authorizes the rule's registration and publication requirements. The Bureau discusses and responds to some of these comments together in this part for ease of reference. For further discussion of the market-monitoring requirements in the final rule and the Bureau's responses to comments received, see the section-by-section analysis below.

Commenters stated that the proposed registry was inconsistent with the Bureau's past practices, and that the Bureau's purported invocation of its CFPA section 1022(c) authority was actually for the purpose of using it to expand its supervisory authority over market participants under CFPA section

1024(a)(1)(C). An industry commenter argued that the proposal represented an attempt to eliminate a clear statutory firewall between the Bureau's market-monitoring authority and its enforcement function, and that it improperly relied upon the Bureau's authority under CFPA section 1022 to support its enforcement functions. The industry commenter stated that the CFPA distinguished the Bureau's enforcement powers under subtitle E of the CFPA from its market-monitoring authority under CFPA section 1022, and that unlike information gathered under CFPA 1022, information collected for enforcement purposes is subject to procedural safeguards under CFPA section 1052 and contemplates the use of civil investigative demands (CIDs) to determine whether there has been a violation of a law.

An industry commenter stated that the proposal did not provide any evidence that covered orders are probative of risk to consumers, stating that the proposal's statements about such risk were conclusory and not backed by documented research and facts, and that companies might actually present less risk because of the scrutiny that comes with being subject to an order. The industry commenter further stated that the proposal would effectively put covered nonbanks in a permanent penalty box, and that the proposal's premise that past violations are evidence of current risk of harm contravenes a fundamental rule of evidence under American law as established at Federal Rule of Evidence 404, which prohibits certain use of evidence of prior crimes.

A joint comment letter from State regulators stated that the proposal did not quantify the potential benefit to the Bureau's consumer education efforts, and suggested that the Bureau's belief that most consumers will not change their behavior due to the publication of the registry was inconsistent with the existence of such a benefit.

The Bureau's Response to Certain Comments Received Regarding the Bureau's Authority Under CFPA Section 1022 To Impose the Requirements in the Final Rule

The Bureau proposed to rely, in part, on its authorities in sections 1022(c)(1)–(4) and (7) for the collection and publication of applicable orders. As the Bureau stated in the notice of proposed rulemaking, the Bureau considers violations of consumer protection laws probative of “risks to consumers in the offering and provision of consumer financial products or services,” and that entities subject to public orders “may

pose heightened and ongoing risks to consumers in the markets for those products and services.”²⁹⁹ More specifically, monitoring for such orders would allow the Bureau “to track specific instances of, and more general developments regarding, potential corporate recidivism,” which poses its own unique risks to consumers, and would improve the Bureau's ability to track enforcement trends by other regulators, enabling it to more efficiently deploy resources vis-à-vis other regulators.³⁰⁰ Parts III(B) and IV(A)–(C) above discuss in detail how this information will support the allocation of resources and detection of risks to consumers.

Some commenters argued for a narrower interpretation of section 1022(c)(4), contending that the Bureau's market-monitoring authorities cannot be used to impose a substantive requirement or are limited to gathering information about particular products, services and practices, or to one-off information gathering. In the view of some commenters, by requiring entities to provide information to the Bureau on an ongoing basis, the registry is inconsistent with past Bureau practice. One commenter pointed to section 1071 to argue that, had Congress wanted the Bureau to create a new database, it would have explicitly and clearly done so.

The narrow view of market-monitoring urged by these commenters is inconsistent with the text and structure of section 1022. First, contrary to commenters' suggestion that the Bureau's market-monitoring authority is limited to gathering information about particular products, services, and practices, nothing in CFPA section 1022(c) confines the Bureau to exercising its market-monitoring authority only on a piecemeal, product-by-product or service-by-service basis. In fact, section 1022 specifically commands the Bureau to monitor “developments in *markets* for . . . products or services,” not simply developments regarding particular products or services themselves.³⁰¹ Further, section 1022(c)(4)(A) explicitly authorizes the Bureau to gather information “regarding the organization, business conduct, markets, and activities of covered persons and service providers.” Commenters rest their argument on the language of section 1022(c)(2), which contains an open-ended list of factors that the Bureau “may consider, among other factors,”

²⁹⁹ 88 FR 6088 at 6091–6092.

³⁰⁰ *Id.* at 6092.

³⁰¹ 12 U.S.C. 5512(c)(1) (emphasis added).

when “allocating its resources to perform . . . monitoring.”³⁰² Although these discretionary considerations are identified by reference to “consumer financial products or services,” this language does not function as a procedural requirement for the Bureau to proceed on a product-by-product, service-by-service, or even market-by-market basis when it uses its market-monitoring authority.

One commenter argues that the rule exceeds the Bureau’s authority under section 1022(c)(4)(A) to gather information “from time to time.” The Bureau, however, is acting in accord with its statutory authority to “prescribe by rule” that covered persons must “from time to time” file “annual or special reports.”³⁰³ The rule here does exactly that: It requires reports “from time to time”—i.e., ninety days after a covered order’s effective date (or the applicable nonbank registry implementation date), as well as ninety days after the covered order’s amendment, modification, termination, abrogation, or cessation of covered-order status, or after changes to other registration information. There are indications elsewhere in the CFPA that “from time to time” may include regular intervals. For example, section 1014, which establishes the Bureau’s Consumer Advisory Board, directs the Board to meet “from time to time . . . but, at a minimum, . . . at least twice in each year.”³⁰⁴ In addition, in other statutory contexts, courts have recognized that the phrase “from time to time” contemplates “an ongoing process” rather than a one-off action.³⁰⁵ In section 1022, Congress imposed on the Bureau an obligation to monitor markets; as a practical matter, doing so often requires repeated or periodic information collections in order to understand how the consumer financial marketplace is developing. An atextual reading of section 1022(c)(4) that would limit the Bureau to one-off information gathering efforts would significantly undermine the Bureau’s ability to fulfill its congressionally assigned obligations and runs counter to the notion of market monitoring “by rule” under the statute.³⁰⁶

Contrary to commenters’ suggestion, this is not the first time that the Bureau has relied on section 1022(c)(4) to create

an ongoing requirement for covered persons to submit information for the purposes of carrying out market monitoring. For example, as part of its final rule to extend consumer protections over prepaid accounts under Regulation E, which implements the Electronic Fund Transfer Act, and Regulation Z, which implements the Truth in Lending Act, the Bureau also utilized its authority under CFPA section 1022(c)(4) to require prepaid card issuers to submit prepaid account agreements to the Bureau.³⁰⁷ The Bureau initially proposed requiring prepaid card issuers to submit new and amended agreements to the Bureau on a quarterly basis for posting on a website maintained by the Bureau.³⁰⁸ In the final rule, the Bureau ultimately chose to require submission on a rolling basis to reduce compliance burden.³⁰⁹ Requiring ongoing submissions in this final rule is not a novel or unique interpretation of the Bureau’s authority under section 1022(c)(4).

Commenters appear to be relying on the *expressio unius est exclusio alterius* canon of statutory interpretation in claiming that the data collection authorized by section 1071 of the CFPA, which amended the Equal Credit Opportunity Act (ECOA),³¹⁰ implies limitations on the Bureau’s market-monitoring authority in section 1022 of the CFPA. But the Supreme Court has “long held that the *expressio unius* canon does not apply ‘unless it is fair to suppose that Congress considered the unnamed possibility and meant to say no to it.’”³¹¹ Courts have observed that the canon is a “feeble helper in an administrative setting,” where Congress often employs expansive statutory language to leave room for exercises of reasonable agency discretion, and is a “poor indicator” of congressional intent “when countervailed by a broad grant of authority contained within the same statutory scheme.”³¹²

Commenters do not point to anything in the legislative history of the CFPA to support their claim that Congress “meant to say no” to requirements like those contemplated by this rule. Indeed, the authority to collect information in section 1022(c)(4) is precisely the kind

of broad authority with respect to which courts have found the *expressio unius* canon to be a “poor indicator” of congressional intent. The Bureau has an extensive obligation, covering the entire marketplace for consumer financial products and services, to monitor for risks to consumers; the information-collection authority at section 1022(c)(4) is necessarily broad in order to satisfy that obligation.

In addition, interpreting section 1071 to imply some limit on the authorities in section 1022 is inappropriate because, among other reasons, section 1071 amends another statute, ECOA, and serves purposes specific to that statute, which are to “facilitate enforcement of fair lending laws” and to “enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses.”³¹³ Sections 1022 and 1071 should be interpreted in light of their distinct and specified purposes.

Regarding the industry commenters’ statements that the final rule improperly relies upon section 1022 authority to support the Bureau’s determinations under CFPA section 1024(a)(1)(C), or to support the Bureau’s enforcement functions, CFPA section 1022(a)(1) provides that the CFPB may use its market-monitoring authority to “support its rulemaking and other functions.”³¹⁴ The Bureau understands this provision to mean that all of the Bureau’s functions, including supervision and enforcement, can be informed by information it gathers through market monitoring. While the Bureau’s market-monitoring authority does not replace its supervision and enforcement authorities (which are established by and subject to other provisions of the CFPA), there is no question that the Bureau can use its market-monitoring work to generally “support” those functions as well as its other functions, such as rulemaking and conducting financial education programs.³¹⁵

The Bureau is finalizing its preliminary conclusion in the proposal that collecting and registering public agency and court orders imposing obligations based upon violations of consumer law would assist with monitoring for risks to consumers in the offering or provision of consumer financial products and services. As explained in part IV above, when an agency issues such an order, or seeks a court order, it typically has determined

³⁰² 12 U.S.C. 5512(c)(2).

³⁰³ 12 U.S.C. 5512(c)(4).

³⁰⁴ 12 U.S.C. 5494(c).

³⁰⁵ *In re A Community Voice*, 878 F.3d 779, 784 (9th Cir. 2017); see also *Earth Island Institute v. Wheeler*, 464 F. Supp. 3d 1138, 1145 (N.D. Cal. 2020) (concluding that “from time to time” statutory language reflected an “ongoing duty”).

³⁰⁶ 12 U.S.C. 5512(c)(4)(B)(ii).

³⁰⁷ *Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z)*, 81 FR 83934 (Nov. 22, 2016).

³⁰⁸ *Id.* at 83957.

³⁰⁹ *Id.* at 83963.

³¹⁰ 15 U.S.C. 1691 *et seq.*

³¹¹ *Marx v. General Rev. Corp.*, 568 U.S. 371, 381 (2013) (quoting *Barnhardt v. Peabody Coal Co.*, 537 U.S. 149 (2003)).

³¹² *Adirondack Med. Ctr. v. Sebelius*, 740 F.3d 692, 697 (D.C. Cir. 2014) (quoting *Cheney R.R. Co. v. I.C.C.*, 902 F.2d 66, 68–69 (D.C. Cir. 1990)).

³¹³ 15 U.S.C. 1691c–2(a).

³¹⁴ See 12 U.S.C. 5512(c)(1).

³¹⁵ See part IV(B) above.

that the problems at the applicable entity are sufficiently serious to merit the expenditure of that agency's limited resources and perhaps the attention of the courts. As discussed in part IV, conduct that constitutes a violation of a covered law may also indicate that the covered nonbank has engaged in violations of laws that the Bureau administers. And, notwithstanding the issuance of the covered order, the violations of covered law or other problems that led the agency to pursue enforcement action may persist after an order has been issued. Such orders may also be indicative of the existence of broader problems at the entity that pose related risks to consumers—including lack of sufficient controls related to the offering and provision of consumer financial products and services, inadequate compliance management systems and processes, and an unwillingness or inability of senior management to comply with laws subject to the Bureau's jurisdiction.

Information regarding the absence of covered orders will also be informative to the Bureau. The existence of covered orders may also in some cases be indicative of lesser, and not greater, risk to consumers. For example, the presence of enforcement activity may indicate that particular risks, markets, or companies are receiving adequate enforcement attention and oversight from regulators.³¹⁶ But while less enforcement activity in certain areas could indicate less risk to consumers, it potentially also could be evidence of less attention by regulators and a need to increase monitoring and other supervisory or regulatory activities. Enforcement patterns and trends may vary depending on any number of factors, including the agency issuing or obtaining the order, the type of entity subject to the order, the consumer protection law being enforced, the applicable geographic or product market, and other variables. The Bureau will use the information it collects under the final rule to evaluate, assess, and understand the consumer risk posed by or otherwise related to covered orders, including patterns in such orders and developments in the markets for consumer financial products and services.

As discussed in part IV above, collecting and evaluating such market-monitoring information relevant to the offering and provision of consumer financial products and services is

appropriate to inform the Bureau's functions, including its supervision and enforcement functions. Thus, the Bureau may consider all of this information regarding enforcement activity, including patterns in such activity, in assessing risks to consumers as part of, among other things, exercising its market-monitoring authority under CFPA section 1022(c), conducting its supervisory prioritization under CFPA section 1024(b)(2), and determining the amount of civil money penalties it may seek or assess under CFPA section 1055(c). However, such use by the Bureau of this information as authorized under the CFPA does not represent an attempt to improperly penalize covered nonbanks for prior acts. Likewise, as discussed in the section-by-section discussion of § 1092.205(a) below, any publication by the Bureau of the information collected through the registry as authorized under § 1092.205 would not be intended to punish companies or individuals for their past acts. Collection and publication of such information as provided in the final rule is authorized by the CFPA and does not violate evidentiary or other fundamental principles of American law.

Industry commenters also stated that the proposed registry's purpose was incompatible with the Bureau's authorities to prescribe rules regarding registration requirements under CFPA section 1022(c)(7). A joint letter from members of Congress stated CFPA section 1022(c)(7) does not grant the Bureau authority to establish such a robust set of registration requirements, nor a database for a particular category of information, and stated that when Congress intends to create a database, it explicitly and clearly does so. One industry commenter also stated that CFPA section 1022(c)(7) does not contemplate the creation of a registration requirement and bespoke database for a particular category of information, but rather outlines a path for registering a covered entity with the Bureau and sharing basic identifying information about the entity with the public. Another industry commenter stated that the proposed registry represented an attempt to obscure the Bureau's failure to create a registry that would identify legitimate companies for the use of consumers and others, as required by law, and that the Bureau should instead develop and publicize an accessible list of legitimate debt collectors.

Commenters do not specify how the final rule's particular registration requirements exceed the authority contained in CFPA section 1022(c)(7),

and the Bureau believes that the final rule is consistent with the Bureau's authority under that provision. As discussed in part III(B) above, CFPA section 1022(c)(7)(A) expressly authorizes the Bureau to "prescribe rules regarding registration requirements applicable to a covered person, other than an insured depository institution, insured credit union, or related person." The registry will provide a mechanism for the Bureau to gather information about the nonbank entities that are subject to its jurisdiction. The CFPB has designed its rule to be consistent with limitations contained in CFPA section 1022(c)(7)(A), including by excluding insured depository institutions, insured credit unions, and related persons from the scope of the rule's registration requirements.³¹⁷ As explained in more detail in parts III and IV, the Bureau is adopting the final rule to fulfill the general purposes and objectives established for the Bureau in CFPA sections 1021, 1022(b) and (c), and 1024(b)(7)(A)–(C), as authorized under those sections. The Bureau disagrees that more specific statutory authorization is required.

Section 1022(c)(7)(B) also provides that "[s]ubject to rules prescribed by the Bureau, the Bureau may publicly disclose registration information to facilitate the ability of consumers to identify covered persons that are registered with the Bureau."³¹⁸ The Bureau interprets CFPA section 1022(c)(7)(B) as authorizing it to publish registration information required by Bureau rule under CFPA section 1022(c)(7)(A) so that consumers may identify the nonbank covered persons on which the Bureau has imposed registration requirements. Contrary to a commenter's suggestion, this provision does not imply that the Bureau is precluded from publishing registration information in database or other searchable form, or from publishing identifying information or other registration information in a manner that highlights specific information or categories of information. As further explained in part IV(F) and the section-by-section discussion of § 1092.205(a), publication of registry information under § 1092.205 in an online public registry will implement the provisions of Federal consumer financial law in a manner fully consistent with the Bureau's obligations under the CFPA.

An industry commenter questioned the Bureau's authority to make the market-monitoring data public under

³¹⁶ See 12 U.S.C. 5514(b)(2)(D) (requiring the Bureau to consider in conducting risk-based supervisory prioritization "the extent to which [nonbanks] are subject to oversight by State authorities for consumer protection").

³¹⁷ See § 1092.201(d)(1) and (2) of the final rule.

³¹⁸ 12 U.S.C. 5512(c)(7)(B).

CFPA section 1022(c)(3). Section 1022(c)(3)(B), however, authorizes the Bureau to release information through aggregated reports or “other appropriate formats.” The only limitations on “format” that section 1022 imposes are that the format be “appropriate” and that it be “designed to protect confidential information in accordance with paragraphs (4), (6), (8), and (9).” The proposed registry complies with these restrictions.

Section 1022(c)(3)(B) is not limited by section 1022(c)(3)(A), on which the industry commenter focused. Section 1022(c)(3)(A) requires the Bureau to, at minimum, publish one “report of significant findings of its monitoring required by this subsection [*i.e.*, subsection 1022(c)] in each calendar year.” It sets a floor, not a ceiling, and it does not restrict the Bureau to only publishing “report[s] of significant findings” related to its market-monitoring work.

In addition, section 1022(c)(3)(B) authorizes the Bureau to publish information obtained “under this section [*i.e.*, section 1022]” in “appropriate formats.” By its own terms, this provision applies to any category of information collected under section 1022 (*see, e.g.*, CFPA sections 1022(c)(6)(C), 1022(c)(7), 1022(d)), and so cannot reasonably be limited by section 1022(c)(3)(A), which only concerns the Bureau’s “monitoring” work under “subsection” (c).

The commenter’s assertion is also in tension with laws requiring Federal agencies to make data and information available to the public. The Foundations for Evidence-Based Policymaking Act requires agencies to disclose data if it would otherwise be made available under the Freedom of Information Act.³¹⁹ Similarly, the Freedom of Information Act imposes proactive disclosure requirements when records are likely to be requested by the public.³²⁰

As discussed in part IV(B) above, the information collected under the final rule will inform the Bureau’s exercise of its consumer education functions, among other functions.³²¹ For example, the Bureau may consider the

information it has collected in determining what harmful practices may be prevalent in the markets for consumer financial products and services, in monitoring and assessing the enforcement actions that are being issued in connection with such harmful practices and the content of covered orders, and in identifying patterns of similar alleged or found violations of Federal consumer financial law across multiple nonbank covered persons. Such information about risk to consumers in the offering and provision of consumer financial products and services will help the Bureau determine how to conduct its own consumer education efforts. The Bureau may choose to direct its consumer education efforts toward educating consumers about risks identified via the registry, and can help consumers understand the risks and associated costs of such conduct with respect to their use of certain consumer financial products or services. While, as discussed in parts VIII and IX below, the Bureau believes that most consumers will not change their behavior due to the publication of the registry as authorized under § 1092.205(a), the Bureau will be able to utilize the information collected under the final rule to inform its own consumer education functions.

Section 1092.202(a) Scope of Registration Requirement

Proposed Rule

Proposed § 1092.202(a) would have defined the scope of the registration requirement. To maximize the value of subpart B’s registration requirements, while taking into consideration administrative costs to the Bureau and covered nonbanks in keeping the registry updated, the Bureau proposed to limit § 1092.202 to covered orders (as that term is defined at proposed § 1092.201(e)) that have an effective date (as that term is defined at proposed § 1092.201(f)) on or after the effective date of subpart B, or that remain in effect (as that term is defined at proposed § 1092.201(m)) as of the effective date of subpart B. The Bureau preliminarily concluded that this limitation of the registration requirement’s scope would help ensure that the most relevant orders are submitted into the NBR system.³²² The Bureau recognized in its proposal that there is potential value in requiring registration with respect to older orders that no longer remain in effect. Among

other things, the Bureau believed that such registration would have helped inform the Bureau and consumers regarding older orders and help to identify an even larger number of repeat offenders than could be identified through the registration requirement as proposed in § 1092.202. On the other hand, the Bureau recognized that requiring covered nonbanks to identify and register older orders to which they were once subject, but that no longer impose any present obligations, may be burdensome. In addition, extending the registration requirement to older orders would have imposed additional administrative costs on the Bureau. The Bureau believed that limiting the registration requirement to covered orders with an effective date on or after the effective date of subpart B, or that remain in effect as of subpart B’s effective date, would strike the appropriate balance in terms of establishing an informative and useful registry without imposing undue burdens on either industry or the Bureau. To maximize the value of subpart B’s registration requirements, while taking into consideration administrative costs to the Bureau and covered nonbanks in keeping the registry updated, the Bureau therefore proposed to limit § 1092.202 to covered orders (as that term is defined at proposed § 1092.201(e)) that have an effective date (as that term is defined at proposed § 1092.201(f)) on or after the effective date of subpart B, or that remain in effect (as that term is defined at proposed § 1092.201(m)) as of the effective date of subpart B.

Comments Received and Final Rule

The Bureau did not receive any comments specifically regarding proposed § 1092.202(a). For the reasons set forth in the description of the proposed rule above, the Bureau is finalizing § 1092.202(a) as proposed.

Section 1092.202(b) Requirement To Register and Submit Information Regarding Covered Orders

Proposed Rule

Proposed § 1092.202(b) would have established subpart B’s requirements for covered nonbanks to register with the NBR system and to provide and maintain certain registration information.

Proposed § 1092.202(b)(1) would have provided that each covered nonbank that is identified by name as a party subject to a covered order described in paragraph (a) shall register as a registered entity with the NBR system in accordance with proposed § 1092.202(b)

³¹⁹ 44 U.S.C. 3504(b)(6)(F).

³²⁰ 5 U.S.C. 552(a)(2)(D).

³²¹ See 12 U.S.C. 5493(d) (establishing the Bureau’s Office of Financial Education); 12 U.S.C. 5511(b)(1) (“The Bureau is authorized to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services . . . consumers are provided with timely and understandable information to make responsible decisions about financial transactions”); 12 U.S.C. 5511(c)(1) (“The primary functions of the Bureau are . . . conducting financial education programs”).

³²² The Bureau is adopting the proposal’s approach to this issue in the final rule and finalizes its preliminary conclusion to this effect; see the discussion of § 1092.202(a) of the final rule below.

if it is not already so registered, and shall provide or update, as applicable, the information described in subpart B in the form and manner specified by the Bureau. As discussed in connection with proposed § 1092.201(e)(1), a covered nonbank that is identified by name as a party subject to the order would have been required to register under this paragraph even if the covered nonbank is not listed in the title or caption of the order, or as the primary respondent, defendant, or subject of the order. A covered nonbank may have been subject to the requirements of proposed § 1092.202 even if the issuing agency or court does not list the covered nonbank as a party in related press releases or internet links.

The Bureau considered but did not propose alternative approaches, including applying the requirements of this section to any covered nonbank alleged or found in a covered order to have violated a covered law, even if such party were not expressly named. This alternative would have captured circumstances where, for instance, a covered order applies to a category of entities, such as all affiliates of a particular named covered nonbank, but the order does not specifically name all of the entities that fall within that category (e.g., does not specifically list the names of all of the affiliates of the named covered nonbank). While this alternative would have potentially widened the scope of information the Bureau would have obtained relevant to its market-monitoring objectives, it preliminarily concluded that the proposed approach would effectively achieve those objectives with greater administrative ease.

As provided at § 1092.102(a), the Bureau proposed to specify the form and manner for electronic filings and submissions to the NBR system that are required or made voluntarily under part 1092, including §§ 1092.202 and 1092.204. The Bureau would have issued specific guidance for filings and submissions.

Proposed § 1092.202(b)(2)(i) would have required each covered nonbank that is required to register under proposed § 1092.202 to submit a filing containing the information described in proposed § 1092.202(c) and (d) to the NBR system within the later of 90 days after the applicable nonbank registration system implementation date or 90 days after the effective date of any applicable covered order. Thus, a covered nonbank would not have been required under proposed subpart B to register any covered orders to which it may be subject until 90 days after the nonbank registration system implementation date

for this provision. For covered orders with effective dates after the nonbank registration system implementation date, an applicable covered nonbank would have been required to register the covered order within 90 days after the covered order's effective date, as that term is defined at proposed § 1092.201(f). The Bureau believed the 90-day period would give sufficient time for a covered nonbank to collect and submit the applicable information to the NBR system and would also generally permit a sufficient length of time for any relevant agency or court stays to take effect.

As discussed above regarding proposed § 1092.101(e), the Bureau estimated that the nonbank registration system implementation date for proposed §§ 1092.202 and 1092.203 would have been no earlier than January 2024 and may be substantially later. The Bureau explained in its proposal that the exact nonbank registration system implementation date would depend upon, among other things, the comments received to this proposal and the Bureau's ability to launch the registration system.

Proposed § 1092.202(b)(2)(ii) would have required each covered nonbank that is required to register under proposed § 1092.202 to submit a revised filing amending any information described in paragraphs (c) and (d) to the NBR system within 90 days after any amendments are made to the covered order or any of the information described in paragraphs (c) or (d) changes. The Bureau believed that requiring entities to maintain up-to-date information with the NBR system would significantly enhance the usefulness of the NBR system for the Bureau, consumers, and other users of the NBR system.

Comments Received

Commenters stated that the Bureau is pursuing a novel and legally impermissible approach to its authorities under CFPB section 1022. For a discussion of these issues, see the Bureau's response above to comments received regarding the Bureau's authority under CFPB section 1022.

Commenters also stated that the proposal was not compatible with CFPB section 1024. Industry commenters stated that the proposed registry would conflict with the requirement at CFPB section 1024(b)(4)³²³ for the Bureau, in exercising its nonbank supervisory authority, to use reports that have already been provided to Federal and

State agencies and information that has been reported publicly. An industry commenter also stated that the proposed registry would conflict with the requirement at CFPB section 1024(b)(3)³²⁴ for the Bureau, in exercising its nonbank supervisory authority, to "coordinate its supervisory activities with the supervisory activities conducted by prudential regulators, the State bank regulatory authorities, and the State agencies that license, supervise, or examine the offering of consumer financial products or services, including . . . requirements regarding reports to be submitted by such persons."³²⁵

The joint comment from State regulators stated that, because in the commenters' view the discrepancy between the number of nonbank entities licensed by States through NMLS and the number of firms subject to Bureau supervisory authority appears negligible, the proposed Bureau registry would likely be largely duplicative of NMLS and provide little new insight for risk-based supervision purposes, particularly for the mortgage and money services business industries.

An industry commenter stated the proposal did not comply with CFPB section 1024(b)(2) and did not properly assess the impact of the rule on attorneys and law firms under that statutory provision. The commenter stated that creditors' rights attorneys and law firms already are heavily regulated at the State level, the Bureau should have considered the unique characteristics of creditors' rights law firms, and such firms should be exempt from the proposed rule. Another industry commenter stated that the proposed written-statement requirements were inconsistent with section 1024(b)(2) since the \$1 million amount in proposed § 1092.201(q)'s definition of "supervisory registered entity" should be increased.

Consumer advocate commenters generally supported the Bureau's proposal to collect information as described in the proposal. A consumer advocate commenter stated that in light of the large number of nonbanks subject to Bureau oversight, the self-reporting requirements in the proposed rule would assist the Bureau's supervisory prioritization efforts and would help the Bureau identify wider trends in relevant markets. A consumer advocate commenter stated that it would not be a substantial burden for companies to identify covered orders, since they would presumably have these orders on

³²³ 12 U.S.C. 5514(b)(4); *see also* 12 U.S.C. 5515(b)(3), 5516(b)(1).

³²⁴ 12 U.S.C. 5514(b)(3).

³²⁵ *See id.*

hand for their own in-house compliance purposes.

An industry commenter stated that the Bureau should establish a minimum threshold of five non-expired covered orders before requiring registration, in order to better distinguish nonbanks with only a few consent orders from “repeat offenders” and reduce consumer confusion.

The SBA Office of Advocacy stated that the Bureau should issue clear guidance to assist small entities with compliance with the rule’s submission and other requirements.

See the section-by-section discussion of § 1092.201(e) regarding a comment related to the final rule’s treatment of parties not expressly named in the covered order.

Response to Comments Received

The Bureau is finalizing a new section at § 1092.203 that will provide that, with respect to any covered order that is published on the NMLS Consumer Access website, a covered nonbank that is identified by name as a party subject to the order may elect to comply with the one-time registration option described in that section in lieu of complying with the requirements of §§ 1092.202 and 1092.204. To the extent that CFPA section 1024(b)(4) may apply to Bureau rulemakings under section 1024(b)(7), § 1092.203 will ensure that the requirements in the Bureau’s rule reflect, to the fullest extent possible, “reports pertaining to persons described in [section 1024(a)(1)] that have been provided or required to have been provided to a Federal or State agency” and “information that has been reported publicly.”³²⁶ In particular, covered nonbanks with NMLS-published covered orders can opt for a streamlined registration process designed to provide notice that information regarding such covered orders is available through the NMLS. After the existence of NMLS-published covered orders has been directed to the Bureau’s attention through a streamlined registration under § 1092.203, the Bureau can use any information available through the NMLS to help inform its risk-based supervisory prioritization determinations under CFPA section 1024(b)(2) and its supervisory activities under section 1024(b)(1).

To the extent these industry commenters suggest that additional changes would be required in order to satisfy the Bureau’s obligations under CFPA section 1024(b)(4)—for example, by not collecting information that is also published by an individual State

agency—the Bureau declines to make such changes. First, a central purpose of the rule’s registration requirements is to ensure that the Bureau is made aware and provided with copies of “information that has been reported publicly”—*i.e.*, information related to public enforcement orders—in a manner that is usefully associated with covered nonbanks. Second, the Bureau views the registry as a means to increase its ability to obtain and use such information and thus promote Congress’s intent in adopting these statutory provisions. CFPA section 1024(b)(4) requires that the Bureau use such information “to the fullest extent possible,” and collecting this information makes it more “possible” for the Bureau to use this information.

Likewise, to the extent that CFPA section 1024(b)(3) may apply to Bureau rulemakings under section 1024(b)(7), the Bureau has satisfied any obligation to coordinate with prudential regulators and relevant State authorities through the consultations described in part V of this preamble. Further, the Bureau is finalizing § 1092.203 in part to facilitate coordination with the State authorities described in CFPA section 1024(b)(3), as well as to facilitate adoption of the “coordinated or combined systems for registration” with State agencies discussed in CFPA sections 1022(c)(7)(C) and 1024(b)(7)(D).³²⁷

As discussed further in part IV(E) above and the section-by-section discussion of § 1092.203 below, the Bureau does not believe that the existence of the NMLS renders the new Bureau registry unnecessary, including with respect to supervised registered entities. However, the Bureau is finalizing § 1092.203 to provide that applicable entities may comply with the one-time limited registration option described in that section in lieu of complying with the requirements of §§ 1092.202 and 1092.204. The information obtained by the Bureau under the final rule, including § 1092.203, will inform the Bureau’s risk-based supervisory prioritization efforts as well as its other functions.

³²⁷ One of the authorities cited as a basis for components of the final rule is 12 U.S.C. 5512(c)(7), which provides that the “Bureau may prescribe rules regarding registration requirements applicable to a covered person, other than an insured depository institution, insured credit union, or related person.” Congress provided that “[i]n developing and implementing registration requirements under [12 U.S.C. 5512(c)(7)], the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate.” 12 U.S.C. 5514(b)(7)—the proposed statutory basis for the written-statement requirement—includes a similar consultation provision.

The Bureau does not agree that the final rule is inconsistent with CFPA section 1024(b)(2), whether with respect to attorneys and law firms or any other broad category of covered nonbanks that can be identified in advance of collecting information under the final rule. As an initial matter, CFPA section 1024(b)(2) does not govern this rulemaking. As the Bureau has explained, it relies on CFPA sections 1022(b), 1022(c), and 1024(b)(7) in issuing this rule.³²⁸ By its own terms, CFPA section 1024(b)(2) applies only to exercises of the Bureau’s supervisory authority under a different provision, CFPA section 1024(b)(1). Section 1024(b)(2) does not govern rulemakings; instead, it governs the Bureau’s prioritization of entities for examinations and other supervisory activities under section 1024(b)(1). Therefore, the Bureau is not required to account for the risk-based prioritization factors set forth in section 1024(b)(2) in determining this rulemaking’s scope. Moreover, as the Bureau discussed in the proposed rule, one of the purposes of this registry is to provide the Bureau with additional information to use for its prioritization of examinations and other supervisory activities under section 1024(b)(2).³²⁹ Requiring an assessment under section 1024(b)(2) for rulemakings under section 1024(b)(7) would, in fact, limit the Bureau’s ability to make informed assessments of individual entities for supervisory activities.

In any event, even if the Bureau were exercising authority under section 1024(b)(1) here, and thus section 1024(b)(2) applied, that would not affect the rulemaking’s outcome. The Bureau believes that the risk associated with covered orders is significant and that a consideration of the factors set forth in section 1024(b)(2) supports imposing the rule’s requirements. As discussed in part IV(B), depending upon the circumstances, the Bureau may consider the existence of an order requiring registration under the final rule to be a risk factor under these provisions for covered persons subject to the final

³²⁸ See, e.g., 88 FR 6088 at 6103 (“The Bureau proposes to establish the NBR system under its registration and market-monitoring rulemaking authorities under CFPA section 1022(b)(1), (c)(1)–(4), and (c)(7), and under its supervisory rulemaking authorities under CFPA section 1024(b)(7)(A), (B), and (C).”).

³²⁹ *Id.* at 6095 (“The Bureau believes that the proposed registry would be especially useful with respect to the particular nonbank markets that are subject to the Bureau’s supervision and examination authority under CFPA section 1024(a). In those markets, the Bureau would be able to take account of risks identified through the proposed registry in conducting its risk-based supervisory prioritization and enforcement work.”).

³²⁶ 12 U.S.C. 5514(b)(4).

rule—in particular, under CFPA section 1024(b)(2)(C)–(E). Moreover, the information that the Bureau obtains under the rule will inform its supervisory prioritization efforts with respect to individual entities and will otherwise facilitate its supervision of covered nonbanks that are described in CFPA section 1024(a)(1). In addition, consistent with CFPA sections 1024(b)(2)(A)–(B), the Bureau has effectively accounted for asset size and transaction volume by excluding persons with less than \$5 million in annual receipts (as described in § 1092.201(q)(4)) from § 1092.204's annual reporting requirements. For additional discussion of that exclusion, see the section-by-section discussion of § 1092.201(q).

The Bureau is finalizing § 1092.202(b)(2)(i)'s requirement for covered nonbanks to register each covered order within 90 days of the order's effective date (or, in the initial phase of the registry, the applicable nonbank registry implementation date). The Bureau declines to establish a minimum number of covered orders to which a covered nonbank must be subject before requiring registration. That approach would lead to the omission of many covered orders that are relevant to risk to consumers, and would impair the ability of the Bureau and others to identify trends and patterns in the information collected. It would also lead to the omission of relevant covered nonbanks and supervised registered entities from the registry, which would mean that the Bureau would not be notified regarding the existence of such entities and would not learn that they were subject to a covered order. The approach would limit the Bureau's ability to seek additional information about the covered order and the covered nonbank and otherwise monitor risks to consumers as appropriate to inform the Bureau's functions. While, as discussed elsewhere in this preamble, the Bureau is very concerned about the risks to consumers presented by repeat offenders, even one covered order may be probative of significant risk to consumers. In addition, the Bureau would be less able to understand where covered orders are not being issued or obtained, depriving it of important information regarding the absence of covered orders. And supervised registered entities would not be subject to the rule's written-statement requirements until the threshold had been reached, unduly limiting the effectiveness of those requirements. The Bureau concludes that registration of

each covered order will serve the purposes of the final rule described in part IV above. The Bureau disagrees that requiring registration of each covered order will lead to consumer confusion, as consumers and other users of the registry will have access to accurate information about the orders and nonbank. See the section-by-section discussion of § 1092.205(a) below for additional discussion of related issues involving the potential publication of registry information.

As provided in § 1092.102(a), the Bureau will issue filing instructions that will provide covered nonbanks with specific information regarding their filing obligations under the final rule. The Bureau may consider issuing additional rules and guidance as may be necessary or appropriate.

Final Rule

For the reasons discussed above and in the proposal, the Bureau is finalizing § 1092.202(b) as proposed, with minor technical edits and a minor revision to reflect the renumbering of § 1092.206 in the final rule.³³⁰

Section 1092.202(c) Required Identifying Information and Administrative Information

Proposed Rule

Proposed § 1092.202(c) would have required a registered entity to provide all identifying information and administrative information required by the NBR system. In filing instructions the Bureau would have issued under proposed § 1092.102(a), the Bureau would have specified the types of identifying information and administrative information registered entities would be required to submit. Proposed § 1092.201(a) would have defined the term “administrative information,” and proposed § 1092.201(g) would have defined the term “identifying information.” Proposed § 1092.202(c) also would have clarified that the Bureau's filing instructions may require joint or combined submissions to the NBR system by covered nonbanks that are affiliates as defined in proposed § 1092.101(a).

The Bureau requested comment on the general requirements of proposed § 1092.202(c), including the requirement to register and update identifying information and administrative information within the timeframes described in proposed § 1092.202(b).

The Bureau requested comment on whether registration of updates with respect to this information should be required more or less often, and if so, why and in what circumstances. The Bureau also sought comment on the proposed distinctions between identifying information and administrative information, and whether collection of other types of information would help in the administration of the NBR system or benefit its users.

Comments Received

An industry commenter asked that the Bureau clarify that entities would only be required to report, and only be publicly affiliated with, orders wherein they are named.

Comments addressing the proposal's approach to the written statement, including requirements to designate and submit the names and titles of attesting executives and associated criteria for such a designation, are addressed in the section-by-section discussion of § 1092.204 below.

Response to Comments Received

As provided in § 1092.201(e)(1)(i), in order to qualify as a “covered order” under the final rule, an order must among other things “[i]dentify” a covered nonbank by name as a party subject to the order.” Where a covered nonbank is not identified by name as a party subject to an order, the order will not be a covered order with respect to that covered nonbank, and the covered nonbank will not be subject to any of the requirements of the final rule with respect to the covered order. A covered nonbank is not subject to the requirements of the rule with respect to a covered order on the sole grounds that its affiliated covered nonbank is subject to those requirements. However, as provided at § 1092.202(c), the Bureau may require, via filing instructions issued pursuant to § 1092.102(a), two or more affiliated covered nonbanks to submit a joint or combined filing statement with respect to a covered order, where those affiliated covered nonbanks are each subject to the requirements of § 1092.202 with respect to such covered order. Also, as discussed in the section-by-section discussion of §§ 1092.201(a) and 1092.202(d) above, for any covered order that a covered nonbank must register under § 1092.202, the Bureau may via filing instructions require the registered covered nonbank to identify to the Bureau, as administrative information required under § 1092.202(c), the names of any of the registered covered nonbank's affiliates

³³⁰ See also the section-by-section discussions of § 1092.101(d) and (e) above regarding the Bureau's adoption of the revised terms “nonbank registry” and “nonbank registry implementation date.”

registered under subpart B with respect to the same covered order.

Final Rule

For the reasons set forth above, the Bureau is finalizing § 1092.202(c) as proposed.³³¹

See also the discussion regarding the final rule's treatment of affiliates of insured depository institutions and insured credit unions in the section-by-section discussions of § 1092.201(d) and (q) above.

Section 109.202(d) Information Regarding Covered Orders

Proposed Rule

Proposed § 1092.202(d) would have required a registered entity to provide additional types of information more specifically related to each covered order subject to proposed § 1092.202. First, proposed § 1092.202(d)(1) would have required a registered entity to provide a fully executed, accurate, and complete copy of the covered order, in a format specified by the Bureau. This information would have helped the Bureau more clearly identify the covered orders to which the registered entity is subject, as well as the terms of those orders, and would provide access to updated copies of those orders. The information would have provided similar benefits to other regulators, consumers, and other users of the NBR system upon publication.

This proposed section would have also provided that any portions of a covered order that are not public must not be submitted. These nonpublic portions would have been required to be clearly marked on the copy submitted, to promote ease of use. For example, a nonpublic section could have been redacted and marked as nonpublic. As discussed above regarding proposed § 1092.201(e)(3) and (k), the Bureau was concerned that requiring registration and disclosure of confidential supervisory information or other nonpublic information might interfere with the functions and missions of other agencies and did not believe that requiring such registration and disclosure is necessary to accomplish the purposes of the proposed rule. The Bureau sought comment on this aspect of the proposed rule. The Bureau also sought comment on whether it should permit covered nonbanks to submit only select portions of covered orders, and if so, what portions of such orders should be submitted, and which should be

excluded from the submission requirement.

Proposed § 1092.202(d)(2) would have required a registered entity to provide five additional types of data regarding each covered order subject to § 1092.202. The Bureau believed all of the described data fields would be useful to the Bureau in locating, understanding, organizing, and using the information submitted. The Bureau also explained in its proposal that upon publication, the data fields would be similarly useful to other users of the NBR system as well. In addition, the Bureau believed that requiring covered nonbanks to identify and submit these fields would help ensure accuracy and lower administrative costs for the Bureau.

First, proposed § 1092.202(d)(2)(i) would have required a registered entity to identify the government entity that issued the covered order. Second, proposed § 1092.202(d)(2)(ii) would have required a registered entity to provide the covered order's effective date, as that term is defined at proposed § 1092.201(f). Third, proposed § 1092.202(d)(2)(iii) would have required a registered entity to provide the date of expiration, if any, of the covered order, or a statement that there is none. The Bureau explained in its proposal, for example, where a covered order expires by its own terms after perhaps five or some other term of years, the registered entity would be required to provide that information. The Bureau requested comment on whether the date of expiration of covered orders would be sufficiently clear to comply with this provision or whether additional specification on this point from the Bureau would be useful. Fourth, proposed § 1092.202(d)(2)(iv) would have required a registered entity to identify all covered laws found to have been violated or, for orders issued upon the parties' consent, alleged to have been violated, in the covered order. The Bureau would have expected that registered entities would satisfy this requirement by providing accurate Federal or State citations for the applicable covered laws. The Bureau believed this information would increase the usefulness of the NBR system. It would have better enabled the Bureau to identify and assess any risks to consumers relating to the violations, and once published would have also enabled users of the registry to more easily search and review filings.

Fifth, proposed § 1092.202(d)(2)(v) would have required a registered entity to provide the names of any of the registered entity's affiliates registered under subpart B with respect to the

same covered order. The Bureau anticipated that this information would be useful in identifying affiliate relationships between registered entities that are registered with the NBR system, which might not otherwise be obvious or apparent. Proposed § 1092.101(a) would have defined the term "affiliate" to have the meaning given to that term in the CFPA, which would have included any person that controls, is controlled by, or is under common control with another person.³³²

Proposed § 1092.202(d)(3) would have required a registered entity, if the registered entity is a supervised registered entity, also to file the name and title of its attesting executive for purposes of proposed § 1092.203 with respect to the covered order. The benefits of designating an attesting executive were discussed in detail in proposed section IV(D). In addition, the Bureau believed that its collection (and ultimate publication) in the registry of the name and title of a supervised registered entity's attesting executive would be important to the Bureau and other users of the NBR system. The Bureau believed that requiring the entity to identify the name and title of the attesting executive designated in connection with each covered order would assist the Bureau in administering the requirements in proposed § 1092.203 regarding annual written statements. In addition, as discussed below regarding proposed § 1092.203(b), the Bureau explained that collecting information regarding the name and title of the attesting executive for a given covered order would provide the Bureau with insight into the entity's organization, business conduct, and activities, and would inform the Bureau's supervisory work, including its risk-based prioritization process. The Bureau also believed that publishing this information would have also provided benefits to the public and other users of the proposed NBR system, as discussed further below in connection with proposed § 1092.204(a).

The Bureau would have relied on two separate statutory grants of authority in collecting the attesting executive's name and title, each of which would provide an independent statutory basis for proposed § 1092.202(d)(3). The Bureau would have collected this information under its market-monitoring authority under CFPA section 1022(c)(1) and (4) to "gather information regarding the organization, business conduct, markets, and activities" of supervised registered entities.³³³ The Bureau would have also

³³¹ See also the section-by-section discussions of § 1092.101(d) and (e) above regarding the Bureau's adoption of the revised terms "nonbank registry" and "nonbank registry implementation date."

³³² See 12 U.S.C. 5481(1).

³³³ 12 U.S.C. 5512(c)(1), (4).

collected this information under its CFPB section 1024(b)(7) authority to prescribe rules regarding registration, recordkeeping, and other requirements for covered persons subject to Bureau supervision under CFPB section 1024.³³⁴

The Bureau requested comment on whether proposed § 1092.202(d) should identify additional or different categories of information collected by the NBR system, including but not limited to information regarding covered orders or the registered entity.

Comments Received

An industry commenter stated that the proposal's requirement to submit redacted orders would confuse the public, and that in cases where a portion of a covered order is redacted or confidential, the whole order should stay off the registry.

A consumer advocate commenter stated that the treatment of nonpublic information under proposed § 1092.202(d) demonstrated that the Bureau was taking steps to protect confidential and otherwise nonpublic information relevant to orders.

Response to Comments Received

See the section-by-section discussion of § 1092.201(m) above regarding the treatment of nonpublic portions of orders under the final rule.

See the section-by-section discussion of § 1092.201(l) above regarding an industry commenter's suggestion to treat multiple orders as a single order under certain circumstances.

See the section-by-section discussion of §§ 1092.204(b) and 1092.205(a) below for discussions regarding the final rule's requirements to designate an attesting executive for each covered order and the Bureau's reasons for collecting and potentially publishing that information.

Final Rule

For the reasons set forth below and in the description of the proposed rule above, the Bureau is finalizing § 1092.202(d) as proposed, with several revisions.

First, as discussed further below in the section-by-section discussion of § 1092.205(a), the Bureau has determined not to mandate with respect to every covered order the collection of information regarding the names of the person's affiliates registered under subpart B with respect to the same covered order in the final rule. Under the final rule, § 1092.202(d)(2)(v) as proposed has been deleted, but the Bureau may determine to collect this

information as "administrative information" under § 1092.202(c). In filing instructions issued under § 1092.102(a), the Bureau will specify whether and how it will collect such information. As described in the section-by-section discussion of § 1092.205(a) below, the Bureau will not publish such information under § 1092.205(a) if it is collected.

Second, the Bureau is finalizing a clarification at § 1092.202(d)(2)(i) to provide that a registered entity shall provide to the nonbank registry, for each covered order subject to § 1092.202, information regarding the agency (or agencies) and court(s) that issued or obtained the covered order, as applicable. The Bureau is finalizing this change to the proposed rule in order to clarify that covered orders may be issued or obtained by more than one agency or court, and to collect more accurate and comprehensive information about covered orders. In general, for covered orders that are issued by a court of law, the nonbank registry will collect information regarding the court that issued the order as well as the agency or agencies that brought the applicable proceeding and obtained the order. For covered orders issued directly by agencies in an administrative action or other agency proceeding, the nonbank registry generally will collect information regarding the issuing agency or agencies.

Third, the Bureau is finalizing a new provision at § 1092.202(d)(2)(v) to provide that a registered entity shall provide to the nonbank registry, for each covered order subject to § 1092.202, information regarding any docket, case, tracking, or other similar identifying number(s) assigned to the covered order by the applicable agency(ies) or court(s). Collecting and potentially publishing this information will better enable the Bureau and other users of the registry to identify the applicable covered order, to distinguish it from other orders, and to understand any connections between the order and the covered nonbank with other information about the covered order and covered nonbank that the Bureau may possess or that may be otherwise available. As with the other required data fields, this information will be useful to the Bureau in locating, understanding, organizing, and using the information submitted and will be similarly useful to other users of the nonbank registry as well. In addition, requiring covered nonbanks to identify and submit such information will help ensure accuracy and lower administrative costs for the Bureau.

Fourth, the Bureau is finalizing a minor revision at § 1092.202(d)(3) to reflect the renumbering of § 1092.204.

Section 1092.202(e) Expiration of Covered Order Status

Proposed Rule

Proposed § 1092.202(e) would have provided for an outer limit on the time period during which the existence of a covered order would subject a registered entity to the requirements of proposed subpart B. The Bureau explained in its proposal that in circumstances where a covered order terminates (or otherwise ceases to remain in effect) within ten years after the order's effective date, the registered entity's obligations to update its filing under proposed § 1092.202 or to file written statements with respect to the covered order under proposed § 1092.203 would cease after its final filing under proposed § 1092.202(f)(1).³³⁵ The Bureau, however, recognized that some covered orders may not terminate (or otherwise cease to remain in effect) within ten years of the orders' effective dates. In such circumstances, proposed § 1092.202(e) would have provided that a covered order shall cease to be a covered order for purposes of subpart B as of the later of: (1) ten years after its effective date; or (2) if the covered order expressly provides for a termination date more than ten years after its effective date, the expressly provided termination date.

The Bureau preliminarily concluded that, in most cases, it may be less likely to obtain meaningful information in connection with existing orders after ten years have passed since their effective dates. The Bureau also preliminarily concluded that maintaining the proposal's registration and written-statement requirements for at least ten years after the effective date of covered orders that remain in effect would have provided useful information to the Bureau and other uses of the registry, as described in this proposal. Among other things, the Bureau believed that maintaining the obligation to update registration information for ten years would better enable the Bureau to identify covered nonbanks in the event a subsequent covered order requires additional registration. The Bureau also believed that limiting registration obligations to more recent orders would also help limit the burden imposed by proposed subpart B's requirements on covered nonbanks. However, where a covered order expressly provides for a later termination date, the Bureau

³³⁴ 12 U.S.C. 5514(b)(7).

³³⁵ See the discussion of § 1092.202(f) below.

believed that it should continue to collect and publish information on the order under the provisions of proposed §§ 1092.202 through 1092.204. The Bureau sought comment on all aspects of proposed § 1092.202(e). In particular, the Bureau sought comment on whether to adopt a different approach to setting and determining the sunset period for orders, and on whether the proposed baseline ten-year period should be longer or shorter. The Bureau also sought comment on whether registered entities would benefit from additional guidance in determining whether a covered order expressly provides for a termination date more than ten years after its effective date, and what constitutes the expressly provided termination date of such a covered order.

The Bureau also sought comment on whether the applicable sunset period should depend upon the content of the order. The Bureau explained in its proposal that, for example, it considered whether the sunset period for a covered order should be shorter where the only obligations based on alleged violations of covered laws and imposed in the public provisions of such order were to pay money (such as payment of a civil money penalty or fine, or payment of refunds, restitution, or disgorgement). Under this alternative approach, for such covered orders without express termination dates, the orders would have ceased being covered orders for purposes of subpart B after some period shorter than the ten-year sunset proposed here. The Bureau did not propose this approach for reasons of simplicity and administrative efficiency, and because the Bureau believes that the sunset provision in proposed § 1092.202(e) would generally be preferable for most such covered orders. However, the Bureau sought comment on this proposed alternative and, more generally, on whether and why it should adopt a shorter sunset period for these orders. The Bureau also sought comment on other approaches that would establish different sunset periods depending on the content of the order, and other types of orders that might have different sunset periods.

The Bureau further considered requiring registered entities to continue treating an order that would otherwise sunset under the proposal as a covered order for purposes of the proposed rule if the Bureau determined, after providing the entity notice and an opportunity to respond, that continuing to do so was necessary for the Bureau to fulfill its monitoring or supervisory responsibilities. For example, as the Bureau explained in the proposal, based

on information supplied by another agency or otherwise in its possession, the Bureau may have cause to believe that the nonbank continued to be in violation of the order. For such cases, the Bureau considered requiring continued compliance with the requirements of proposed subpart B beyond the expiration period if the Bureau ultimately concluded doing so was necessary for the Bureau to fulfill its monitoring or supervisory responsibilities. The Bureau did not propose this approach for reasons of simplicity and administrative efficiency, and because the Bureau believed that the proposed sunset provision would be likely to provide sufficient information regarding most covered orders. However, the Bureau sought comment on whether it should include this additional requirement in the final rule and whether any additions or subtractions to it would better achieve its intended purpose. The Bureau also sought comment on whether, if it included this additional requirement in a final rule, it should specify any alternative or additional criteria that the Bureau might consider in reaching its determination whether a particular covered order should remain subject to the requirements of subpart B.

Comments Received

Some comments incorrectly referred to proposed § 1092.202(e)'s sunset provisions as specifying when information regarding covered orders or covered nonbanks would be removed from the registry.

An industry commenter agreed with the proposal's establishment of a sunset date for registration of covered orders under § 1092.202(e). Another industry commenter stated that the Bureau should establish a process for entities to be removed from the public registry after a specific set of criteria is met, and that the Bureau should also establish an appeals process that would permit entities to contest their inclusion on the registry.

Industry commenters also stated the text of 1092.202(e)(1) was unclear and proposed specific revisions. Commenters stated that information regarding covered orders (and related covered nonbanks) should be removed from the registry earlier than after ten years after its effective date. One industry commenter stated that most regulatory and supervisory agencies are reluctant to agree to termination dates. Another industry commenter stated that there would be few instances in which a consent order does not contain an expiration date, thereby making the timing set out in § 1092.202(e)(1) almost

entirely irrelevant. This commenter stated that the sunset period established under proposed § 1092.201(e) should be the later of five years or the express termination period of the covered order. Another industry commenter stated that covered orders that have no termination date should be subject to the proposed registry for a period of three years, not ten, in part because information contained in the proposed registry associated with older covered orders would be inaccurate, outdated or obviated and would pollute the registry. This commenter also stated that proposed § 1092.202(e) could be interpreted to mean that all covered orders are subject to updates or written statements for ten years, and proposed a revision that would state that if a covered order expressly provides for a termination date ten (or five) years or less after its effective date, § 1092.201(e)'s sunset provision would apply on the expressly provided termination date. Another industry commenter proposed an alternative timeframes of two years after an order's effective date. The SBA Office of Advocacy expressed concern that requiring an order to be a covered order for ten years after its effective date was overly punitive and stated that such an order should no longer be considered a covered order when it is no longer in effect.

Response to Comments Received

The Bureau is adopting § 1092.202(e) of the final rule, which provides for an outer limit on the time period during which the existence of a covered order would subject a registered entity to the registration requirements. In circumstances where a covered order terminates (or otherwise ceases to remain in effect) within ten years after the order's effective date, the registered entity's obligations to update its filing or to file written statements with respect to the covered order would cease after its final filing under § 1092.202(f). Where a covered order does not terminate (or otherwise cease to remain in effect) within ten years of the order's effective date, the covered order would no longer require registration as of the later of: (1) ten years after its effective date; or (2) if the covered order expressly provides for a termination date more than ten years after its effective date, the expressly provided termination date. The Bureau finalizes its preliminary conclusions in the proposal³³⁶ that, in most cases, it may be less likely to obtain meaningful information in connection with existing orders after ten

³³⁶ 88 FR 6088 at 6119.

years have passed since their effective dates, and that maintaining the proposal's registration and written-statement requirements for at least ten years after the effective date of covered orders that remain in effect will provide useful information to the Bureau and other uses of the registry, as described in part IV.

In response to comments incorrectly suggesting that proposed § 1092.202(e)'s sunset provisions would have specified when information regarding covered orders or covered nonbanks would be removed from the Bureau's registry, the Bureau clarifies that, under the final rule, § 1092.202(e) and (f) together establish when, with respect to a particular covered order, a covered entity's obligations to submit updated filings under § 1092.202(b)(2)(ii) and to comply with § 1092.204's written-statement requirements expire. These provisions of the final rule do not address when the Bureau intends to remove information from the nonbank registry or otherwise to cease publication of such information as provided at § 1092.205. Under the final rule, the Bureau may maintain any information about covered orders and the covered nonbanks that are subject to them that may be published under the nonbank registry on a public website indefinitely, subject to the Bureau's discretion and pursuant to § 1092.205 and other applicable law.

With respect to the industry commenter's suggestion to establish a process to allow covered nonbanks to petition for removal from the registry before the sunset date established in § 1092.201(e), the Bureau declines to adopt this suggestion. The Bureau believes that it is important to collect information regarding covered orders, including the annual written statement described in § 1092.204 where applicable, on an ongoing basis for the periods of time described in the final rule. The Bureau declines to adopt criteria for determining whether covered nonbanks would no longer need to comply with these obligations with respect to particular covered orders. While the Bureau agrees that many covered nonbanks are likely to take steps to address issues relating to covered orders, such orders are nevertheless likely to remain probative of risk to consumers (including risks related to developments in markets for consumer financial products and services), and the Bureau concludes they should continue to be subject to these requirements. Also, the Bureau believes that engaging in an ongoing case-by-case assessment of entities' compliance efforts with respect to

covered orders in order to determine whether particular covered orders are deserving of an exemption from registration requirements would invite frivolous petitions, increase the complexity involved in maintaining the nonbank registry, and would not be a good use of the Bureau's resources. Likewise, the Bureau disagrees that an appeals process for the nonbank registry is necessary. As with any other Federal consumer financial law, the Bureau expects covered nonbanks themselves to identify their responsibilities under the final rule and to comply with those obligations. Where an entity believes in good faith the final rule does not require registration, but is not certain the Bureau would agree with its interpretation, it may file an applicable good faith notification under § 1092.202(g) or § 1092.204(f).

The Bureau believes that the final rule is sufficiently clear for entities to comply with the final rule's requirements and that a modification to the proposed text is unnecessary. Section 1092.202(e) and (f) together address the variety of situations that may arise where a covered order does or does not expressly provide for a termination date, as well as situations where a covered order is modified or otherwise does not actually terminate according to its original terms. Under the final rule, a covered order that does not expressly provide for a termination date will cease to be a covered order ten years after its effective date pursuant to § 1092.202(e), and the applicable covered nonbank must submit a final filing under § 1092.202(f)(1) at that time—unless the order terminates earlier, in which case the covered nonbank must submit its final filing at that earlier time. Under § 1092.201(e), a covered order that expressly provides for a termination date of ten years or less after its effective date will remain a covered order for a period of ten years from its effective date. Such an order may in fact terminate before the expiration of the ten-year period, in which case the applicable covered nonbank would submit a final filing under § 1092.202(f)(1) upon termination of the order, whenever it occurs, and would have no further obligation to update its registration information or to file written statements with respect to the order. If, however, the order is extended or for some other reason does not terminate as originally provided, those obligations will continue until the order actually terminates or the ten-year period expires. And a covered order that expressly provides for a termination date more than ten years after its

effective date will remain a covered order, and thus subject to the rule's registration and (if applicable) written-statement requirements, until it terminates, at which time the covered nonbank must submit a final filing notice under § 1092.202(f)(1).

Where a covered order terminates under its own terms or otherwise, under § 1092.202(f)(2), such obligations (including the obligation to submit an annual written statement) with respect to such a covered order will terminate following the filing of the final submission described in § 1092.202(f)(1). Thus, although the Bureau is not finalizing a modification to the sunset period established under proposed § 1092.201(e) to directly reflect the termination of a covered order as requested by the industry commenters and the SBA Office of Advocacy, § 1092.202(f)(1) and (2) provide that upon termination of the order a covered nonbank may submit a final filing and be relieved of its further obligations under appropriate circumstances, which essentially accomplishes the same result.

The Bureau is adopting the proposal's approach to the amount of time for which such requirements are imposed for non-terminated orders under § 1092.202(e). The Bureau finalizes its preliminary conclusions in the proposal³³⁷ that, in most cases, it may be less likely to obtain meaningful information in connection with existing orders after ten years have passed since their effective dates, and that maintaining the proposal's registration and written-statement requirements for at least ten years after the effective date of covered orders that remain in effect will provide useful information to the Bureau and other uses of the registry.

The Bureau believes that, on average, covered orders that have not been terminated are likely to remain probative of risk to consumers for at least the period of time specified in § 1092.202(e). While the Bureau agrees that it is possible that entities that are subject to such covered orders may have taken significant steps to address violations of law or other problems identified in the order, or otherwise taken steps to prevent or remedy related issues, the Bureau believes that the existence of such covered orders remains probative of risk to consumers (including risks related to developments in markets for consumer financial products and services) notwithstanding such subsequent developments and merits continued imposition of the related registration and written-

³³⁷ 88 FR 6088 at 6119.

statement requirements. The final rule's obligations for registered entities to update their identifying and other information will help ensure that the information contained in the registry remains accurate and up to date. When such an order terminates, the covered nonbank may submit a final filing under § 1092.202(f)(1).

Final Rule

For the reasons set forth above and in the description of the proposal, the Bureau is finalizing § 1092.202(e) as proposed.

Section 1092.202(f) Requirement To Submit Revised and Final Filings With Respect to Certain Covered Orders

Proposed Rule

Proposed § 1092.202(f) would have addressed situations where a covered order is terminated, modified, or abrogated (whether by its own terms, by action of the applicable agency, or by a court). It would have also addressed situations where an order ceases to be a covered order for purposes of subpart B by operation of proposed § 1092.202(e). In all such cases, proposed § 1092.202(f)(1) would have required the registered entity to submit a revised filing to the NBR system within 90 days after the effective date of the order's termination, modification, or abrogation, or after the date the order ceases to be a covered order. The Bureau believed that this requirement would help in administering the registry, and supporting the Bureau's monitoring work by ensuring that the registry is up to date.

Proposed § 1092.202(f)(2) would have addressed situations where a covered order no longer remains in effect or no longer qualifies as a covered order due to the covered order's termination, modification, or abrogation, or the application of § 1092.202(e). In such cases, proposed § 1092.202(f)(2) would have clarified that following its final filing under paragraph (f)(1) with respect to the covered order, the registered entity would have no further obligation to update its filing or to file written statements with respect to such covered order under proposed subpart B. However, the Bureau explained that it expected to make historical information publicly available via the NBR registration system. As provided at proposed § 1092.201(m), the proposal would have defined the term "remains in effect" to mean that the covered nonbank remains subject to public provisions of the order that impose obligations on the covered nonbank to take certain actions or to refrain from

taking certain actions based on an alleged violation of a covered law. The Bureau explained that, once a covered nonbank no longer remains subject to such public provisions, proposed § 1092.202(f)(2) would permit the covered nonbank to cease updating its registration information and filing written statements with respect to the order.

Comments Received and Final Rule

An industry commenter expressed support for proposed § 1092.202(f)'s treatment of covered orders containing termination dates. The Bureau did not receive any other comments specifically regarding § 1092.202(f). Comments addressing the proposal's approach to the sunset period established in § 1092.202(e) are addressed in the section-by-section discussion of § 1092.202(e) above.

For the reasons set forth in the description of the proposed rule above, the Bureau is finalizing § 1092.202(f) as proposed, with minor technical edits.³³⁸

Section 1092.202(g) Notification by Certain Persons of Non-Registration Under This Section

Proposed Rule

Proposed § 1092.202(g) would have provided that a person may submit a notice to the NBR system stating that it is not registering pursuant to this section because it has a good-faith basis to believe that it is not a covered nonbank or that an order in question does not qualify as a covered order. The Bureau explained that such a filing could be combined with any similar filing under proposed § 1092.203(f).³³⁹ Proposed § 1092.202(g) would have also required the person to promptly comply with § 1092.202 upon becoming aware of facts or circumstances that would not permit it to continue representing that it has a good-faith basis to believe that it is not a covered nonbank or that an order in question does not qualify as a covered order. The Bureau proposed to treat information submitted under this paragraph as "administrative information" as defined by proposed § 1092.201(a).

While the Bureau believed the reporting and registration requirements under proposed § 1092.202 would impose very minimal burden on nonbank covered persons, and that determining an entity's status as a

covered nonbank (or an order's status as a covered order) should be a straightforward task for the vast majority of relevant persons, the Bureau proposed § 1092.202(g) as an additional means of providing flexibility to those few entities where uncertainty in some respect raises good-faith concerns that they do not meet the definition of a covered nonbank (or an order does not meet the definition of a covered order). Under the proposal, such persons could elect to file a notice under proposed § 1092.202(g). The Bureau explained in its proposal that when a person makes a non-frivolous filing under proposed § 1092.202(g) stating that it has a good faith basis to believe that it is not a covered nonbank (or that an order is not a covered order), the Bureau would not bring an enforcement action against that person based on the person's failure to comply with proposed § 1092.202 unless the Bureau has first notified the person that the Bureau believes the person does in fact qualify as a covered nonbank (or that an order does qualify as a covered order) and has subsequently provided the person with a reasonable opportunity to comply with proposed § 1092.202.

Among other things, the Bureau would have permitted entities to file notifications under proposed § 1092.202(g) when they have a good-faith basis to believe that they do not qualify as a "covered nonbank" because they constitute part of a "State," as that term is defined in CFPA section 1001(27).³⁴⁰ Under proposed § 1092.102(c), the filing of such a notification would not have affected the entity's ability to dispute more generally that it qualifies as a person subject to Bureau authority.³⁴¹

The Bureau anticipated that, in most cases, it would not respond to § 1092.202(g) notices with the Bureau's views on whether filers in fact qualify as covered nonbanks (or whether orders in fact qualify as covered orders). The Bureau also emphasized that a non-response from the Bureau should not be misapprehended as Bureau acquiescence in the filer's assertions in the notice (or in the legitimacy of the filer's assertion of good faith). The Bureau, however, preliminarily

³⁴⁰ 12 U.S.C. 5481(27). As discussed above, § 1092.201(d)(3) of the final rule excludes States from the definition of "covered nonbank."

³⁴¹ The Bureau noted that, as an alternative to filing a notification under proposed § 1092.202(g), an entity could simply choose to register under the proposal, even though it has a good faith basis for believing that it does not qualify as a covered nonbank (or that its order does not qualify as a covered order). Under proposed § 1092.102(c), such registration would not prejudice the entity's ability to dispute the Bureau's authority over it.

³³⁸ See also the section-by-section discussions of § 1092.101(d) and (e) above regarding the Bureau's adoption of the revised terms "nonbank registry" and "nonbank registry implementation date."

³³⁹ See also the section-by-section discussion of § 1092.204(f), which provides a similar option with respect to § 1092.204.

concluded that obtaining these notifications may assist the Bureau in better understanding how potentially regulated entities interpret the scope of proposed § 1092.202.

The Bureau considered alternatives to proposed § 1092.202(g), including an alternative whereby entities would *not* file a notice of non-registration with the Bureau, but could avoid penalties for non-registration if in fact they could establish a good-faith belief that they did not qualify as covered nonbanks subject to § 1092.202 (or their orders did not qualify as covered orders). The Bureau explained in its proposal that under this alternative, entities would maintain such good-faith belief so long as the Bureau had not made clear that § 1092.202 would apply to them (or their orders). Although the Bureau preliminarily concluded that this alternative was not preferable to requiring entities to actually file a notice of non-registration, the Bureau sought comment on whether it should finalize this alternative instead. It also sought comment on whether, if it finalized this alternative, entities would require additional guidance on the circumstances pursuant to which an entity could no longer legitimately assert a good-faith belief that § 1092.202 would not apply to its conduct. While the Bureau anticipated that such circumstances would certainly include entity-specific notice from the Bureau that § 1092.202 applies, the Bureau did not believe such notice should be required to terminate a good-faith defense to registration. Among other circumstances, the Bureau anticipated that at least formal Bureau interpretations of (for example) the definition of a “covered person” under the CFPA, or published Bureau interpretations specific to the scope of the proposed registration requirements, would generally suffice to terminate such belief.

Comments Received

Tribes commenting on the proposal generally opposed proposed §§ 1092.202(g) and 1092.203(f) as unworkable or inappropriate in the context of determining the rule’s coverage of entities affiliated or potentially affiliated with tribes. These commenters asserted that tribes, as self-determining bodies, are the only ones competent to determine the status of an entity as enjoying Tribal sovereignty. Thus, in their view, U.S. government institutions—whether the Bureau, other U.S. regulators, or U.S. courts—lack competence to make such determinations. For these reasons, these commenters generally opposed the

notion that the Bureau would be evaluating the legal foundation for good-faith notifications under proposed §§ 1092.202(g) and 1092.203(f) by entities affiliated with tribes. In their view, rather than collecting and reviewing such notifications, the Bureau should consult with relevant tribes if it has questions about the relationship of a particular entity with a tribe. Tribal commenters also stated that requiring tribe-affiliated entities to submit good-faith notifications was itself a violation of Tribal sovereignty.

Tribal commenters stated that these good-faith notification provisions confuse the issue as to whether tribes are exempt, and that they were unnecessary and should be removed.

As described above, the Bureau specifically sought comment on an alternative to proposed § 1092.202(g) whereby entities would not file a notice of non-registration with the Bureau, but could avoid penalties for non-registration if in fact they could establish a good-faith belief that they did not qualify as covered nonbanks subject to § 1092.202 (or their orders did not qualify as covered orders). Tribal commenters stated that the Bureau should adopt this alternative.

Several Tribal commenters also stated that publication of §§ 1092.202(g) and 1092.203(f) notifications could expose the tribe to costly, frivolous private litigation, as well as force the Bureau to take a position in connection with third-party claims regarding the sovereign status of a tribe-affiliated entity.

Proposed §§ 1092.202(g) and 1092.203(f) would have required a person to promptly comply with applicable requirements upon becoming aware of facts or circumstances that would not permit it to continue representing that it has a good-faith basis to believe that it is not a covered nonbank or supervised registered entity, as applicable, or that an order in question does not qualify as a covered order. A Tribal commenter stated that this requirement’s reference to unspecified facts and circumstances was vague and overbroad, and stated that the last sentence of proposed §§ 1092.202(g) and 1092.203(f) should be deleted.

Response to Comments Received

The Bureau disagrees with the tribes’ comments to the extent they suggest the Bureau cannot evaluate the legal significance of relationships that nonbank covered persons providing consumer financial products or services claim to have with tribes.³⁴² The Bureau

³⁴² See, e.g., *CFPB v. Cash Call*, 35 F.4th 734, 743–45 (9th Cir. 2022) (upholding district court

also notes that if an entity is a federally recognized Indian tribe, it is excluded from the definition of the term “covered nonbank” under § 1092.201(d)(3)³⁴³ and thus from the requirements of the final rule. Thus, the Bureau disagrees with commenters’ conclusion that proposed § 1092.202(g) or § 1092.203(f) would be unworkable or inappropriate in the context of determining coverage of entities affiliated or potentially affiliated with tribes. In any event, if entities are excluded from the definition of “covered nonbank” because they are part of a State and thus not subject to the rule,³⁴⁴ they are not required to file notifications of that status under either good-faith notification provision in the final rule (§ 1092.202(g) or renumbered § 1092.204(f)). Nor would a decision not to file a voluntary good-faith notification change or enlarge the coverage of the rule. The entity has the choice to file such a notice, knowing that if its filing is not frivolous, then, as described above, it will not be subject to enforcement action on a retroactive basis if the Bureau later disagrees with the entity’s good-faith position.³⁴⁵

Moreover, the Bureau disagrees that this rulemaking is the appropriate context in which to issue a determination as to the scope of sovereign immunity or as to what type of ownership or association with a Tribal government will cause an entity to fall within the scope of the categories established by Congress in the CFPA. The Bureau will reach determinations in any particular case upon review of the information before it at that time. As stated in the notice of proposed

decision in agreement with Bureau determination that lender did not have requisite relationship with a tribe for Tribal law to apply).

³⁴³ This section of the final rule excludes from the definition of the term “covered nonbank” a “State,” as defined in 12 U.S.C. 5481(27)—a term that includes “any federally recognized Indian tribe, as defined by the Secretary of the Interior” under section 104(a) of the Federal Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5131(a).

³⁴⁴ As described in the proposal (88 FR 6088 at 6120) with respect to § 1092.202(g), the Bureau would permit entities to file notifications of non-registration under that section when they have a good faith basis to believe that they do not qualify as a “covered nonbank” because they constitute part of a “State,” as that term is defined in CFPA section 1001(27). Entities could similarly file good faith notifications under final § 1092.204(f) for the same reason.

³⁴⁵ Under the final rule, when an entity makes a non-frivolous filing under § 1092.202(g) or § 1092.204(f), the Bureau will not bring an enforcement action based on the entity’s failure to comply with § 1092.202 or § 1092.204 unless the Bureau has first notified the person that the Bureau believes the person does in fact qualify as a covered nonbank or supervised registered entity (as applicable), or the order is a covered order, and has subsequently provided the person with a reasonable opportunity to comply with § 1092.202 or § 1092.204, as applicable.

rulemaking, the Bureau's failure to respond to a good-faith notice "should not be misapprehended as Bureau acquiescence in the filer's assertions in the notice."³⁴⁶

The Tribal commenters expressed concern regarding publication of information with respect to good-faith notifications submitted under proposed §§ 1092.202(g) and 1092.203(f). The Bureau is finalizing the definition of "administrative information" at § 1092.201(a) to expressly provide for the treatment of good-faith notifications as administrative information. As discussed in the section-by-section analysis of that definition above, good-faith notifications qualify as administrative information, which is excluded from the publication provisions in § 1092.205. Thus, contrary to commenters' concerns, the Bureau disagrees that filing a § 1092.202(g) or § 1092.204(f) notification in good faith will lead to publication of the notification under the final rule, exposing a tribe to frivolous private litigation or improperly involving the Bureau in third-party claims regarding Tribal sovereignty.

The Bureau finalizes its preliminary conclusion in the proposal³⁴⁷ that obtaining good-faith notifications may assist the Bureau in better understanding how potentially regulated entities interpret the scope of § 1092.202, and concludes the same with respect to § 1092.204. The Bureau wishes to be informed about entities' interpretations of §§ 1092.202 and 1092.204. The Bureau declines to adopt the proposed alternative recommended by Tribal commenters, which would allow entities to claim a good-faith defense to any action enforcing the rule's requirements without needing to file a good-faith notification. The proposed alternative would not provide the Bureau with information regarding the number of entities that might be asserting such a good-faith exemption or provide the means for the Bureau to follow up with any questions. It would fail to notify the Bureau of the existence of the entity, its views of whether it is a covered nonbank or supervised registered entity, or how to contact it. The Bureau finalizes its preliminary conclusion in the proposal that this alternative is not preferable to the good-faith notification option set forth in §§ 1092.202(g) and 1092.204(f).

The Bureau concludes that it is appropriate to include provisions in the final rule requiring a person to promptly comply with the rule's requirements

upon becoming aware of facts or circumstances that would not permit it to continue representing that it has a good-faith basis to believe that it is not a covered nonbank or supervised registered entity, as applicable, or that an order in question is not a covered order. The Bureau concludes that it is necessary to include these provisions in order to account for changing or previously unknown facts or circumstances that might render previously filed good-faith notifications incorrect or obsolete, and to maintain the ongoing accuracy of the information maintained in the nonbank registry. The Bureau does not believe that these requirements are vague, unclear, or impose on Tribal sovereign immunity. Notifications may be filed only where the entity has the applicable good-faith belief. The Bureau believes it is appropriate to require the entity to consider whether any subsequent cases, regulatory orders, complaints, or other matters may affect the accuracy of its notifications to the Bureau.

Final Rule

For the reasons set forth above and in the description of the proposal, the Bureau is finalizing § 1092.202(g) as proposed, with two minor revisions for clarification.³⁴⁸ Proposed § 1092.202(g) had referred to a person's good-faith basis to believe that "an order in question does not qualify as a covered order," whereas proposed § 1092.203(f) had referred to a person's good-faith basis to believe that "an order in question is not a covered order." The Bureau does not intend these two slightly different phrases to mean different things. The Bureau is adopting revisions to § 1092.202(g) in the two places where this phrase had occurred to refer to a person's good-faith basis to believe that "an order in question is not a covered order."

Section 1092.203 Optional One-Time Registration of NMLS-Published Covered Orders

Section 1092.203(a) One-Time Registration Option

Proposed Rule

The proposal would have required each covered nonbank that is identified by name as a party subject to a covered order described in proposed § 1092.202(a) to register as a registered entity with the NBR system in accordance with proposed § 1092.202 if it is not already so registered, and to

provide or update, as applicable, the information described in subpart B in the form and manner specified by the Bureau. The proposal would also have required submission of written statements by supervised registered entities in connection with such covered orders as provided in proposed § 1092.203. Proposed § 1092.204 would have required the Bureau to make certain information submitted to the NBR system available to the public by means that would have included publishing it on the Bureau's publicly available internet site within a timeframe determined by the Bureau in its discretion.

Comments Received

In connection with proposed § 1092.102(b), the Bureau sought comment on the types of coordinated or combined systems that would be appropriate under CFPB sections 1022(c)(7)(C) and 1024(b)(7)(D) and the types of information that could be obtained from or provided to State agencies.

Multiple commenters stated that the proposed registry was redundant with existing registries and other published information, while several consumer advocate commenters stated that the proposed registry would not be redundant because no existing registry would be equivalent. For ease of reference, the Bureau is describing these comments and the Bureau's responses thereto in this part. Most of these commenters, including the SBA Office of Advocacy, stated or suggested that the collection and publication of the information described in the proposal was particularly duplicative of the requirements imposed upon covered nonbanks that are registered under the NMLS. Commenters stated that, in light of the redundancy with existing registries and other sources of information, the Bureau should not finalize the proposal or at least should reconsider the creation of the proposed registry.

Industry and consumer advocate commenters agreed with the Bureau's statements in the proposal about the need for a new Bureau registry for nonbank entities that are subject to the Bureau's jurisdiction and that are subject to certain agency and court orders. Commenters urged the Bureau to register various specific types of nonbanks, including nonbank mortgage lenders, fintech companies, and student financing companies. Commenters also stated that the registry was particularly important since nonbanks are increasing their market share and otherwise becoming increasingly relevant in the

³⁴⁸ See also the section-by-section discussions of § 1092.101(d) and (e) above regarding the Bureau's adoption of the revised terms "nonbank registry" and "nonbank registry implementation date."

³⁴⁶ 88 FR 6088 at 6120.

³⁴⁷ 88 FR 6088 at 6120–21.

markets for consumer financial products and services. Industry and consumer advocate commenters stated that there was a dearth of information about nonbank financial companies, including their number and type and the practices they engage in. An industry commenter stressed the importance of ensuring consumers are protected when they engage with both banks and nonbanks in seeking consumer financial products and services.

A consumer advocate commenter agreed that the Bureau, in administering the nonbank registry, should rely on information an entity previously submitted to the registry under part 1092 and coordinate or combine systems with State agencies, as provided in proposed § 1092.102(b). The commenter stated that not only would this provision allow for more efficient implementation of the registry by avoiding duplicative or redundant efforts but would also reflect the importance of this registry to both Federal and State regulators, and that the Bureau should consider coordination with existing State consumer financial protection agencies.

A joint comment from State regulators stated that a significant share of covered orders on the proposed registry are currently reported in NMLS, which the comment described as currently the most comprehensive registry of nonbank financial services providers. The joint comment stated that in particular there was reason to believe a significant share of the covered order information captured by the proposed registry for supervised registered entities was likely already available in NMLS Consumer Access. The comment expressed particular concern with respect to the confusion that might be generated when consumers compared the information on the proposed registry with the information available on the NMLS Consumer Access website. The joint comment stated that consumers visiting either the proposed Bureau registry or NMLS Consumer Access might be confused as to why they were unable to locate information on certain companies on one site and not the other. The joint comment also voiced concern that identical or similar information on the same company published in different formats by different online tools may frustrate consumers looking for critical financial services information.

The joint comment also stated that NMLS Consumer Access includes information on actions related to violations of covered consumer protection laws as well as actions related to licensing or administrative violations that would not be covered

under the proposal. Therefore, the comment stated, NMLS provides consumers with a more complete picture of nonbank enforcement actions than would be provided by the proposed Bureau registry. The joint comment stated that if the Bureau chose to proceed, the Bureau should exempt companies from the requirement of filing a public order if the order is already published on the NMLS Consumer Access website. Other commenters similarly stated that the Bureau should consider exempting companies from the rule's requirements for orders that are already published or available via NMLS or should otherwise create a safe harbor for entities that comply with NMLS reporting requirements.

Commenters also made various other arguments and observations related to the NMLS, including that the proposed registry would be largely duplicative of the NMLS or not necessary in light of the existence of the NMLS, that NMLS operates in much the same way as the proposed registry, that the NMLS includes most of the data the Bureau would be looking to collect in the nonbank registry about covered orders, that the Bureau should more closely tailor the rule to the NMLS's requirements to avoid duplication, or that, by failing to use or rely on the information on the public-facing NMLS website, the Bureau was not coordinating with State bank regulatory authorities to minimize regulatory burden. In particular, industry commenters discussed the NMLS Company Form (Form MU1) submitted by nonbanks under the NMLS, which commenters stated includes a requirement to provide information regarding enforcement actions within the past 10 years. One industry commenter pointed out that the Form MU1 requires the submission of an attestation by an employee or officer and stated that, although the language of this attestation is different from the Bureau's proposal, the intent and purpose are similar, and the Bureau could rely on the attestation in the Form MU1 rather than the proposed written statement; another industry commenter similarly stated that the Bureau should be able to rely on the attestations provided through NMLS filings.

In addition, during the Bureau's interagency consultations on the proposed and final rule as described in part V above, certain consulting parties expressed similar concerns regarding overlap and duplication between the proposed NBR system and NMLS Consumer Access.

Commenters also identified other registries or sources of information regarding agency or court orders that they stated made the Bureau's proposal redundant or unnecessary, or stated that the Bureau should not finalize the proposal in light of the existence of such other sources of information.

Commenters pointed to the websites and registries maintained by individual Federal and State agencies, the Federal Trade Commission's Sentinel database and Banned Debt Collectors list, information maintained by the Better Business Bureau, the Bureau's own Consumer Response portal and database, information posted by the U.S. Department of Housing and Urban Development, information published in connection with lawsuits, and databases listing public reprimands of credit unions associated with credit union service organizations (CUSOs). Commenters also stated that the Bureau would be able to obtain adequate information from other regulators under its information-sharing memorandums of understanding (MOUs) with those regulators.

Response to Comments Received

Description of Option Adopted Under § 1092.203

After considering the arguments by commenters, the Bureau is adopting a one-time registration option excepting entities from other requirements of the rule, including the proposed written-statement requirements, for orders that are published on the NMLS Consumer Access website. The NMLS Consumer Access website currently makes available for public viewing, subject to certain terms and conditions of access, certain information regarding companies that are regulated by State agencies in connection with a variety of financial services industries, including information regarding administrative and enforcement actions against such companies.³⁴⁹

The Bureau agrees with commenters that it is consistent with the purposes of the final rule to adopt such a limited exception. This exception will reduce burden on entities that are subject to the rule, help avoid confusion, and promote coordination with the States in exercising the Bureau's nonbank registration authorities by leveraging information already gathered and published by the States. Section 1092.203 of the final rule provides an

³⁴⁹ See NMLS, "Information About NMLS Consumer Access" (September 9, 2016), at <https://mortgage.nationwidelicensingsystem.org/about/Documents/InformationAboutNMLSCustomerAccess.pdf>.

option for covered nonbanks to submit limited information regarding such covered orders in substitution of submitting filings about such covered orders to the Bureau-maintained nonbank registry under the rule's other provisions. To provide for this option, the Bureau is adopting new § 1092.203 as well as related new definitions for the terms "NMLS" and "NMLS-published covered order."

Covered nonbanks will have the option to either register under § 1092.203 with respect to any applicable NMLS-published covered order(s) or to comply with the general registration requirements of subpart B with respect to such order(s). Covered nonbanks may opt to register under the one-time registration provision for all, some, or none of the applicable NMLS-published covered orders to which they are subject.³⁵⁰ Covered nonbanks that exercise this option with respect to an NMLS-published covered order will be required to submit certain limited information to the nonbank registry regarding the covered order to enable the Bureau to coordinate the nonbank registry with the NMLS. Upon exercising this option and submitting the required information about the NMLS-published covered order, the covered nonbank will have no further obligation under subpart B to provide information to, or update information provided to, the nonbank registry regarding the NMLS-published covered order.

The Bureau intends to notify users of the nonbank registry regarding the existence of NMLS-published covered orders and the covered nonbanks that are subject to them by publishing under § 1092.205 relevant information about the applicable covered nonbank and covered order that the Bureau collects under § 1092.203. Such users may then, subject to any terms of use or other conditions of access that the NMLS's operator may impose, view a copy of the order on the NMLS Consumer Access website, as well as any information about the applicable covered nonbank that may be maintained and published there.

³⁵⁰ An entity that wishes to confirm that any particular covered order is published on the NMLS Consumer Access website may either review the information on the NMLS Consumer Access website in a manner consistent with any terms of use or other conditions on access that may be imposed by the NMLS's operator, or verify that information by contacting the State regulator that issued the order or the NMLS's operator directly.

Continued Need for Bureau's Nonbank Registry That Applies to All Covered Orders and Covered Nonbanks

The one-time registration option in § 1092.203 will complement the nonbank registry. The Bureau agrees with the commenters asserting that there is a need for a new Bureau registry with respect to covered orders issued against nonbank covered persons. As described in part IV above, the final rule will assist the Bureau in monitoring for risks to consumers in the offering or provision of a wide range of consumer financial products or services and will impose registration requirements on a wide range of nonbank covered persons subject to the Bureau's jurisdiction. The nonbank registry will accomplish this goal by assisting the Bureau in having access to relevant information regarding applicable covered nonbanks and covered orders even where information regarding those entities and orders is not available through the NMLS. The Bureau's registry will also help ensure that the Bureau is provided with information about such covered orders as they are issued across multiple product markets and geographies and in connection with the wide range of consumer financial products and services regulated by the Bureau. Thus, there remains a need for the Bureau to adopt its own new nonbank registry in order to provide the Bureau with information necessary to support its functions under the CFPA. In addition, for the reasons discussed in part IV(F) and the section-by-section discussion of § 1092.205 below, the Bureau intends to publish certain information submitted to its new nonbank registry.

The Adopted Exception for NMLS-Published Covered Orders Will Reduce Burden on Registered Entities and Implement the CFPA and § 1092.102(b) by Coordinating With State Agencies

The Bureau is adopting the option set forth in § 1092.203 in part to reduce burden on entities that are subject to the final rule. The Bureau's adoption of § 1092.203 lowers the cost to firms of the final rule relative to the proposed rule. For entities with NMLS-published covered orders, exercising this option should take even less employee time than registering under the other provisions of the rule. As described further below, the Bureau believes that this option will advance the purposes described herein while imposing less cost on entities subject to the final rule.

The Bureau is also finalizing this option in part to implement the approach described in the proposal in discussing proposed § 1092.102(b).

There, the Bureau proposed that in administering the NBR system, the Bureau may coordinate or combine systems in consultation with State agencies as described in CFPA sections 1022(c)(7)(C) and 1024(b)(7)(D).³⁵¹ Section 1092.203 is consistent with the Bureau's statutory mandates under these provisions to consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration) in developing and implementing registration requirements under CFPA sections 1022(c)(7)(C) and with respect to supervisory requirements adopted under CFPA section 1024(b)(7)(D). CFPA section 1022(c)(7)(C) states: "In developing and implementing registration requirements under [CFPA section 1022(c)(7)], the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate."³⁵² Similarly, CFPA section 1024(b)(7)(D) states: "In developing and implementing requirements under [CFPA section 1022(b)(7)], the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate." Section 1092.203 will enable the Bureau to develop and implement the registration requirements of the rule adopted in part under CFPA section 1022(c)(7), as well as the written-statement requirements adopted under CFPA section 1024(b)(7), in a manner that allows for "coordinated" and "combined" systems for registration as indicated under these statutory provisions. As indicated by the consumer advocate commenter with respect to proposed § 1092.102(b), coordinating or combining systems with State agencies as provided in § 1092.102(b) of the final rule not only allows for more efficient implementation of the registry by avoiding duplicative or redundant efforts but also reflects the importance of this registry to both Federal and State regulators. In addition, § 1092.203's option for one-time registration in lieu of filing annual written statements is consistent with § 1092.102(b) and with the Bureau's statutory mandate to consult with State agencies in developing and implementing requirements adopted under CFPA section 1024(b)(7), including § 1092.204's written-statement requirements.

³⁵¹ 88 FR 6088 at 6103.

³⁵² 12 U.S.C. 5512(c)(7)(C).

Notifications submitted by covered nonbanks under § 1092.203(b) will alert the Bureau to the existence of the order and the relevant covered nonbank, and to the publication of the order on the NMLS Consumer Access website. Should the Bureau desire to learn more about any particular NMLS-published covered order, including information about violations identified by State agencies, it may do so through the NMLS or by contacting relevant State agencies for additional information, including under the relevant provisions of the CFPA and applicable information-sharing agreements. Thus, the option adopted at § 1092.203 will promote coordination with State agencies in connection with the nonbank registry.

The Adopted Exception for NMLS-Published Orders Appropriately Addresses the Bureau's Current Need for Information Regarding Applicable Orders and Companies

The Bureau is also providing this option for covered nonbanks in recognition of the Bureau's extensive experience with the NMLS, the information that currently is collected under the NMLS, the Bureau's access to the NMLS, and the public's access to the NMLS Consumer Access website (subject to any applicable terms of use or other conditions). The Bureau concludes that at this time it currently needs to collect only limited information from covered nonbanks about covered orders that are published by State agencies on the NMLS Consumer Access website. Under the final rule, a covered nonbank subject to a covered order that is published on the NMLS Consumer Access website will have the option to instead notify the Bureau's nonbank registry that the order is so published and to provide certain limited information about itself and the covered order to the Bureau's nonbank registry. In general, applicable State regulators submit certain information to the NMLS and keep that information updated, which will help to ensure the information's accuracy and timeliness. Furthermore, as argued by commenters, covered nonbanks are generally subject to legal obligations to provide truthful and accurate submissions to their State regulators, and the States regularly post information to NMLS and help ensure the accuracy of the information published there. In light of these considerations, the Bureau concludes that the information about covered orders that is available via the NMLS is relatively more likely to be reliable and up to date than information maintained on systems that are not similarly used,

maintained, and monitored by State agencies.

Adopting the one-time registration option will provide the Bureau with much of the information about covered orders and the nonbank entities that are subject to them that the Bureau proposed to collect under the proposed rule. The Bureau acknowledges that, by providing this option, the nonbank registry will not contain all of the information about covered orders that it would have contained under the Bureau's registry as described in the proposed rule. However, the Bureau believes that the adoption of § 1092.203 will provide a number of significant benefits to the Bureau and to covered nonbanks. While this approach under the final rule means that the Bureau will likely need to review two different systems in order to obtain complete information regarding all covered orders, the additional option adopted under the final rule will facilitate those efforts. Importantly, the information collected under § 1092.203 will notify the Bureau regarding the existence of covered orders and the covered nonbanks that are subject to them. This limited filing will notify the Bureau regarding the covered nonbank's existence and the existence of the covered order, and will enable the Bureau to obtain more information about the covered nonbank and the covered order, should it so choose, through other means, including through the Bureau's own access to the information stored on NMLS as well as through other direct communications with applicable State agencies.

The Bureau also concludes that it does not need to impose § 1092.204's annual written statement requirements in connection with NMLS-published covered orders in cases where the applicable covered nonbank has filed a one-time registration under § 1092.203. By submitting information under § 1092.203, the supervised registered entity will notify the Bureau regarding the covered nonbank's existence and the existence of the covered order. The Bureau, based on its extensive experience with the NMLS, has determined for purposes of this final rule that once it has been so notified of the existence of a covered nonbank and an applicable NMLS-published covered order, it generally will be able to obtain sufficient information through the NMLS and the State authorities participating in that system so as to render annual written statements under this final rule in connection with such an order unnecessary. Under the CFPA provisions that provide for sharing of supervisory information among the

Bureau and State agencies,³⁵³ as well as under its standing information-sharing agreements with the Conference of State Bank Supervisors (CSBS) and individual State agencies, the Bureau anticipates that it will be able to obtain information to inform its supervisory prioritizations and activities.

In particular, as discussed by several commenters, many covered nonbanks that are licensed by State regulators through the NMLS submit the NMLS Company Form MU1 in connection with various matters relating to their State licenses. The NMLS currently uses the Form MU1 as its universal licensing form for companies to apply for and maintain nondepository, financial services licenses from State agencies participating on NMLS. As discussed by commenters, the current version of Form MU1 requires licensed entities to provide information to State regulators about a variety of matters, including information about orders entered against the entity in connection with a financial services-related activity and about violations of financial services-related regulations or statutes.³⁵⁴ Also as discussed by commenters, Form MU1 requires the submission of an attestation by an authorized representative regarding the accuracy of the information submitted. If the Bureau wants information relevant to the covered nonbank's compliance with covered orders identified on the Form MU1, the Bureau generally can obtain such information for its internal use through its statutory authorities and its information-sharing agreements with CSBS and the relevant State authorities. Although Form MU1 itself may not provide the Bureau with information about compliance with a covered order, the Bureau is willing to accept some reduced convenience in order to reduce regulatory burden and promote coordination with the States with respect to NMLS-published covered orders. Thus, it is not necessary at this time for the nonbank registry to collect annual statements under § 1092.204 with respect to an NMLS-published covered order from a supervised registered entity that opts to submit a filing under § 1092.203 in connection with that NMLS-published covered order.

³⁵³ See 12 U.S.C. 1022(c)(6), 1024(b)(3).

³⁵⁴ See NMLS Resource Center, <https://mortgage.nationwidelicencingsystem.org/slr/common/policy/Pages/default.aspx>. A commenter noted that entities must promptly file updates to their MU1 disclosures as needed.

The Adopted Exception for NMLS-Published Covered Orders Appropriately Addresses the Current Need To Provide Relevant Information to Other Users of the Bureau's Registry

In addition, as described in part IV(F) above and in the section-by-section discussion of § 1092.205 below, the Bureau intends to publish certain limited information about the entity and the order as obtained under § 1092.203, for the purpose of notifying other regulators and other users of the nonbank registry about the entity's existence and the existence of the covered order. Users of the information published under § 1092.203 will then have the option, where doing so is consistent with any NMLS Consumer Access terms of use or other applicable conditions, to review the information that is published on the NMLS Consumer Access website about the covered order and the covered nonbank.

While the NMLS does not contain registration information regarding all of the covered nonbanks that are likely to be subject to the final rule, and does not publish all of the information that the Bureau will collect and intends to publish under the rule, the Bureau believes that, on the whole, the information about NMLS-published covered orders made available to the public on the NMLS Consumer Access website (subject to any applicable terms of use or other conditions) currently satisfies many of the goals of publication that the Bureau described in its proposal. These goals include making information about covered nonbanks and the covered orders to which they are subject readily accessible in a comprehensive and collected manner. As stated by commenters, the NMLS Consumer Access website currently publishes a wide range of information regarding those covered nonbanks that are subject to applicable State licensing and registration requirements, including much of the identifying information that would be collected under the proposal, such as the entity's legal name, business address, and NMLS identifier. The NMLS Consumer Access website is currently searchable by name, company, city, State, ZIP code, NMLS identification, and/or license number (subject to any applicable terms of use or other conditions). The NMLS Consumer Access website also currently publishes much of the same information that would have been collected and published under the proposal with respect to covered orders—in particular, a copy of the order and relevant information about the agency that

issued or obtained the order. Therefore, where the Bureau publishes information on its nonbank registry informing users of that system about the existence of a covered nonbank and the issuance of an applicable order against that nonbank, users can (subject to NMLS Consumer Access's terms of use or other applicable conditions) obtain related information from the NMLS Consumer Access website, including much of the same information about the covered nonbank and covered order that would have otherwise been available via the proposed nonbank registry. In addition, many users of the nonbank registry—in particular, many State regulators—have their own access to the NMLS system and may use that access to obtain additional information about the company, beyond what is available through the NMLS Consumer Access website.

As stated in the joint comment by State regulators, the one-time registration option provided in the final rule will also help minimize company, consumer, and other public user confusion when utilizing both NMLS Consumer Access and the nonbank registry. First, consumers and other users of the nonbank registry will have the ability to review any information about the order that is published in the nonbank registry (whether from the limited filing under § 1092.203 or a more detailed filing under § 1092.202) as well as any information published on the NMLS Consumer Access website (subject to any applicable terms of use or other conditions of access), and will be able to associate the NMLS Consumer Access website and the Bureau's nonbank registry. Thus, users will have a mechanism to identify and associate the information provided in both the NMLS Consumer Access website and the Bureau's nonbank registry about that company and any relevant covered orders. Second, publication of the limited information obtained under § 1092.203 as provided under § 1092.205 will help clarify the identity of the applicable covered nonbanks and the covered orders they are subject to, and otherwise reduce confusion about the information published on the NMLS Consumer Access website and the Bureau's nonbank registry. Thus, the option provided under § 1092.203 will help reduce the redundancies identified by commenters while maintaining the integrity and usefulness of the nonbank registry.

Response to Comments Received Regarding Redundancies With Other Registries and Sources of Information

The Bureau believes that the NMLS represents a uniquely useful complement to the nonbank registry. The Bureau disagrees with commenters that the other sources of information identified by commenters diminish the need for the nonbank registry, or that the rule should accept registration of covered orders under those sources in lieu of registration with the nonbank registry. As stated above in part IV(B), although referrals from and other information provided by other agencies have been valuable to the Bureau's work, the Bureau currently often relies on other agencies to take proactive steps to contact it. Having access to a centralized list of orders entered against nonbanks will significantly increase the Bureau's ability to monitor the market so that the Bureau can identify, better understand, and ultimately, prevent further consumer harm. The Bureau disagrees that the indirect method proposed by commenters would be as efficient or effective as requiring covered nonbanks to directly submit information to the Bureau. Similarly, requiring the Bureau to proactively reach out and obtain information under its information-sharing memorandums of understanding with other regulators without creating its own registry would be an inadequate substitute for the final rule.

The Bureau disagrees that simply steering users to the various other public-facing websites and registries maintained by other Federal agencies, State regulators, State attorneys general, and local agencies would serve the purposes of the final rule.³⁵⁵ First, such an approach would be confusing and inefficient for the Bureau and for other users of the public registry the Bureau intends to establish, who would need to become proficient at searching and otherwise using the various websites maintained by multiple Federal agencies, State regulators, State attorneys general, and local agencies in order to locate applicable information about covered orders and covered nonbanks. The sheer number of such websites would present an obstacle to obtaining full information about all of the covered orders that have been issued against the covered nonbank. Collecting, keeping track of, and verifying

³⁵⁵ The Bureau also disagrees that the Bureau's own Consumer Response portal renders the nonbank registry unnecessary. To the contrary, the Bureau's consumer response function will be informed by the increased monitoring of risks and trends provided by the nonbank registry.

information maintained on a wide range of uncoordinated Federal, State, and local agency websites would be highly inefficient for the Bureau and other users of the nonbank registry. Such an approach would also impair the accuracy of the information maintained by the nonbank registry. The various websites publishing such orders would be subject to various approaches to maintaining and updating information about the applicable entities and orders listed on them, including the frequency at which such information is published and updated. In addition, the external web page(s) to which the Bureau directs users for more information regarding an order might be changed or otherwise become outdated. By contrast, currently the NMLS Consumer Access website generally maintains updated and consolidated information about entities and orders that are listed on it.

Second, because the information maintained by such a variety of agencies would necessarily vary in format and presentation, it would be very challenging for the Bureau to regularly monitor, search, and link to the appropriate selection of orders on the registry that the Bureau would deem relevant to its jurisdiction. Such websites may not provide information about nonbanks and orders in a uniform manner that will enable the Bureau to easily locate and access that information.

Third, the final rule, unlike the alternative information sources suggested by commenters, is calibrated to collect information relevant to the Bureau's exercise of its authorities. Even where another agency publishes a particular order against a covered nonbank, it may not be self-evident to the Bureau that the covered nonbank is a covered nonbank—information that would be provided in the nonbank registry. The Bureau currently lacks access to any comprehensive list of covered nonbanks, and thus may not even be aware of such entities or that it should monitor orders issued against them. Also, neither the orders themselves nor the relevant website publishing those orders would necessarily provide sufficient information to permit the Bureau to recognize that the order was a covered order. For example, it may not be clear from the face of the order the extent to which the violations of law found or alleged in the order arose out of conduct in connection with the offering or provision of a consumer financial product or service. Thus, the information that would be collected by the Bureau either by solely linking to a host of multiple other websites or by

reaching out under its information-sharing memorandums of understanding, or both, would always necessarily be incomplete. Under such an approach, the Bureau would be required to attempt to discern on an ongoing basis which entities listed on another agency's website were subject to its jurisdiction and when they had become subject to a covered order. Therefore, at a minimum, the Bureau will need to be notified when a covered order is issued against a covered nonbank, and will need to be notified about the existence of the covered nonbank and the relevant covered order. The Bureau concludes that imposing a registration requirement on the covered nonbank itself to register with and notify the Bureau regarding such matters, as authorized under the CFPA, is the most effective and efficient mechanism for collecting this information.

Fourth, the Bureau has concluded that it will often be difficult to obtain an adequate substitute for the information contained in the written statement with respect to covered orders that are not available through the NMLS. The Bureau is not currently aware of other regularized and consolidated official sources of information about covered orders that would provide the information about order violations that would be contained in the written statement.

As an alternative to the approach taken in the final rule, the Bureau considered requiring covered nonbanks to notify the Bureau when they become subject to a covered order—even one not published on the NMLS Consumer Access website—in a manner similar to that adopted under § 1092.203 of the final rule. Under such an alternative system, the Bureau might have used such notifications to attempt to obtain additional information about the covered nonbank and the covered order directly under its information-sharing memorandums of understanding with relevant regulators. However, such a requirement would not have adequately accomplished the purposes of the registry for the reasons explained above. Because the Bureau could not be assured that the other Federal, State, and local systems would routinely collect and make available the types of relevant identifying information about covered nonbanks subject to covered orders that are currently collected under the NMLS with respect to companies registered with the NMLS, the nonbank registry would therefore still need to collect such identifying information directly from registering nonbanks. Moreover, such an approach would

require the Bureau to comb through a large number of different websites maintained by various Federal agencies, State regulators, State attorneys general, and local agencies, all using their own organization, formats, naming conventions, frequency of posting and updating, and other matters. Such an approach would be cumbersome at best not only for the Bureau but also for registering entities themselves. Such an approach would therefore represent a less efficient and effective means of accomplishing the purposes of the final rule, including registering applicable covered nonbanks and supporting the objectives and functions of the Bureau through monitoring markets for consumer financial products and services, than the approach being adopted by the Bureau under § 1092.203.

That approach is comparatively much more useful both for the Bureau and for other potential users of the registry. As discussed above, filings submitted under § 1092.203 will notify both the Bureau and such other potential users when a covered order is issued against a covered person. Then the Bureau and other users will be able to use the NMLS to access additional information about the covered nonbank and covered order (subject to any applicable terms of use or other conditions). The NMLS and applicable State regulators generally collect identifying information about most of the companies that have applicable orders published on the NMLS Consumer Access website. For example, the NMLS Form MU1 requires companies to provide information regarding their legal name, address, NMLS number, and State licensing information. The Bureau will generally be able to obtain this information from NMLS and directly from State regulators. (While the Bureau understands that some covered nonbanks that are subject to an NMLS-published covered order may not have created an NMLS account—for example, where a covered order is issued against a company that is not appropriately licensed by an applicable State—the Bureau also understands that the number of such covered nonbanks is comparatively small. The Bureau intends to use the information collected through the nonbank registry to better understand the number of such companies, and intends to continue to consult with State agencies and the NMLS's operator regarding coordination of the nonbank registry and the NMLS.) Thus, the Bureau believes it will more readily be able to identify most covered nonbanks that register an NMLS-

published covered order than it would be able to identify covered nonbanks subject to other types of covered orders.

In addition, the NMLS, which is maintained through the coordinated action of the States, will be relatively simple for the Bureau to monitor and to coordinate with. The NMLS provides a valuable coordination function by organizing information about registered nonbank companies, generally by assigning an NMLS identification number for the company and assembling relevant identifying and licensing information together in an accessible manner. Limiting the number of places where the Bureau will need to search in order to obtain information about covered nonbanks and covered orders to two—the nonbank registry and the NMLS—will help limit the Bureau's search costs, and conserve resources that it could apply elsewhere, including to monitor for risk to consumers in other ways. By minimizing the number of places such information will be located, the final rule will also help minimize variation in the steps that would be required to obtain access to the information or any controls that may be placed on access to the information, and the ways or formats in which that information may be posted. Thus, the final rule will help ensure access by the Bureau to more uniform and consistent reporting about covered nonbanks and covered orders.

In addition to providing a consolidated source of information to the Bureau, the NMLS is also comparatively a more useful resource for other users of the public registry the Bureau intends to establish than a collection of other websites would be. As discussed above, where the Bureau publishes information on its nonbank registry informing users of that registry about the existence of a covered nonbank and the issuance of an applicable order against that nonbank, State regulators will generally be able to obtain related information from the NMLS pursuant to their arrangements with NMLS. In addition, as discussed above, the NMLS Consumer Access website currently publishes a wide range of information regarding those covered nonbanks that are subject to applicable State licensing and registration requirements, including much of the identifying information that would be collected under the proposal, such as the entity's legal name, business address, and NMLS identifier. Other users of the nonbank registry may use the NMLS Consumer Access website to access copies of, and other information about, NMLS-published covered orders and covered nonbanks that are

registered with the NMLS, so long as that access is consistent with any terms of use or other conditions of access that NMLS may impose. Thus, the NMLS Consumer Access website provides a centralized point of access (subject to NMLS Consumer Access's applicable terms of use or other conditions of access) for persons seeking to learn more about NMLS-published covered orders and covered nonbanks. Moreover, publication on the NMLS Consumer Access website will help ensure that such orders are presented in a format that is uniform and consistent, which will reduce the opportunity for confusion for persons who are attempting to locate and learn about NMLS-published covered orders.

Therefore, the Bureau has determined that maintaining its own registry, with the alternative option for one-time registration of NMLS-published covered orders provided in § 1092.203, will best serve the purposes of the final rule as described herein.

Final Rule

For the reasons described above and as follows in this section-by-section analysis, the Bureau is finalizing a new § 1092.203, and is renumbering the remainder of the sections of subpart B to part 1092 accordingly. Consistent with the approach suggested by commenters, this section will provide an express exception from some of the requirements of the rule as proposed (including the proposed written-statement requirements) for orders that are published on the NMLS Consumer Access website, which may be exercised at the option of the covered nonbank in lieu of registering under subpart B generally with respect to such orders.

The Bureau is adopting corresponding definitions of the terms “NMLS” and “NMLS-published covered order” at § 1092.201(j) and (k). See the discussion of these definitions in the section-by-section discussion of these sections above.

With respect to any NMLS-published covered order, a covered nonbank that is identified by name as a party subject to the order may elect to comply with the one-time registration option described in this section in lieu of complying with the requirements of §§ 1092.202 and 1092.204. Section 1092.203(c) provides that, once a covered nonbank avails itself of this option, and chooses to file the information required under § 1092.203(b) with respect to an NMLS-published covered order, the covered nonbank shall have no further obligation under subpart B to provide information to, or update information

provided to, the nonbank registry regarding the NMLS-published covered order.

As discussed above, by collecting and potentially publishing limited information for the purpose of coordinating the nonbank registry with NMLS, the final rule will also promote coordination with States in accordance with CFPA sections 1022(c)(7)(C) and 1024(b)(7)(D).

As provided in § 1092.201(k), no covered order issued or obtained at least in part by the Bureau shall be an NMLS-published covered order. Thus, a covered nonbank must comply with the requirements of § 1092.202 and (where applicable) § 1092.204 with respect to a covered order that has been issued or obtained at least in part by the Bureau and may not elect to comply with the one-time registration option described in § 1092.203 with respect to such a covered order whether or not the order has been published on the NMLS Consumer Access website. This restriction applies whether the applicable covered order was issued either by a court or by the Bureau itself, so long as the order was issued in any action or proceeding brought at least in part by the Bureau. The Bureau has a special interest in monitoring its own orders, and in obtaining updated information under § 1092.202 regarding them. The identifying information submitted under § 1092.202, and the final rule's obligation to update that information in the event of changes, could provide new and useful information to the Bureau in monitoring and enforcing its own orders. For example, a covered nonbank subject to a Bureau covered order that moves its principal place of business or changes its name will be required to notify the Bureau. Also, the Bureau has a special interest in obtaining annual written statements under § 1092.204 from supervised registered entities regarding such Bureau orders. The written statements will provide information regarding ongoing compliance with the Bureau order and the name and title of the attesting executive, will otherwise facilitate the Bureau's supervision of entities subject to its orders, and will help the Bureau detect and assess risks to consumers in connection with the orders it has issued or obtained. The Bureau also concludes that the rule's written-statement requirements should be imposed on supervised registered entities subject to covered orders that have been issued or obtained by the Bureau to ensure that such entities are legitimate entities and are able to perform their obligations to consumers. Thus, the final rule requires covered

nonbanks to comply with § 1092.202 and (where applicable) § 1092.204 with respect to such covered orders whether or not they are published on the NMLS Consumer Access website.

Section 1092.203(b) Information To Be Provided

Proposed Rule

See the section-by-section discussion of § 1092.203(a) above for a discussion of the proposal's requirements regarding submission of information and written statements and publication of information relating to covered orders.

Comments Received

See the section-by-section discussion of § 1092.203(a) above for a summary of comments received requesting an exception for NMLS-published covered orders as well as comments received regarding alleged redundancies with other registries and sources of information.

Final Rule

For the reasons described above and as follows in this section-by-section analysis, the Bureau is adopting a new § 1092.203(b) requiring a covered nonbank that chooses to exercise the option described in § 1092.203(a), in the form and manner specified by the Bureau, to provide such information that the Bureau determines is appropriate for the purpose of identifying the covered nonbank and the NMLS-published covered order, and otherwise for the purpose of coordinating the nonbank registry with the NMLS. The Bureau will provide instructions regarding the submission of such information in filing instructions issued under § 1092.102(a).

The Bureau is finalizing this requirement in order to help ensure that it obtains adequate information regarding NMLS-published covered orders to maintain the usefulness of the nonbank registry with respect to such orders. Without such a requirement, the Bureau may not learn about the existence of such orders or the applicable covered nonbank, or may not be informed that the covered nonbank is a covered nonbank subject to its jurisdiction or that the covered order is a covered order. Such matters are critical for the Bureau to be informed about so that it may understand when information regarding such matters that is of interest to the Bureau and relevant to its jurisdiction may be available from State agencies. The Bureau will also need this information in order to help coordinate the nonbank registry with the NMLS, including to verify that an applicable NMLS-published covered

order is in fact published on the NMLS Consumer Access website and to obtain information regarding the applicable covered nonbank and the NMLS-published covered order.

Under § 1092.205 of the final rule, the Bureau intends to publish certain information that the nonbank registry collects under § 1092.203. As described above and in the section-by-section discussion of § 1092.205 below, and except as provided therein, the Bureau believes the publication of certain information collected under § 1092.203 will be in the public interest, in order to allow users of the Bureau's public registry to identify that a covered nonbank has become subject to a covered order and (consistent with any applicable terms of use or other conditions of access) to be able to locate information about that covered nonbank and covered order on the NMLS Consumer Access website. The Bureau may also collect additional information under § 1092.203 for the purpose of coordinating the nonbank registry with the NMLS that it may choose not to publish. In administering the nonbank registry, the Bureau will implement § 1092.203 along with § 1092.102(b) as part of coordinating or combining systems in consultation with State agencies.

203(c) No Further Obligation To Provide or Update Information

Proposed Rule

See the section-by-section discussion of § 1092.203(a) above for a discussion of the proposal's requirements regarding submission of information and written statements and publication of information relating to covered orders.

Comments Received

See the section-by-section discussion of § 1092.203(a) above for a summary of comments received requesting an exception for NMLS-published covered orders as well as comments received regarding alleged redundancies with other registries and sources of information.

Final Rule

For the reasons described above and as follows in this section-by-section analysis, the Bureau is adopting a new § 1092.203(c) stating that, upon providing the information described in § 1092.203(b), the covered nonbank shall have no further obligation under subpart B to provide information to, or update information provided to, the nonbank registry regarding the NMLS-published covered order. Thus, once a covered nonbank has submitted the information specified in the filing

instructions adopted under § 1092.102(a) for an applicable NMLS-published covered order, the covered nonbank will have no further obligation to provide information to, or update information provided to, the nonbank registry regarding the NMLS-published covered order. Thus, among other things, following such a submission, the covered nonbank need not submit either an initial or a revised filing under § 1092.202(b)(2) with respect to the NMLS-published covered order. (However, if the covered nonbank is also subject to at least one other covered order that is registered or required to be registered under § 1092.202, and such other order(s) is not eligible for registration under § 1092.203 or the covered nonbank has not opted to register the order(s) under that provision, the covered nonbank will remain subject to § 1092.202(b)(2)'s requirements with respect to such other covered order(s), including the ongoing obligation to update its identifying information.) If the covered nonbank is a supervised registered entity, then, following such a submission under § 1092.203, it will not be required to submit an annual written statement under § 1092.204 or otherwise comply with the requirements of that section in connection with the applicable NMLS-published covered order.

As described in the section-by-section analysis of § 1092.203(a) above, the Bureau believes that this exception to the requirements of the final rule with respect to NMLS-published covered orders is consistent with the purposes of the final rule described in part IV above. This exception will reduce burden on entities that are subject to the rule, help avoid confusion, and promote coordination with the States in exercising the Bureau's nonbank registration authorities by leveraging information already gathered and published by the States.

Section 1092.204 Annual Reporting Requirements for Supervised Registered Entities

Proposed § 1092.203, which is renumbered in the final rule as § 1092.204, would have required supervised registered entities annually to identify an executive (or executives) who is responsible for and knowledgeable of the firm's efforts to comply with orders identified in the registry. The proposal would also have required supervised registered entities to submit on an annual basis a written statement signed by that executive (or executives) regarding the entity's compliance with orders in the registry.

The Bureau is finalizing this component of the proposal, with certain changes to the proposed regulatory text that are discussed below. Below, the Bureau first addresses comments regarding the Bureau's legal authority to impose the requirements in § 1092.204 and then discusses § 1092.204's individual paragraphs.

Proposed Rule's Discussion of the Bureau's Legal Authority To Impose Written-Statement Requirements

The Bureau relied on its rulemaking authority under CFPA section 1024(b)(7)(A)–(C) in requiring supervised registered entities to submit written statements.³⁵⁶ The Bureau explained that each of those paragraphs provides independent authority for the requirement to submit written statements. First, the Bureau explained, CFPA section 1024(b)(7)(A) and (B) authorize these written-statement requirements because the statements would facilitate the Bureau's supervision efforts and its assessment and detection of risks to consumers. The Bureau believed the proposed written statement would facilitate the Bureau's supervision efforts, including by providing the Bureau with important additional information regarding risks to consumers that may be associated with the covered order; informing the Bureau's risk-based prioritization of its supervisory activities under CFPA section 1024(b); and improving the Bureau's ability to conduct its supervisory and examination activities with respect to the supervised nonbank, when it does choose to exercise its supervisory authority. The Bureau noted that submission of a written statement that identifies noncompliance with reported orders would provide the Bureau with important information regarding risks to consumers that may be associated with the order. The Bureau further noted that such orders themselves frequently contain provisions aimed at ensuring an entity's future legal compliance with the covered laws violated. The Bureau believed that an entity's compliance with such provisions may mitigate the continuing risks to consumers presented by the entity and thus the potential need for current supervisory activities. By contrast, the Bureau also believed that evidence of noncompliance with an order requiring registration under the proposal would be probative of a potential need for supervisory examination of the supervised nonbank and would be a relevant factor for the Bureau to consider in conducting its

risk-based prioritization of its supervisory program under CFPA section 1024(b)(2), including (b)(2)(C), (D), and (E). Likewise, in cases where the Bureau determined to exercise its supervisory authorities with respect to a supervised nonbank required to submit written statements under the proposal, the Bureau expected that those written statements would provide important information relevant to conducting examination work. For example, the Bureau explained that it might use the written statements in determining what information to require from a supervised nonbank, in determining the content of supervisory communications and recommendations, or in making other decisions regarding the use of its supervisory authority.

Second, the Bureau explained in the proposal that it has authority to require preparation of the written statements under CFPA section 1024(b)(7)(C) because the written statements will help ensure that supervised registered entities "are legitimate entities and are able to perform their obligations to consumers."³⁵⁷ The Bureau interpreted CFPA section 1024(b)(7)(C) as authorizing it to prescribe substantive rules to ensure that supervised entities are willing and able to comply with their legal obligations to consumers, including those imposed by Federal consumer financial law. The Bureau believed that the proposed requirement to submit an annual written statement would help ensure that the supervised registered entity takes its legal duties seriously, and that it is not treating the risk of enforcement actions for violations of legal obligations as a mere cost of doing business. If an entity reported under proposed § 1092.203(d)(2) that it violated its obligations under covered orders, the Bureau noted that may indicate that the entity lacks the willingness or ability more generally to comply with its legal obligations, including its obligations under the Federal consumer financial laws that the Bureau enforces. The Bureau believed that that would especially be the case if an entity reported violations under proposed § 1092.203(d)(2) in multiple years or with respect to multiple covered orders, or if the violation amounted to a repeat of the conduct that initially gave rise to the covered order. The Bureau noted that, under CFPA section 1024(b)(2),³⁵⁸ the Bureau may prioritize such an entity for supervisory examination to determine whether the entity has worked in good faith to maintain

protocols aimed at ensuring compliance with its legal obligations and detecting and appropriately addressing any legal violations that the entity may commit. In this way, the Bureau explained that the written statement required by proposed § 1092.203(d)(2) would assist the Bureau in ensuring that supervised registered entities are legitimate entities and are able to perform their obligations to consumers.

Certain Comments Received Regarding the Bureau's Legal Authority To Impose Written-Statement Requirements

Some industry commenters questioned the Bureau's authority to impose the written-statement requirements, while some consumer advocate commenters stated that the Bureau was authorized to impose the written-statement requirements. The Bureau finalizes its conclusion set forth in the proposal that CFPA section 1024(b)(7) authorizes the rule's written-statement requirements.³⁵⁹ The Bureau discusses and responds to some of these comments together in this part for ease of reference. For further discussion of the written-statement requirements in the final rule and the Bureau's responses to comments received, see the section-by-section analysis of § 1092.204 below.

Commenters focused primarily on the meaning of CFPA section 1024(b)(7)(B) and 1024(b)(7)(C). Industry commenters commented that the proposed written statement would not qualify as a "record" within the meaning of CFPA section 1024(b)(7)(B). They also argued that section 1024(b)(7)(B) only allows the Bureau to require a supervised entity to produce records, not to compel an individual executive to provide the required written statement. Further, an industry commenter stated that the written-statement requirement is not the type of rule contemplated by CFPA section 1024(b)(7)(C) because, in the group's view, the requirement does not address the competency of management or financial requirements to ensure an entity's solvency. Finally, commenters contended that Congress's express provision for certification or attestation requirements in other statutory provisions³⁶⁰ implies that the Bureau lacks the authority to impose the proposed written-statement requirement under CFPA section 1024(b)(7) because that provision does not expressly address such a requirement.

³⁵⁹ See, e.g., 88 FR 6088 at 6091–93, 6125.

³⁶⁰ Commenters cited 7 U.S.C. 6s(k)(3)(B)(ii), 12 U.S.C. 1851(f)(3)(A)(ii), 15 U.S.C. 7241(a), and 15 U.S.C. 7262(b).

³⁵⁶ 12 U.S.C. 5514(b)(7)(A)–(C).

³⁵⁷ 12 U.S.C. 5514(b)(7)(C).

³⁵⁸ 12 U.S.C. 5514(b)(2).

The Bureau's Response to Certain Comments Received Regarding the Bureau's Legal Authority To Impose Written-Statement Requirements

The Bureau finalizes its conclusion that CFPA section 1024(b)(7) authorizes the Bureau to impose the written-statement requirements contained in § 1092.204. As an initial matter, commenters are wrong in suggesting that Congress's express provision for certification or attestation requirements in provisions like 7 U.S.C. 6s(k)(3)(B)(ii), 12 U.S.C. 1851(f)(3)(A)(ii), 15 U.S.C. 7241(a), and 15 U.S.C. 7262(b) implies that the Bureau lacks authority to impose the written-statement requirement under section 1024(b)(7). The commenters appear to be relying on the principle articulated in *Russello v. United States* that Congress generally "acts intentionally and purposely in the disparate inclusion or exclusion" of statutory language.³⁶¹ That principle, however, only applies when "Congress includes particular language in one section of a statute but omits it in another section of the same Act."³⁶² By contrast, "[l]anguage in one statute usually sheds little light upon the meaning of different language in another statute."³⁶³ Therefore, 15 U.S.C. 7241(a) and 7262(b), which Congress enacted in the Sarbanes-Oxley Act of 2002,³⁶⁴ have little bearing on the proper interpretation of CFPA section 1024(b)(7).

While 7 U.S.C. 6s(k)(3)(B)(ii) and 12 U.S.C. 1851(f)(3)(A)(ii), like section 1024(b)(7), were enacted in the Dodd-Frank Act (albeit in different titles than section 1024(b)(7)), those provisions are also insufficient to invoke the *Russello* principle. That principle infers meaning from differences in language between statutory provisions that are otherwise similarly worded. Accordingly, the inference "grows weaker with each difference in the formulation of the provisions under inspection."³⁶⁵ Also, the *Russello* principle "applies with

limited force" to broadly worded statutes.³⁶⁶ The *Russello* principle is founded on the premise that "the absence of the words used in [a separate statutory provision] could indicate an intention to exclude their application" in the principal provision at issue.³⁶⁷ It, however, "makes less sense to draw that inference when . . . the provision at issue uses broader language that encompasses the meaning of the absent words and thus did not need to expressly include them."³⁶⁸

Applying those considerations here, 7 U.S.C. 6s(k)(3)(B)(ii) and 12 U.S.C. 1851(f)(3)(A)(ii) provide no basis for reading into CFPA section 1024(b)(7) an atextual limitation that would prevent the Bureau from imposing the written-statement requirement. The provisions do not use parallel wording. While 7 U.S.C. 6s(k)(3)(B)(ii) and 12 U.S.C. 1851(f)(3)(A)(ii) focus on particular reporting requirements, CFPA section 1024(b)(7) provides a general grant of rulemaking authority to facilitate supervision, assessment, and detection of risks to consumers, and to ensure that supervised entities are legitimate and are able to perform their obligations to consumers. Further, as explained in greater detail below, Congress used expansive language in section 1024(b)(7) that encompasses the authority to impose the written-statement requirements. The contrast that the commenters attempt to draw between section 1024(b)(7) and other, more limited provisions imposing certification or attestation requirements does not support restricting section 1024(b)(7)'s breadth.

Turning to the specific subparagraphs of CFPA section 1024(b)(7), no commenter specifically addressed the Bureau's statements in the notice of proposed rulemaking that CFPA section 1024(b)(7)(A) provides a "distinct, independently sufficient basis for the proposed written-statement requirements."³⁶⁹ In the absence of any comments specifically challenging the proposition that CFPA section

1024(b)(7)(A) authorizes the written-statement requirements, the Bureau finalizes its conclusion that section 1024(b)(7)(A) supports those requirements. The written-statement requirements will "facilitate [the Bureau's] supervision" efforts and its "assessment and detection of risks to consumers" within the meaning of section 1024(b)(7)(A). In particular, the written-statement requirements will provide the Bureau with important additional information regarding risks to consumers that may be associated with the covered order; inform the Bureau's risk-based prioritization of its supervisory activities under CFPA section 1024(b); and improve the Bureau's ability to conduct its supervisory and examination activities with respect to the supervised nonbank, when it chooses to exercise its supervisory authority. Because CFPA section 1024(b)(7)(A) provides a distinct grant of authority separate from CFPA section 1024(b)(7)(B) or 1024(b)(7)(C)—a proposition not disputed by any commenter—section 1024(b)(7)(A) suffices to support the written-statement requirements, even if (as the commenters argue) the written statement did not qualify as a "record" that the Bureau could require under section 1024(b)(7)(B) and also was not authorized by section 1024(b)(7)(C).

Although not necessary to support the written-statement requirements, the Bureau also concludes that section 1024(b)(7)(B) authorizes those requirements as well. Section 1024(b)(7)(B) authorizes the Bureau to require entities subject to its supervisory authority "to generate, provide, or retain records for the purposes of facilitating supervision . . . and assessing and detecting risks to consumers."³⁷⁰ As the Bureau has explained,³⁷¹ the term "records" in section 1024(b)(7)(B) is broad. It includes any "[i]nformation that is inscribed on a tangible medium or that, having been stored in an electronic or other medium, is retrievable in perceivable form," or any "documentary account of past events."³⁷² The written statement

³⁶¹ *Russello v. United States*, 464 U.S. 16, 23 (1983) (citation omitted).

³⁶² *Id.*

³⁶³ *Id.* at 25.

³⁶⁴ Public Law 107–204, 116 Stat. 745.

³⁶⁵ *City of Columbus v. Ours Garage & Wrecker Serv., Inc.*, 536 U.S. 424, 435–36 (2002); accord *Clay v. United States*, 537 U.S. 522, 532 (2003); see also *Nat'l Postal Policy Council v. Postal Regulatory Comm'n*, 17 F.4th 1184, 1191 (D.C. Cir. 2021) (*Russello* presumption "has limited force" when "two provisions use different words and are not otherwise parallel"); *United States v. Councilman*, 418 F.3d 67, 74 (1st Cir. 2005) ("[I]f the language of the two provisions at issue is not parallel, then Congress may not have envisioned that the two provisions would be closely compared in search of terms present in one and absent from the other.").

³⁶⁶ See *United States v. O'Donnell*, 608 F.3d 546, 552 (9th Cir. 2010).

³⁶⁷ *Id.*

³⁶⁸ *Id.*; see also *Adirondack Med. Ctr. v. Sebelius*, 740 F.3d 692, 697 (D.C. Cir. 2014) (explaining that the "expressio unius canon" is a "poor indicator of Congress' intent" to limit the scope of an otherwise "broad grant of authority"); *Councilman*, 418 F.3d at 74 ("The *Russello* maxim . . . is simply a particular application of the classic principle *expressio unius est exclusio alterius* . . .").

³⁶⁹ 88 FR 6088 at 6090; see also *id.* at 6093 ("Section 1024(b)(7) of the CFPA . . . identifies three independent sources of Bureau rulemaking authority."); *id.* at 6125 ("Each of th[e] paragraphs [in CFPA section 1024(b)(7)(A)–(C)] provides independent authority for the requirement to submit written statements.").

³⁷⁰ 12 U.S.C. 5514(b)(7)(B).

³⁷¹ See 88 FR 6088 at 6093.

³⁷² *Record*, *Black's Law Dictionary* (11th ed. 2019); accord *Record*, *Webster's Third New International Dictionary* (1981) ("an account in writing or print (as in a document) . . . intended to perpetuate a knowledge of acts or events"; "a piece of writing that recounts or attests to something"); *Record*, *American Heritage Dictionary of the English Language*, <https://www.ahdictionary.com/word/search.html?q=record> ("[a]n account, as of information or facts, set down especially in writing as a means of preserving knowledge").

required by § 1092.204 easily qualifies as a “record” under that definition. The written statement provides “[i]nformation” or a “documentary account” of past events—namely, the fact of “whether, to the attesting executive’s knowledge, the supervised registered entity during the preceding calendar year identified any violations or other instances of noncompliance” with an applicable covered order, as well as the steps the attesting executive undertook to review and oversee the supervised registered entity’s activities with respect to the covered order. Even under commenters’ preferred definitions of “record,” the written statement fits the bill. It “set[s] down in writing,” “furnish[es] written evidence” of, and “gives evidence of” the matters required to be addressed in the written statement. It also “recalls or relates past events.” Put another way, the written statement provides “a description of actions taken by the business,” which commenters recognize “might constitute a ‘record.’” Because the written statement qualifies as a “record,” section 1024(b)(7)(B) authorizes the Bureau to require supervised nonbanks to “generate”—i.e., create³⁷³—such written statements and “provide” them to the Bureau.³⁷⁴

Contrary to commenters’ assertions, § 1092.204(d) does not require the entity to comply with covered orders, or to engage in, or to refrain from, other specific non-recordkeeping conduct. Rather, the two elements of the written statement required under § 1092.204(d)(1) and (2) are statements about facts that will already exist at the time the written statement is submitted—namely, the steps the executive took, and whether or not the entity identified any applicable violations. Section 1092.204(d) merely requires that the supervised registered entity generate and submit a record (signed by the attesting executive) about those existing facts.

The commenters suggest that, because the Bureau uses the term “attest” in describing the statements required to be included in the written statement, the document cannot qualify as a “record.” But nothing about the use of the term “attest” changes the substance of the written-statement requirements or takes the written statement outside the realm of the term “records.” “Attest” means to “affirm to be true or genuine.”³⁷⁵ It is

common to refer to the maker of a record as having “attest[ed]” to the information contained in that record. Indeed, *Webster’s Third New International Dictionary* uses the word “attest” in defining the word “record”: The definition of “record” includes “a piece of writing that recounts or attests to something.”³⁷⁶

Further, contrary to commenters’ suggestion, the fact that § 1092.204(e) requires the supervised entity to “maintain documents and other records sufficient to provide reasonable support” for its written statement does not transform the written statement into something other than a “record.” Information contained in documents that constitute “records” is often supported by other “records.” For example, accounting journals or ledgers are “records,” even though they are often based on other “records,” such as receipts or invoices.³⁷⁷ Similarly, § 1092.204(e)’s recordkeeping requirement does not render the written statement a non-“record.”

Commenters also contend that the Bureau is exceeding its authority under section 1024(b)(7)(B) by imposing the requirement to submit written statements on individual executives. According to commenters, section 1024(b)(7)(B) only allows the Bureau to require a supervised entity to produce records; it does not allow the Bureau to require an executive of a supervised entity to provide any such certification. The commenters, however, do not accurately describe the nature of the requirements imposed by § 1092.204 of the Bureau’s rule. Section 1092.204 imposes requirements on supervised registered entities, not on any particular individuals. Supervised registered entities with applicable covered orders must designate attesting executives who satisfy certain criteria, and they must submit a written statement that is signed by the attesting executive “on behalf of the supervised registered entity.”³⁷⁸ Those obligations belong to the supervised registered entity, not to any individual. If a supervised registered entity failed to designate an attesting executive or to submit a written statement when required to do so, the

supervised registered entity—not a particular individual—would potentially be subject to an enforcement action. It is thus simply incorrect to suggest that § 1092.204 imposes requirements on corporate executives in their personal capacities. To be sure, as with any other regulatory obligation, supervised registered entities, like any legal entity, must take steps to comply with § 1092.204 through their agents. But the obligations under § 1092.204 belong to supervised registered entities, not to particular individuals acting in their personal capacities.

For the reasons discussed above, the Bureau does not find the comments challenging its reliance on section 1024(b)(7)(B) persuasive. The Bureau thus finalizes its conclusion that section 1024(b)(7)(B) authorizes § 1092.204’s written-statement requirements.

In addition, the Bureau finalizes its conclusion that CFPB section 1024(b)(7)(C) provides a distinct, independent statutory basis for § 1092.204’s written-statement requirements. Section 1024(b)(7)(C) authorizes the Bureau to prescribe rules to ensure that nonbanks subject to its supervisory authority “are legitimate entities and are able to perform their obligations to consumers.”³⁷⁹ As the Bureau has explained, § 1092.204’s written-statement requirements further the statutory purposes specified in section 1024(b)(7)(C) because those requirements will facilitate the Bureau’s assessment of whether a company is willing and able to satisfy its legal obligations, including those set forth in covered orders.³⁸⁰

In response, commenters assert that the types of requirements contemplated by section 1024(b)(7)(C) address the competency of management and financial requirements to ensure the entity’s solvency, and according to commenters, the written-statement requirements do “not further either of those statutory purposes.” As an initial matter, the commenters’ argument fails on its own terms because § 1092.204’s written-statement requirements “address the competency of management.” If an entity is violating its obligations under a covered order, or its executives are not taking sufficient steps to effectively oversee the entity’s compliance with its obligations under such an order, that would raise concerns regarding “the competency of [the entity’s] management.”

The commenters also fail to account for the full breadth of the language Congress used in section 1024(b)(7)(C).

³⁷³ See *Generate*, *Webster’s Third New International Dictionary* (1981) (defining “generate” as “to bring into existence”).

³⁷⁴ 12 U.S.C. 5514(b)(7)(B).

³⁷⁵ *Attest*, *Webster’s Third New International Dictionary* (1981); *accord Attest*, *Black’s Law Dictionary* (11th ed. 2019) (“[t]o affirm to be true or genuine”); *Attest*, *American Heritage Dictionary*

of the English Language, <https://www.ahdictionary.com/word/search.html?q=attest> (“[t]o affirm to be correct, true, or genuine”).

³⁷⁶ *Record*, *Webster’s Third New International Dictionary* (1981) (emphasis added).

³⁷⁷ See, e.g., 2 Robert P. Mosteller *et al.*, *McCormick on Evidence* § 287 (8th ed. 2022) (explaining that accounting journals or ledgers may be admissible under the hearsay exception for records of regularly conducted activities, even though the journals or ledgers are based on other records).

³⁷⁸ Section 1092.204(b), (d).

³⁷⁹ 12 U.S.C. 5514(b)(7)(C).

³⁸⁰ See 88 FR 6088 at 6091, 6093, 6125.

As the Bureau has explained,³⁸¹ the term “obligations” in section 1024(b)(7)(C) encompasses “anything that a person is bound to do or forbear from doing,” including duties “imposed by law, contract, [or] promise.”³⁸² Contrary to commenters’ suggestion, the term “obligations” is not limited to financial requirements related to solvency. Similarly, “legitimate entities” is a broad phrase encompassing an inquiry into whether an entity takes seriously its duty to “[c]omply[] with the law.”³⁸³

Commenters also lose sight of the purposes of the Bureau’s supervisory program, which are “assessing compliance with the requirements of Federal consumer financial law”; “obtaining information about the activities and compliance systems or procedures” of entities subject to Bureau supervision; and “detecting and assessing risks to consumers and to markets for consumer financial products and services.”³⁸⁴ The authority that Congress granted to the Bureau in CFPB section 1024(b)(7) must at least be sufficiently expansive to allow the Bureau to issue rules aimed at achieving the supervisory objectives listed in CFPB section 1024(b)(1). According to the terms “obligations” and “legitimate entities” in section 1024(b)(7)(C) their full breadth—rather than artificially restricting them, as commenters propose, to addressing limited issues like solvency—is most consistent with achieving the congressionally stated purposes of supervision, including “assessing compliance with the requirements of Federal consumer financial law.”³⁸⁵

In accordance with the expansive language that Congress used in section 1024(b)(7)(C), the Bureau finalizes its conclusion that section 1024(b)(7)(C) provides authority for § 1092.204.

Section 1092.204(a) Scope of Annual Reporting Requirements

Proposed Rule

Proposed § 1092.203(a) would have provided that the proposed section would apply only with respect to covered orders with an effective date (as

that term was defined at proposed § 1092.201(f)) on or after the nonbank registration system implementation date for proposed § 1092.203.

This section would have applied only to certain larger supervised entities.³⁸⁶ The Bureau preliminarily concluded that the reporting requirements set forth in the section—which focused specifically on larger supervised entities’ compliance with the orders registered pursuant to § 1092.202—should apply only prospectively to those covered orders with an effective date on or after the NBR implementation date for proposed § 1092.203. The Bureau explained that the prospective application of § 1092.203 would have ensured that entities faced with enforcement actions that might result in covered orders could take § 1092.203’s requirements into account in their decision-making. While the Bureau did not believe that compliance with proposed § 1092.203’s requirements would materially affect an entity’s decision-making about how to respond to a prospective enforcement action—as discussed in further detail in section VII of the proposal, for the vast majority of entities, the Bureau generally did not anticipate any of the proposed rule’s reporting and publication requirements imposing meaningful burden either operationally or on their bottom line—the Bureau proposed this provision out of an abundance of caution. In addition, the Bureau explained that this limitation would have helped ensure that supervised registered entities would be required to submit reports only after the nonbank registration system implementation date.

Comments Received

Commenters did not specifically address proposed § 1092.203(a). For comments regarding the proposed written-statement requirements generally, including comments stating that the Bureau lacks authority to impose such requirements and otherwise commenting on the nature and scope of the requirements, see the discussion elsewhere in this section-by-section discussion of § 1092.204.

Final Rule

For the reasons discussed in the description of the proposal above, the Bureau adopts § 1092.203(a) as proposed (renumbered as § 1092.204(a)), with certain changes for the reasons described below.³⁸⁷ See the section-by-section discussion of § 1092.201(q) above for a discussion of revisions to the definition of “supervised registered entity.”

Section 1092.204(a) describes the covered orders that are subject to § 1092.204’s written-statement requirements. The Bureau is finalizing three revisions to this paragraph (a). First, the Bureau is finalizing an amendment to the proposal at § 1092.204(a)(1) that clarifies that § 1092.204 applies only with respect to covered orders with an effective date on or after the “applicable” nonbank registry implementation date. This amendment reflects the addition of § 1092.206 to the final rule, which establishes nonbank implementation dates for different categories of covered nonbanks subject to the final rule. As discussed in the section-by-section discussion of § 1092.206 below, the Bureau is specifying the annual registration date in § 1092.206 of the final rule for each category of covered nonbank in order to provide greater certainty and clarity to covered nonbanks as of the issuance of the final rule. Section 1092.204’s written-statement requirements apply only with respect to covered orders with an effective date on or after the nonbank registry implementation date that applies to the supervised registered nonbank subject to the covered order, as provided in § 1092.206.

Second, the Bureau is finalizing an amendment to the proposal at § 1092.204(a)(1) that provides that final § 1092.204 shall apply only with respect to covered orders “as to which information is provided or required to be provided under § 1092.202” (and that also have an effective date on or after the applicable nonbank registry implementation date for § 1092.204). This amendment clarifies that only covered orders that have been registered (or are required to be registered) under § 1092.202 are subject to § 1092.204’s written-statement requirements. For example, a supervised registered nonbank would not be required to comply with § 1092.204’s written-statement requirements in cases where the applicable covered order has not

³⁸¹ See 88 FR 6088 at 6093.

³⁸² *Obligation*, *Black’s Law Dictionary* (11th ed. 2019).

³⁸³ *Legitimate*, *Black’s Law Dictionary* (11th ed. 2019) (“[c]omplying with the law; lawful”); *accord Legitimate*, *Webster’s Second New International Dictionary* (1934) (defining “legitimate” as “[a]ccordant with law or with established legal forms and requirements; lawful”); *Legitimate*, *Webster’s Third New International Dictionary* (1981) (similar).

³⁸⁴ 12 U.S.C. 5514(b)(1).

³⁸⁵ 12 U.S.C. 5514(b)(1)(A).

³⁸⁶ The proposal would have excluded from the term “supervised registered entity” persons with less than \$1 million in annual receipts resulting from offering or providing all consumer financial products and services described in 12 U.S.C. 5514(a). As discussed in the section-by-section discussion of § 1092.201(q) above, in a revision to the proposed rule, the Bureau is adopting an exclusion for persons with less than \$5 million in annual receipts (as defined) resulting from offering or providing all consumer financial products and services described in 12 U.S.C. 5514(a), as well as a clarification to this provision.

³⁸⁷ See also the section-by-section discussion of § 1092.101(e) above regarding the Bureau’s adoption of the revised term “nonbank registry implementation date.”

been registered (and was not required to be registered) under § 1092.202: (1) due to a stay or other agency or court action; (2) because the later of the 90-day period following its applicable nonbank registry implementation date or the effective date of the covered order as provided under § 1092.202 had not yet expired; or (3) where the supervised registered nonbank has exercised the option to register an NMLS-published covered order under § 1092.203 instead of § 1092.202. However, once the covered order is registered (or required to be registered) under § 1092.202, the supervised nonbank must comply with § 1092.204 as applicable, subject to the other provisions of the rule, including § 1092.202(f)'s provisions regarding submitting a final filing upon termination of the covered order. See the section-by-section discussion of § 1092.204(d) below regarding the scope of the written statements required by that section.

Third, the Bureau is finalizing a new paragraph at § 1092.204(a)(2) that provides that a supervised registered entity is not required to comply with § 1092.204's written-statement requirements with respect to any NMLS-published covered order for which it chooses to comply with the one-time registration option described in § 1092.203. This provision complements the related provisions at § 1092.203(a) and (c), which also provide that a covered nonbank that is identified by name as a party subject to a covered order may elect to comply with the one-time registration option described in that section in lieu of complying with the requirements of § 1092.204.

Section 1092.204(b) Requirement To Designate Attesting Executive Proposed Rule

Proposed § 1092.203(b) would have required a supervised registered entity subject to an applicable covered order to annually designate as its attesting executive for purposes of proposed subpart B its highest-ranking duly appointed senior executive officer (or, if the supervised registered entity does not have any duly appointed officers, the highest-ranking individual charged with managerial or oversight responsibility for the supervised registered entity) whose assigned duties include ensuring the supervised registered entity's compliance with Federal consumer financial law, who has knowledge of the entity's systems and procedures for achieving compliance with the covered order, and who has control over the entity's efforts to comply with the covered order. The supervised

registered entity would have been required annually to designate one attesting executive for each covered order to which it is subject and for all submissions and other purposes related to that covered order under proposed subpart B. The supervised registered entity would have also been required to authorize the attesting executive to perform the duties of an attesting executive on behalf of the supervised registered entity with respect to the covered order as required in proposed § 1092.203, including submitting the written statement described in proposed § 1092.203(d).

Criteria That an Attesting Executive Must Satisfy

For the reasons described in section IV(D) of the proposal, proposed § 1092.203(b) would have provided that a supervised registered entity subject to a covered order described in proposed § 1092.203(a) would generally be required to designate as its attesting executive for purposes of proposed subpart B its highest-ranking duly appointed senior executive officer (i) whose assigned duties include ensuring the supervised registered entity's compliance with Federal consumer financial law, (ii) who has knowledge of the entity's systems and procedures for achieving compliance with the covered order, and (iii) who has control over the entity's efforts to comply with the covered order. If the supervised registered entity has no duly appointed officers, proposed § 1092.203(b) would have required the entity to designate as its attesting executive the highest-ranking individual charged with managerial or oversight responsibility for the supervised registered entity who meets those three criteria.

As explained below in the discussion of proposed § 1092.203(d), the Bureau proposed that the attesting executive would sign a written statement submitted by the supervised registered entity regarding the entity's compliance with covered orders. The Bureau believed that proposal would have the benefit of ensuring that the supervised registered entity's reporting obligations under proposed § 1092.203 have received attention from the highest applicable level of a supervised registered entity's management. The Bureau proposed the criteria in proposed § 1092.203(b) in order to ensure that the person who attests and signs the written statement has sufficient authority and access to all the relevant company stakeholders to ensure that the report is as complete and accurate as possible. The Bureau believed that the language of proposed

§ 1092.203(b) would have ensured that the supervised registered entity designates an appropriately high-ranking employee as its attesting executive. The Bureau believed that such a person will be in the best position to know all relevant information with respect to the order, and to provide a reliable attestation in the written statement regarding the entity's compliance with the covered order.

The Bureau anticipated that this individual will in most cases likely be a top senior executive of the entity. For entities that are not organized as corporations, and thus may not have duly appointed officers, proposed § 1092.203(b) would have clarified that the attesting executive may be another individual who is charged with managerial or oversight responsibility for the supervised registered entity. The Bureau anticipated that this individual would in most cases serve in a capacity equivalent to a high-ranking senior executive at a corporation. For example, the Bureau noted, a supervised registered entity organized as a limited liability company that is run by an individual managing member and lacks executive officers may designate the managing member as its "attesting executive," where the managing member's assigned duties include ensuring the supervised registered entity's compliance with Federal consumer financial law and the managing member has the requisite knowledge and control as described in proposed § 1092.203(b). Likewise, the Bureau further noted, a supervised registered entity organized as a general or limited partnership may designate an individual partner who otherwise satisfies the requirements set forth in proposed § 1092.203(b). The use of the term "executive" was not intended to preclude the designation of such persons as "attesting executives" where the supervised registered entity otherwise lacks a senior executive officer who satisfies proposed § 1092.203(b)'s requirements.

The Bureau anticipated that entities would take appropriate steps to ensure compliance with the proposed rule in the event that an executive leaves employment or changes duties, or a higher-ranking executive is put in place. For example, the Bureau explained, a supervised registered entity might consider designating an alternate attesting executive for each covered order to address such possibilities, including by ensuring that they have sufficient knowledge of the entity's systems and procedures for achieving compliance with the applicable covered

order(s) and control over the entity's efforts to comply with the covered order(s).

The proposal would have also required that the supervised registered entity designate as its attesting executive for a covered order a person who has knowledge of the entity's systems and procedures for achieving compliance with the covered order. The Bureau anticipated that this requirement would help ensure that the annual written statement is completed by an individual with sufficient knowledge of the entity's systems and procedures for achieving compliance to make the written statement required by proposed § 1092.203(d). The Bureau expected that an executive who lacked knowledge of those compliance systems and procedures would not be in the best position to identify violations of the order. Therefore, the Bureau believed that without the proposed knowledge requirement, the attestation proposed at § 1092.203(d)(2) would lose much of its usefulness.

Proposed § 1092.203(b) would have also required that the attesting executive be required to have control over the entity's efforts to comply with the covered order. By this requirement, the Bureau meant to require that the executive have the ability, under the entity's existing compliance systems and procedures, to direct and supervise the entity's efforts to comply with the applicable covered order. The Bureau explained that this proposed requirement would complement the knowledge requirement discussed above, since the Bureau believed an executive with control over the entity's efforts to comply with the covered order would be more likely also to have (and to demand) the requisite knowledge regarding the entity's related compliance systems and procedures. The Bureau noted that it is possible that an executive with knowledge of an entity's related compliance systems and procedures, but who does not have control over the entity's efforts to comply with an applicable covered order, would not have been fully informed regarding violations of the order. The Bureau further explained that it would also be able to use information regarding which executives have control of the entity's efforts to comply with specific covered orders in connection with its supervisory reviews of the entity's compliance systems and procedures, compliance with Federal consumer financial law, and risks to consumers and markets.

In addition, the Bureau expected that the proposal's requirements to designate an attesting executive who has

knowledge of the entity's systems and procedures for achieving compliance with its covered orders, and who has control over the entity's efforts to comply with its covered orders, would create an additional incentive for certain entities to comply with their obligations to consumers. The Bureau believed that most supervised registered entities would comply with covered orders even without the proposal. However, the Bureau believed that these requirements would motivate additional compliance efforts at certain entities that have failed to take adequate steps to comply with the order. The Bureau also believed that if a particular executive is identified to the Bureau as the person ultimately accountable for ensuring compliance with a covered order, the clear delineation of that executive's responsibility would prompt the executive to focus greater attention on ensuring compliance, which in turn would increase the likelihood of compliance.

In addition, the Bureau anticipated that obtaining information about which senior executive officer(s) at a supervised registered entity have knowledge of the entity's systems and procedures for achieving compliance with specific covered orders, and who have control over the entity's efforts to comply with those covered orders, would facilitate the Bureau's ability to identify situations in which individual executives have recklessly disregarded, or have actual knowledge of, the entity's violations of covered orders. The Bureau believed that this information would better enable the Bureau to identify risks to consumers related to such orders and the entity's compliance systems and procedures, and to take steps to address such risks through its supervisory or other authorities. Where the applicable covered order is a Bureau order, the Bureau believed such information will also facilitate the Bureau's efforts to assess compliance with the order and to make determinations regarding any potential related Bureau supervisory or enforcement actions. For example, the Bureau noted, where information obtained under proposed § 1092.203 indicates that a high-ranking executive has knowledge of (or has recklessly disregarded) violations of legal obligations falling within the scope of the Bureau's jurisdiction, and has authority to control the violative conduct, the Bureau could use that information in assessing whether an enforcement action should be brought not only against the nonbank covered person, but also against the individual executive.

The Bureau noted that in developing this proposal, it considered various options other than requiring entities to designate a senior executive officer as an attesting executive. The Bureau considered permitting entities to designate lower ranking individuals whose assigned duties include ensuring the supervised registered entity's compliance with Federal consumer financial law and who possessed sufficient knowledge and control to provide a written statement under proposed § 1092.203. However, the Bureau believed that requiring entities to designate their highest-ranking executive officer would better help ensure that all relevant information was considered when submitting the written statement. In addition, because the attestation that would have been provided under proposed § 1092.203(d)(2) would be subject to the knowledge of the attesting executive, the Bureau believed this requirement would help enhance the reliability of that attestation, and thus the accuracy of the written statement. The Bureau noted that lower-ranking managers at the entity might not be aware of all relevant facts. Also, the Bureau believed that the designation requirement would provide an important piece of information regarding the organizational structure of an entity's compliance management system—namely, the identity of the entity's highest-ranking executive whose assigned duties include ensuring the supervised registered entity's compliance with Federal consumer financial law, and who has the requisite level of knowledge and control. The Bureau believed that this information would be valuable to the Bureau's understanding of the supervised registered entity's compliance systems and procedures and its organization, business conduct, and activities subject to the covered order. The Bureau concluded that such information would have informed the Bureau's functions, including its use of its supervisory and enforcement authorities.

As another alternative to imposing this requirement, the Bureau noted that it might instead require the entity to appoint an individual with a given title—for example, the entity's Chief Compliance Officer (CCO), or equivalent. However, the Bureau observed that it did not have comprehensive information regarding the organizational structures of the entities it supervises, and the Bureau expected that many supervised registered entities may have organizational structures that do not provide for a CCO or other officer title.

The Bureau believed that the proposed requirement to designate the entity's highest-ranking executive who satisfies the specified criteria would help ensure that an appropriately high-level individual was designated but would retain flexibility to accommodate a range of entity organizational structures. And as discussed above, the Bureau believed that requiring the entity to designate its attesting executive for each covered order would provide the Bureau with information regarding the entity, including its compliance systems and procedures and its organization, business conduct, and activities subject to the covered order.

As another alternative to the approach proposed in § 1092.203(b), the Bureau explained that it might require supervised registered entities to obtain a review or audit by an independent third-party consultant of the entities' written statements and the facts underlying the written statements. However, the Bureau believed that this alternative would impose costs on the entity that would largely be avoided by the proposal's requirement to designate an attesting executive already providing services to the entity and would require the Bureau to impose controls on such reviews in order to ensure their usefulness. In addition, this alternative would not have provided the Bureau with the information regarding the entity described above.

Requirement To Designate an Attesting Executive for Each Covered Order on an Annual Basis

Proposed § 1092.203(b) would have required a supervised registered entity to annually designate one attesting executive for each applicable covered order to which it is subject and for all submissions and other purposes related to that covered order under proposed subpart B. The Bureau believed that requiring a supervised registered entity to designate an attesting executive for each covered order would facilitate the Bureau's supervision of the supervised registered entity by, among other things, facilitating the Bureau's supervisory communications with the supervised registered entity regarding the covered order, including any related supervisory concerns. The Bureau would have also been able to contact the attesting executive with questions and to understand how the executive's responsibilities relate to the entity's obligations under its covered orders. The Bureau also believed that by requiring the entity to designate its attesting executive(s) on an annual basis, the proposal would have better enabled the Bureau to understand the

reporting relationships within the entity and the entity's compliance systems and procedures. The Bureau thus believed that this proposed designation requirement would help ensure compliance with the proposed rule, facilitate the Bureau's supervision of the supervised registered entity, help the Bureau assess and detect risks to consumers, and help ensure that the entity is legitimate and able to perform its obligations to consumers.

The Bureau expected that under most circumstances, a supervised registered entity would designate one single individual as its attesting executive for all of the covered orders to which it is subject. However, the Bureau noted, there may be situations in which there is no one senior executive officer with the requisite knowledge of the entity's systems and procedures for achieving compliance with all of the covered orders to which the entity is subject, and who has control over the entity's efforts to comply with those orders. In such a case, the Bureau proposed that the entity could designate different attesting executives for the covered orders. By requiring a supervised registered entity to designate one attesting executive for each covered order described in proposed § 1092.203(a) to which it is subject, proposed § 1092.203(b) would have enabled the Bureau to better identify such situations.

Comments Received

See the beginning of the section-by-section discussion of § 1092.204 for a discussion of certain comments received regarding the Bureau's legal authority to impose the final rule's written-statement requirements.

Industry commenters and the joint comment from State regulators generally opposed the imposition of the rule's written-statement requirements. Commenters stated that the proposed requirements were unnecessary, onerous, and vague, would add little to no value to the Bureau fulfilling its objectives, and would be unlawful and drive up compliance costs. An industry commenter stated that the proposed requirements were extreme and an attempt to trap and embarrass companies and their executives. Industry commenters stated that the proposed written-statement requirements would not further the purpose of the proposal.

Industry commenters stated that the proposed written statements were more burdensome than described, and that the proposal did not adequately explain the benefits of the written-statement requirements. Industry commenters

expressed concern that the written-statement requirements would harm consumers by discouraging qualified individuals from seeking employment with nonbanks, and stated that the Bureau should reconsider the cost and impact that would be associated with the written-statement requirements in harming hiring by supervised registered entities and in discouraging applicants. The SBA Office of Advocacy stated that the Bureau had failed to support its claims that few entities would lack a qualified executive, and to provide information about the costs that would be incurred to obtain a qualified executive to perform the duties required.

Industry commenters stated that proposed § 1092.203(b)'s requirements to designate an attesting executive for each covered order were unfair, because the proposed designation requirement served only as a shaming tool and appeared to place sole responsibility for compliance on the attesting executive. However, a consumer advocate commenter stated that the Bureau would be able to make clear that the attesting executive is not necessarily an at-fault individual. An industry commenter stated that no other industry seeks to impose liability upon corporate executives acting in a corporate capacity, and that under the proposal such liability would be unlimited. Industry commenters stated that the proposed requirement to designate an attesting executive for each covered order did not reflect real-world situations and how companies actually manage risk, and would inappropriately signal that other persons are less responsible for the supervised registered entity's compliance with the covered order. Industry commenters also stated that proposed § 1092.203(b)'s requirements to designate an attesting executive for each covered order were in conflict with the Bureau's existing guidance stating that an institution's board of directors or other principals are ultimately responsible for the institution's compliance management, and that designation of an attesting executive would encourage the mistaken notion that compliance is the sole responsibility of that individual.

The proposal indicated that the Bureau was considering adopting a requirement that the attesting executive attest that, in the executive's professional judgment, the entity's compliance systems and procedures are reasonably designed to detect violations of the applicable covered order and ensure that such violations are reported

to the attesting executive.³⁸⁸ An industry commenter stated that this alternative requirement would contribute to the impression that the compliance burden rests solely with the attesting executive.

An industry commenter stated that designation of an attesting executive would serve no purpose for closely held entities.

Industry commenters stated that the rule, including the proposed written-statement requirements, should apply prospectively only.

Response to Comments Received

See the beginning of the section-by-section discussion of § 1092.204 for a discussion of the Bureau's response to certain comments received regarding the Bureau's legal authority to impose the final rule's written-statement requirements. As explained in that discussion, § 1092.204's written-statement requirements are appropriate and lawful and will serve the purposes identified in CFPB section 1024(b)(7)(A)–(C) and the goals of the final rule.

See part VIII for discussion of comments related to the economic costs and benefits associated with § 1092.204's written-statement requirements, including costs related to hiring and discouraging qualified applicants from seeking employment with supervised registered entities. As described in that analysis, the Bureau concludes that the requirements imposed by the final rule's written-statement requirements will impose only modest costs on entities beyond the costs entities are already incurring to ensure compliance with covered orders. The Bureau is finalizing an exception to the written-statement requirements for NMLS-published covered orders, as discussed in part IV(E) and the section-by-section discussion of § 1092.203, which will reduce overall costs to industry as discussed in part VIII.

As part of its mandate to ensure that markets for consumer financial products are fair, transparent, and competitive,³⁸⁹ the Bureau is committed to applying the law and regulations fairly and equitably across all persons subject to its authority. The Bureau believes the written statement is a fair approach to obtaining important information about covered orders from supervised registered entities. The Bureau disagrees with the industry commenters that § 1092.204(a)'s requirement to designate an attesting executive for each covered

order represents an unfair attempt to place responsibility on individual attesting executives for violations of covered orders, or to impose unlimited accountability on individual executives in an unprecedented manner. The final rule does not establish any new standards, or alter any existing standards, regarding individuals' liability for supervised registered entities' violations of covered orders or other legal obligations. Nor does the final rule alter which agencies have jurisdiction to enforce the obligations imposed in covered orders or the scope of agencies' discretion to determine whether to bring such enforcement actions. Any individual accountability in connection with violations of covered orders shall continue to be determined in accordance with existing law. The final rule also does not affect the Bureau's existing approach to its supervisory responsibilities, including the manner in which the Bureau assesses board and management oversight at supervised registered entities.³⁹⁰

As described in the proposal, § 1092.204(b) establishes requirements for the supervised registered entity's designation of its attesting executive(s) to ensure that the person who signs the written statement has sufficient authority and access to all the relevant company stakeholders to ensure that the report is as complete and accurate as possible.³⁹¹ Those requirements are intended to serve the information-collection purposes of the rule by helping to ensure the accuracy and usefulness of the written statement. As stated in the proposal,³⁹² the Bureau also believes these requirements will create an additional incentive for certain entities to comply with their obligations to consumers. These requirements are specific to the rule. As the Bureau explained in the proposal,³⁹³ the final rule does not establish any minimum level of compliance management or expectation for compliance systems and procedures. Further, aside from the targeted designation, written-statement, and recordkeeping requirements in § 1092.204(b) through (e), the final rule does not impose any requirements on any of the entity's internal affairs, or require any particular approach of allocating responsibility for complying

with covered orders or with the law generally. The Bureau understands that compliance management at supervised registered entities will likely be managed differently from entity to entity and that compliance management systems will and should be adapted to a supervised registered entity's business strategy and operations. The final rule does not purport to impose any restrictions on the manner in which supervised registered entities address such matters.

In the proposal, the Bureau explained that, because—in the Bureau's experience—most supervised entities take active steps to comply with covered orders, they would likely already have in place an officer or employee who could satisfy the § 1092.204(b) criteria.³⁹⁴ For similar reasons, the Bureau believed that most supervised entities would have in place systems and procedures to help them achieve compliance with covered orders to which they are subject.³⁹⁵ Therefore, the Bureau believed that few supervised entities would need to make significant changes to their compliance systems to comply with § 1092.204.³⁹⁶ Despite the Bureau's request for comment on the issue, no commenter provided persuasive evidence that § 1092.204(b)'s designation requirement likely would impose material additional costs on a substantial number of supervised registered entities, beyond the costs those entities are already likely to incur as part of fulfilling their obligations under the covered orders to which they are subject. For additional discussion about these and other potential costs associated with this provision, see parts VIII and IX.

In the proposal,³⁹⁷ the Bureau described the attesting executive as “identified to the Bureau as the person ultimately accountable for ensuring compliance with a covered order.” This description was merely intended to reflect § 1092.203(b)'s requirements regarding the designation of the highest-ranking individual charged with managerial or oversight responsibility for the supervised registered entity who meets the three criteria established in that section. To be clear, the final rule does not affect the Bureau's long-standing guidance for supervised registered entities organized as corporations that the board of directors is ultimately responsible for developing and administering a compliance management system that ensures

³⁹⁰ See, e.g., Federal Financial Institutions Examination Council, Uniform Interagency Consumer Compliance Rating System, 81 FR 79473, 79478 (Nov. 14, 2016) (discussing assessment by agency examiners of Board and management oversight).

³⁹¹ 88 FR 6088 at 6121–22.

³⁹² *Id.* at 6122.

³⁹³ *Id.* at 6100.

³⁹⁴ See 88 FR 6088 at 6132.

³⁹⁵ See *id.* at 6133.

³⁹⁶ See *id.* at 6132–33.

³⁹⁷ *Id.* at 6122.

³⁸⁸ 88 FR 6088 at 6126.

³⁸⁹ See 12 U.S.C. 5511(a).

compliance with Federal consumer financial laws and addresses and minimizes associated risks of harm to consumers.³⁹⁸ In a supervised registered entity organized under a non-corporate form, that ultimate responsibility may rest with a controlling person or some other arrangement. The Bureau understands that compliance management at supervised registered entities will likely be managed differently from entity to entity and that compliance management systems will and should be adapted to a supervised registered entity's business strategy and operations. Consistent with FFIEC guidance, Bureau examiners evaluate Board and management oversight factors commensurate with the institution's size, complexity, and risk profile.³⁹⁹ The Bureau agrees that compliance is often the responsibility of many, and not just a single executive. The final rule does not attempt to place such responsibility entirely on the shoulders of the entity's attesting executive.

Nevertheless, as stated in the proposal,⁴⁰⁰ the Bureau does believe that § 1092.204(b)'s designation requirement will create an additional incentive for certain entities to comply with their obligations to consumers. The Bureau expects the requirement to designate a single attesting executive for the covered order will prompt the executive to focus greater attention on ensuring compliance, which in turn will increase the likelihood of compliance. Also, as stated in the proposal,⁴⁰¹ the Bureau intends to use the information submitted under § 1092.204 to facilitate its efforts to assess compliance with any covered orders that may be enforced by the Bureau, and to make determinations regarding any potential Bureau supervisory or enforcement actions related to the covered order or any other identified risks to consumers. For example, where information obtained under proposed § 1092.204 indicates that a high-ranking executive has knowledge of (or has recklessly disregarded) violations of legal obligations falling within the scope of the Bureau's jurisdiction, and has authority to control the violative conduct, the Bureau may use that information in assessing whether an enforcement action should be brought not only against the nonbank covered person, but also against the individual executive. However, the final rule itself

does not impose any legal obligation on the attesting executive to ensure compliance with any covered order.

The Bureau declines to finalize the proposed additional requirement described in the proposal⁴⁰² that would have required the attesting executive to attest that the entity's compliance systems and procedures are reasonably designed to detect violations of the applicable covered order and ensure that such violations are reported to the attesting executive. The Bureau disagrees with the industry commenter that a requirement that the executive attest to such matters would contribute to the impression that the compliance burden rests solely with the attesting executive. But the Bureau does not believe it is necessary at this time to require supervised registered entities to submit such information on an annual basis, or to dedicate staff and other Bureau resources to reviewing such submissions.

The Bureau believes it is appropriate even for closely held entities annually to designate an attesting executive for each covered order. The designation requirement will serve the information-collection purposes of the rule by ensuring that the person who signs the written statement has sufficient authority and access to all the relevant company stakeholders to ensure that the report is as complete and accurate as possible.⁴⁰³ These requirements are necessary even for closely held entities. The Bureau may not regularly examine such entities, may not be aware of the entity's existence, and may not have adequate information about the entity's structure or operations; the designation requirement will help inform the Bureau regarding such matters. In addition, the designation requirement will facilitate the Bureau's efforts to assess compliance with any covered orders that may be enforced by the Bureau, and to make determinations regarding any potential Bureau supervisory or enforcement actions related to the covered order or any other identified risks to consumers.

As for commenters' requests that the rule's written-statement requirements apply only prospectively, they are in fact so limited. Section 1092.204's written statement requirements apply only prospectively to covered orders with an effective date after the nonbank registry implementation date that is applicable to the supervised registered entity under § 1092.206. Thus, a supervised registered entity will not be required to file written statements for

any covered order issued before late 2024, at the earliest. Moreover, as explained above, while some covered orders with an effective date after the applicable nonbank registry implementation date might relate to violations of covered laws committed before the final rule's effective date, the Bureau does not believe that the prospect of becoming subject to the written-statement requirements would have had a significant marginal impact on a supervised registered entity's decision whether to engage in conduct that risked violating covered laws, given the negative consequences already associated with committing such legal violations.⁴⁰⁴

Final Rule

The Bureau adopts § 1092.203(b) as proposed (renumbered as § 1092.204(b)) for the reasons described above, with minor technical edits and certain changes and clarifications for the reasons discussed below.

The first sentence of § 1092.204(b) in the final rule has been revised from the proposed version to provide that the requirement to designate an attesting executive applies only as to covered orders that are described in § 1092.204(a). The first sentence of § 1092.204(b) in the final rule has also been revised from the proposed version to clarify, consistent with the approach described in the proposal and the final rule, that under § 1092.204(b) a supervised registered entity subject to a covered order described in § 1092.204(a) is required to designate an attesting executive for each covered order to which it is subject.

Section 1092.204(c) Requirement To Provide Attesting Executive(s) With Access to Documents and Information Proposed Rule

Proposed § 1092.203(c) would have required a supervised registered entity subject to proposed § 1092.203 to provide its attesting executive(s) with prompt access to all documents and information related to the supervised registered entity's compliance with all applicable covered order(s) as necessary to make the written statement(s) required in proposed § 1092.203(d).

The Bureau believed that this proposed requirement would help ensure that the attesting executive for an applicable covered order has timely access to the documents and information needed to submit an informed and accurate written statement

³⁹⁸ See CFPB Supervision and Examination Manual at CMR 3.

³⁹⁹ See, e.g., Uniform Interagency Consumer Compliance Rating System, 81 FR 79473 at 79480.

⁴⁰⁰ 88 FR 6088 at 6122.

⁴⁰¹ *Id.*

⁴⁰² 88 FR 6088 at 6126.

⁴⁰³ See 88 FR 6088 at 6121–22.

⁴⁰⁴ See additional discussion of retroactivity concerns in the section-by-section discussion of § 1092.202(d) above.

under proposed § 1092.203(d). A supervised registered entity would not have been permitted to refuse or deny to its attesting executive access to documents or information related to the supervised registered entity's compliance with the covered order. Under the proposed requirement, the Bureau would have expected the attesting executive to have prompt access to all such documents and information, notwithstanding, for example, any privileges that may apply to the documents and information, or where or how the documents and information are stored.

The Bureau believed that this requirement would enhance the accuracy and usefulness of the written statement, which in turn would enhance the Bureau's ability to supervise the entity effectively, assess and detect risks to consumers, and ensure the entity is legitimate and able to perform its obligations to consumers. The Bureau requested comment on the need for this requirement and whether other requirements, modifications, or amendments to proposed § 1092.203(c) should be considered in order to ensure the accuracy and usefulness of the written statement.

Comments Received

Commenters did not specifically address proposed § 1092.204(c).

Final Rule

For the reasons set forth in the description of the proposal above, the Bureau adopts § 1092.203(c) as proposed (renumbered as § 1092.204(c)).

Section 1092.204(d) Annual Requirement To Submit Written Statement to the Bureau for Each Covered Order

Proposed Rule

Proposed § 1092.203(d) would have required, on or before March 31 of each calendar year, that the supervised registered entity submit to the NBR system, in the form and manner specified by the Bureau, a written statement with respect to each covered order described in proposed § 1092.203(a). In the written statement, the attesting executive would have been required to provide a summary description of the executive's efforts to review and oversee compliance with the applicable order, and to attest regarding the entity's compliance with the order. Proposed § 1092.203(d) would have required the written statement to be signed by the supervised registered entity's attesting executive.

Proposed § 1092.203(d)(1) would have required the written statement to

contain a general summary description of the steps, if any, the attesting executive has undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order for the preceding calendar year. This proposal was intended to provide information to the Bureau regarding the compliance monitoring efforts that have been undertaken by the executive during the applicable time period in connection with the order. The proposed rule would not have established any minimum procedures or otherwise specified the steps the executive must take to review and oversee the entity's activities. Instead, the proposed rule would have required only that the executive provide the Bureau with a general description of the steps the executive has already taken in this regard. The Bureau believed that this information would enhance the usefulness of the written statement by providing valuable context regarding the basis of the attesting executive's knowledge and by assisting the Bureau with determining the degree to which the Bureau may rely on the written statement. The Bureau believed that this information would be useful because the proposal would not by itself establish minimum requirements regarding the attesting executive's review and oversight of the entity's activities.

Proposed § 1092.203(d)(2) would have required the attesting executive to attest whether, to the attesting executive's knowledge, the supervised registered entity during the preceding calendar year identified any violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order by the applicable agency or court based on a violation of a covered law. The attestation would have been provided subject to the attesting executive's knowledge. As discussed above with respect to proposed § 1092.203(b) and proposed § 1092.203(c), the Bureau anticipated that the attesting executive would have adequate knowledge of the entity's systems and procedures for achieving compliance with the covered order to provide a useful attestation.

The written statement described in the proposal would have addressed violations and other instances of noncompliance with obligations that are "based on" a violation of a covered law. For purposes of this proposed requirement, the Bureau explained that an obligation would have been "based on" an alleged violation where the order identifies the covered law in question, asserts or otherwise indicates that the

covered nonbank has violated it, and imposes the obligation on the covered nonbank as a result of the alleged violation.⁴⁰⁵ This would have included, for example, obligations imposed as "fencing-in" or injunctive relief, so long as those obligations were imposed at least in part as a result of the entity's violation of a covered law. The proposed written statement would have also needed to address, for example, any obligation imposed as part of other legal or equitable relief granted with respect to the violation of a covered law, as well as any obligation imposed in order to prevent, remedy, or otherwise address a violation of a covered law, or the conditions resulting from such violation. The Bureau explained that, as discussed elsewhere in the proposal, an order may identify a covered law as the legal basis for the obligations imposed by referencing another document, such as a written opinion, stipulation, or complaint, that shows that a covered law served as the legal basis for the obligations imposed in the order. The Bureau proposed this approach because an order may satisfy the proposed definition of "covered order" but nonetheless contain provisions that are entirely unrelated to covered laws. This element of the requirement in proposed § 1092.203(d)(2) was intended to exclude such provisions that are entirely unrelated to violations of covered laws.

The supervised registered entity would have been required to state whether it has or has not identified instances of noncompliance with respect to each covered order. If no such instances of noncompliance have been identified, the supervised registered entity would have been required to so state. The proposed rule would not have established any minimum procedures or otherwise imposed or specified steps a supervised registered entity must take in order to review or monitor compliance with each covered order.⁴⁰⁶ Instead, the proposed rule would merely have required supervised registered entities to report violations and noncompliance that they had already identified in the course of their own compliance reviews and assessments. The Bureau believed

⁴⁰⁵ As in the context of proposed § 1092.201(e)(4), the Bureau explained that an obligation imposed based on multiple violations, some of covered laws and some of other laws, would qualify as an "obligation[]" . . . based on an alleged violation of a covered law" within the meaning of proposed § 1092.203(d)(1), even if the violations of the non-covered laws would themselves have sufficed to warrant the imposition of the obligation.

⁴⁰⁶ As discussed elsewhere in the proposal, the Bureau expected that some supervised registered entities might bolster their compliance efforts in response to the proposal.

that supervised registered entities likely already conduct reviews to determine their compliance with covered orders, and those reviews would assist in completing the required written statements. The Bureau did not expect the proposal to amend or affect any review, reporting, or recordkeeping requirement contained in any covered order or other provision of law.

While proposed § 1092.203(d) would have required the written statement to be signed by the supervised registered entity's attesting executive, it would not have required the attesting executive to submit a statement subject to the penalty of perjury. Nevertheless, the Bureau noted that knowingly and willfully filing a false attestation or report with the Bureau may be subject to criminal penalties.⁴⁰⁷ The Bureau believed that the signature requirement, and the consequent potential for criminal liability where a knowingly false attestation is made, would be likely to deter attesting executives from submitting written statements that are incorrect or based on incomplete or otherwise inadequate information. The Bureau explained that this requirement should significantly enhance the accuracy and usefulness of the written statement.

Comments Received

Commenters objected to the proposed annual requirement to submit a written statement to the Bureau for each covered order, and to the type of information that the proposal would require a supervised registered entity to submit. Industry commenters stated that the written statement to be submitted under proposed § 1092.204(d) would require proving to the Bureau that the entity had complied with applicable law. Industry commenters expressed concern with the Bureau's statement in the notice of proposed rulemaking⁴⁰⁸ that the proposed requirement for the attesting executive to sign the written statement, and the consequent potential for criminal liability where a knowingly false attestation is made, would be likely to deter attesting executives from submitting written statements that are incorrect or based on incomplete or otherwise inadequate information. Commenters referred or alluded to this statement in the proposal in expressing concern that an incorrect or false written statement would be punishable, and stated that a single individual could not hold first-hand knowledge sufficient to ensure compliance with a covered order. An industry commenter stated

that the proposal seemed to conflate "knowingly and willfully" with the making of an incorrect statement or a statement based on incomplete or otherwise inadequate information, and stated that the Bureau's discussion of 18 U.S.C. 1001 was misleading and caused confusion as to what standard would apply to the attestation.

Commenters stated that the proposed written-statement requirements were vague and unclear, so executives and supervised registered entities would be required to guess what the Bureau expects in terms of compliance. Commenters stated that the Bureau must unambiguously articulate the obligations of supervised registered entities and attesting executives under the rule, including the potential liability and intent standards. Industry commenters further suggested that such assertedly vague requirements represented an attempt at "regulation by enforcement" by the Bureau.

An industry commenter stated that the proposed requirement to attest regarding past violations was incompatible with constitutional due process, since a court might subsequently determine, after the executive had submitted a written statement, that an applicable violation had in fact occurred. The commenter expressed concern that such a development would lead to retroactive liability for the attesting executive.

An industry commenter stated that the proposal would have required the submission of an absolute statement, which in the commenter's view would be unreasonable, and stated that the required written statement should include materiality and reasonableness standards—for example, to provide that the entity had not identified any material violations, and that the statement was based on a reasonable and good-faith review of the material information.

Industry commenters and a joint comment by State regulators stated that the proposed written statement requirement was jurisdictional overreach by the Bureau and an unauthorized attempt to enforce laws that the Bureau does not enforce. Commenters also stated that the issuing agency (or court), and not the Bureau, should monitor and establish compliance guidelines related to the covered order.

A joint comment by State regulators asserted that the proposed written-statement requirements would complicate and frustrate attempts by the States to enforce Federal consumer financial law, and stated that such requirements would be onerous,

duplicative, and unnecessary, and may ultimately weaken the original regulatory action and order. This comment and industry commenters also stated that the proposed written-statement requirements would create contradictory reporting obligations, since covered orders themselves contain reporting provisions and the agencies that issue or obtain such orders will also be monitoring compliance.

Commenters stated that in lieu of the proposed written-statement requirements, the Bureau should rely on similar attestations submitted to the NMLS, including the NMLS Form MU1, where applicable. The joint comment letter from State regulators stated that established information-sharing memorandums of understanding and supervisory coordination protocols provide the most effective and straightforward means for the Bureau and State regulators to raise concerns and identify potential instances of recidivism at supervised registered nonbanks.

An industry commenter stated that the registry should provide supervised registered entities with an opportunity to supplement their written statements with relevant ameliorating information, such as remediation paid or steps taken.

A joint comment by industry commenters stated that the proposal failed to consider downsides to the written-statement requirements, and that the Bureau had failed to provide an adequate explanation of the basis of its belief that those requirements would achieve their claimed benefits or the scale of any benefit to consumers.

An industry commenter stated that the requirement that would have been imposed under proposed § 1092.203(d)(1) to "[g]enerally describe the steps that the attesting executive has undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order for the preceding calendar year" may exceed the reporting requirements of the underlying covered order, multiplying the burden imposed by that order. Another industry commenter stated that this requirement would not provide an adequate, accurate description of the compliance framework and that the Bureau could instead simply obtain this information through its normal supervisory process. This commenter also stated that obtaining this information via the proposed registry would put confidential supervisory information at risk. Other industry commenters stated the Bureau should detail how it will safeguard written statement information against data breach.

⁴⁰⁷ See 18 U.S.C. 1001.

⁴⁰⁸ See 88 FR 6088 at 6125.

An industry commenter stated that the proposed registry should not require disclosure of information protected by the attorney-client privilege.

Commenters stated that the proposed written-statement requirements would have a significant chilling effect on the hiring and retention of senior executives and could discourage competent individuals from serving in such roles, raising costs and potentially harming consumers.

An industry commenter suggested that the proposed written-statement requirements would raise First Amendment concerns related to compelled speech, and an individual commenter expressed concerns regarding the proposal's implications for free speech.

An industry commenter stated that the proposed written statements would be redundant because the applicable covered order, if issued under consent, would already have been signed by a company officer.

An industry commenter stated that the attestation described at proposed § 1092.203(d)(2) should not be made by an executive but by the supervised registered entity itself. An industry commenter stated that the proposed written statement would inappropriately substitute individual liability for the company's liability, contrary to longstanding corporate legal tenets regarding piercing the corporate veil.

Industry commenters stated that the proposed written statements would cause supervised registered entities to place undue emphasis on compliance with covered orders to the detriment of their other compliance responsibilities, distorting compliance programs at such entities, imposing unwarranted burden, and harming consumers.

Industry commenters stated that the proposed written-statement requirements should not include any representations about compliance with covered orders issued under State laws. In particular, these commenters suggested that because many covered orders require ongoing compliance with State UDAP laws, and because those laws are very broad and cover a wide range of activities, it would be impossible for attesting executives to be certain that the supervised registered entity had not violated such a covered order. Commenters stated that the Bureau has no legitimate interest in requiring written statements regarding compliance with such laws.

More generally, commenters stated that the proposed written-statement requirements were unfair because it would be impossible for an executive to

attest that the supervised registered entity had not committed any violations of the applicable covered order, especially since such orders often cover a wide range of broad laws, including UDAAP laws.

In the proposal, the Bureau stated that it was “also considering adopting a requirement that the written statement contain a short description of the entity's compliance systems and procedures relating to the covered order, including a description of the processes for notifying the attesting executive regarding violations or other instances of noncompliance with the order.”⁴⁰⁹ The Bureau stated that it “expects that many executives may choose to provide such information in the summary narrative portion of the written statement required in proposed § 1092.203(d)(1), as part of describing the steps that the attesting executive has undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order,” but it sought “comment on whether to expressly require submission of such information in the final rule.”⁴¹⁰ One industry commenter, while stating that the Bureau should remove the written-statement requirements altogether, argued in the alternative that if the Bureau did choose to require a written statement it should take an approach similar to this proposed alternative. Under the approach suggested by the industry commenter, the entity would be required to submit a written statement to the effect that the entity's overall compliance program is reasonably designed to detect and prevent violations of all orders, and not just a particular covered order. Another industry commenter stated that this proposed alternative would not alleviate the industry commenter's concerns about the proposal, would not provide an adequate, accurate description of the compliance framework, and could risk revealing confidential information about the entity or its compliance system or procedures.

Industry commenters stated that the proposal failed to identify benefits of the proposed written-statement requirements that could not readily be achieved through the Bureau's exercise of its existing supervisory authorities with fewer negative consequences. These commenters stated that the Bureau could gather sufficient information through its normal supervisory process. A commenter stated that the Bureau could obtain more detailed and comprehensive

information about the entity's compliance systems and procedures for complying with the order through the supervisory process.

Tribe and industry commenters stated that for purposes of the written statement, orders should not be considered “final” as provided under proposed § 1092.201(e) until all avenues of appeal have been exhausted.

Response to Comments Received

Section 1092.204(d) does not require that the supervised registered entity demonstrate its compliance with the covered order to the Bureau. The provision requires only that the supervised registered entity indicate whether or not, to the knowledge of the attesting executive, the supervised registered entity has identified any violations of applicable provisions of the covered order. As stated in the proposal, knowingly and willfully filing a false attestation or report with the Bureau may be subject to criminal penalties under other provisions of law outside the final rule.⁴¹¹ But neither the final rule nor the existing legal obligations of individuals and entities to be truthful in their attestations to the Bureau require attesting executives to demonstrate compliance with covered orders. Section 1092.204(d)(2) requires only that the executive attest (truthfully), to the executive's knowledge, regarding whether the entity has identified any applicable violations (or other instances of noncompliance). For example, an attesting executive might attest truthfully that the entity has not identified a violation even if the entity has in fact violated the order, so long as the entity has not identified that violation.

The proposal's statement regarding the possibility of criminal penalties did not purport to expand or otherwise affect the scope of an executive's potential liability under existing criminal law for submitting false statements to the Bureau. Nor does the final rule impose any requirements regarding steps that an executive must

⁴¹¹ See, e.g., 18 U.S.C. 1001. One industry commenter asserted, incorrectly, that the proposal would have required the attesting executive to submit the annual written statement subject to the penalty of perjury. As stated in the proposal, and as acknowledged by other commenters, proposed § 1092.203(d) would not have required the attesting executive to submit a statement subject to the penalty of perjury. See 88 FR 6088 at 6125. The Bureau sought comment on its proposal to require the attesting executive's signature on the statement but not to require a statement subject to the penalty of perjury. Commenters did not provide arguments in support of changing this approach, and the Bureau finalizes § 1092.204(d) without requiring the attesting executive to submit a statement subject to the penalty of perjury.

⁴⁰⁹ 88 FR 6088 at 6126.

⁴¹⁰ *Id.*

take to review and oversee the supervised registered entity's activities subject to the applicable covered order. While the Bureau expects attesting executives to submit truthful statements under the final rule and believes that the existence of other laws like 18 U.S.C. 1001 provides incentives in that regard, the final rule does not purport to interpret provisions of criminal law (which are administered by agencies other than the Bureau) or to identify particular circumstances under which an attesting executive would become criminally liable for false statements.⁴¹²

Nor, as discussed in the description of the proposal above, does the final rule itself establish any minimum procedures or otherwise specify the steps the executive must take in order to review and oversee the entity's activities. Instead, § 1092.204(d)(1) requires only that the executive provide the Bureau with a general description of the steps the executive has already taken in this regard; this information will provide valuable context regarding the basis of the attesting executive's knowledge and will assist the Bureau with determining the degree to which the Bureau may rely on the written statement. The attestation submitted under § 1092.204(d)(2) is made subject to the attesting executive's knowledge, as that knowledge exists. As discussed above, based in part on the other written-statement requirements contained in § 1092.204, the Bureau anticipates that the attesting executive will have adequate knowledge of the entity's systems and procedures for achieving compliance with the covered order to provide a useful attestation.

The Bureau declines to modify the required contents of the written statement as provided at § 1092.204(d)(1) and (2). The Bureau believes these provisions are sufficiently clear to inform registered supervised entities and their attesting executives regarding their responsibilities under the final rule. Section 1092.204(d)(1) requires that the attesting executive generally describe the steps that the attesting executive has undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order for the preceding calendar year. Section 1092.204(d)(2) requires that the attesting executive attest whether, to the attesting executive's knowledge, the supervised registered entity during the preceding

calendar year identified any violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order by the applicable agency or court based on a violation of a covered law. If the executive knows of such identified violations, the executive should so state; conversely, if the executive does not know of such identified violations, the executive should so state. That is all these provisions of the final rule require.

The final rule does not require that the supervised registered entity prove its compliance with the applicable covered order to the Bureau. Instead, the rule requires the attesting executive to state whether the entity has identified applicable violations of the covered order. If an agency or court were to subsequently determine that, contrary to the entity's determination at the time of the written statement, the supervised registered entity had in fact violated the covered order during the relevant year, that determination would not establish that the entity's attestation was false. Thus, the rule does not impose a retroactive liability on supervised registered entities or their attesting executives.

The Bureau believes that the written statement requirement is reasonable and declines to impose materiality requirements as to the type of violations that must be declared. There is value to the Bureau in knowing about any violation of existing orders, even violations that might be characterized as "minor." The covered order is in place because an agency or court has already determined that issuing the order, and each of the provisions thereof, was appropriate to address a violation by the supervised registered entity of a covered law. A subsequent violation of the covered order is therefore a "second strike" that is probative of risk to consumers. The Bureau believes that obtaining information about such matters through the written statement will facilitate its supervisory activities and its assessment and detection of risks to consumers. In addition, violation of any legally binding obligation may indicate that the entity lacks the willingness or ability more generally to comply with its legal obligations, including its obligations under the Federal consumer financial laws that the Bureau enforces. Thus, the submission of information about such violations, even allegedly minor ones, will assist the Bureau in ensuring that supervised registered entities are legitimate entities and are able to perform their obligations to consumers.

The Bureau also declines to impose a reasonableness, good faith, or other standard regarding the steps that the attesting executive has undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order. The final rule does not impose any substantive requirements on supervised registered entities or attesting executives regarding such steps. Thus, there is no need for the final rule to establish a standard against which the Bureau will assess compliance with any such requirements. The Bureau intends to review the summary narrative portion of the written statement required in § 1092.204(d)(1) for information regarding the executive's review. In addition, § 1092.204(e) imposes related recordkeeping requirements with respect to the preparation of the written statement. The Bureau anticipates that these requirements will assist the Bureau in assessing the reliability of the written statement.

For similar reasons, the Bureau declines to impose reasonableness or other standards with respect to the entity's efforts to identify applicable violations of covered orders. The final rule does not impose any substantive requirements on supervised registered entities with respect to such matters. For example, the final rule does not establish any minimum procedures or otherwise impose or specify steps a supervised registered entity must take in order to review or monitor compliance with any covered order. The Bureau will continue to assess such matters as part of its normal supervisory process where applicable.

The Bureau disagrees that the written-statement requirements represent an attempt to enforce the orders or laws that are administered by other agencies (or by courts). The written-statement requirements are intended to promote the Bureau's own work by facilitating the Bureau's supervisory activities and its assessment and detection of risks to consumers, and by ensuring that supervised registered entities are legitimate entities and are able to perform their obligations to consumers. The Bureau is adopting these requirements for the purposes established by Congress. The Bureau does not agree with commenters' assertions that written-statement requirements to provide information about violations of a covered order constitute an effort to enforce that order. The written statement required under § 1092.204(d) is not intended to monitor compliance by supervised registered entities with covered orders for the purpose of enforcing those orders. This

⁴¹² Note, however, that a supervised registered entity's failure or refusal to make reports or provide information as required under the final rule may violate civil laws administered by the Bureau, including not just the rule itself but also 12 U.S.C. 5536(a)(2).

part of the written statement is intended to provide the Bureau with information regarding whether or not the entity violated the covered order during the preceding year. As described at part IV, that information will facilitate the Bureau's supervision of the supervised registered entity, help the Bureau detect and assess risks to consumers, and help ensure that supervised registered entities are legitimate entities and are able to perform their obligations to consumers. However, the Bureau does not intend to, and does not assert any authority to, enforce covered orders merely because of their covered order status. While certain covered orders—such as the Bureau's own orders—will be enforceable by the Bureau, others will not be. The final rule will not affect whether the Bureau may enforce the terms of any covered order.

Some commenters expressed concern that the Bureau is overextending its authority by using the written-statement requirements in an effort to enforce State law. The written-statement requirement, however, does not seek to compel compliance with orders issued under State law. Instead, the written-statement requirement is an aid to assessing risks to consumers arising under *Federal* consumer financial law, including by considering the extent to which an entity is subject to oversight by State authorities.⁴¹³ Although it is possible that, in some instances, the Bureau may review information submitted through the registry, including the written statements from attesting executives, and determine that supervisory action under *Federal* consumer financial law is necessary, the Bureau's review may also indicate that action under *Federal* law is unnecessary or should be a lower supervisory priority.

The Bureau believes it is important to obtain the information described in the final rule about supervised registered entities' ongoing compliance with relevant provisions of covered orders, including covered orders issued or

obtained by State and local agencies. The Bureau believes that the written statement obligations in the final rule will not complicate or frustrate State enforcement efforts. The Bureau will not undermine the efforts of other regulators by collecting such information from entities subject to its jurisdiction related to the offering or provision of consumer financial products and services. As discussed above, the Bureau does not intend to, and does not assert any authority to, enforce covered orders not issued or obtained by the Bureau merely because of their covered order status. As stated in the proposal,⁴¹⁴ evidence regarding a supervised registered entity's compliance with a covered order will provide the Bureau with important information regarding risks to consumers that may be associated with the order and will be highly relevant to the Bureau's own supervisory and enforcement efforts. State regulators conduct enhanced supervision and ongoing monitoring of companies that are subject to covered orders precisely because of the increased risk such orders represent. The Bureau agrees with the joint comment from State regulators that increased coordination and information sharing with the States regarding such orders will also facilitate the work of all regulators concerned, and the Bureau intends to use the information provided under the registry, including the written statement, so that it may be better informed about such orders and thus be in a better position to communicate with other regulators about them.

The additional reporting obligation in the final rule will not prevent or interfere with the efforts of supervised registered entities to comply with their other reporting obligations. Supervised registered entities can comply with their reporting requirements under § 1092.204(d) and other sources of law, much as supervised registered entities currently comply with Bureau supervisory requests for information under CFPB section 1024(b)(1) while also complying with other reporting requirements.⁴¹⁵

The Bureau agrees with the industry commenter that registration under the NMLS system will provide information that may help lessen the need to submit an annual written statement to the Bureau under this section. As discussed in the section-by-section discussion of final § 1092.203, the Bureau is adopting a provision that will provide an option for a supervised registered entity to file a one-time statement to the Bureau in

lieu of complying with § 1092.204's requirements with respect to a NMLS-published covered order.

The Bureau declines to supplement the written-statement requirements beyond the requirements in the final rule. However, any supervised registered entity that wishes to discuss any matter relevant to Bureau supervision should contact the appropriate Bureau supervisory representative. To the extent that the supervised registered entity believes that the submission of such information would be useful or informative to the Bureau, it may use other channels to do so.

The Bureau has considered alternative approaches to adopting the written-statement requirements for supervised registered entities. However, as discussed herein and in part IV(D), the Bureau finalizes its preliminary findings contained in the proposal⁴¹⁶ that requiring supervised nonbanks to designate attesting executives and to submit certain written statements relating to compliance with reported orders will facilitate the Bureau's supervisory efforts and better ensure that supervised registered entities are legitimate entities and are able to perform their obligations to consumers. Among other things, as discussed herein and in part IV(D), the Bureau concludes that the adoption of the written-statement requirements will provide valuable information regarding the entities subject to Bureau supervision. The Bureau may use that information, including whether supervised registered entities have identified violations of covered orders registered under § 1092.202, in conducting its supervisory prioritization efforts, assessing compliance systems and procedures, and detecting and assessing risk to consumers and to markets for consumer financial products and services. As described in parts VIII and IX, the Bureau has considered the potential benefits, costs, and impacts of the written-statement requirements in the final rule, including the potential benefit to consumers.

Under the final rule, as proposed, § 1092.204(d)(1) requires the written statement to contain only a general summary description of the attesting executive's actions, and thus does not impose a substantial new reporting requirement. This provision does not affirmatively require the executive to take any actions related to compliance with the covered order; it only requires the executive to provide the Bureau with a general description of what

⁴¹³ See 12 U.S.C. 5514(b)(2)(D) (providing that, in prioritizing entities for supervision, the Bureau should consider "the extent to which such institutions are subject to oversight by State authorities for consumer protection"). As discussed in the section-by-section discussion of § 1092.201(c) above, the Bureau declines to remove State laws from the final rule's definition of "covered law" or to exempt covered orders issued under such laws from the scope of the written-statement requirements. As discussed in that section and in the proposal, the Bureau has determined that agency and court orders stemming from violations of these State laws will likely be probative of risk to consumers. The Bureau believes that it is important to impose the annual written-statement requirements on supervised registered entities that are subject to such covered orders.

⁴¹⁴ See 88 FR 6088 at 6125.

⁴¹⁵ See 12 U.S.C. 5514(b)(1).

⁴¹⁶ 88 FR 6088 at 6100.

applicable steps, if any, the executive has taken. The Bureau anticipates that this general description will generally be short and summary in nature. The Bureau concludes that such a statement will generally be sufficient to serve the purposes of this requirement and provide the information sought by the Bureau. This requirement will provide valuable context regarding the basis of the attesting executive's knowledge and assist the Bureau with determining the degree to which the Bureau may rely on the written statement.

Final § 1092.204(d)(1) is not intended to provide the Bureau with a comprehensive understanding of a supervised registered entity's compliance systems or procedures. Instead, it is intended to enhance the usefulness of the written statement by providing valuable context regarding the basis of the attesting executive's knowledge and by assisting the Bureau with determining the degree to which the Bureau may rely on the written statement. To the extent the Bureau desires additional information regarding the supervised registered entity's activities or practices, the Bureau may utilize its other supervisory authorities.

As expressly provided at final § 1092.205(b), the written statement submitted under final § 1092.204(d) will be treated as CFPB confidential supervisory information subject to the provisions of 12 CFR part 1070. The Bureau disagrees that requiring submission of this confidential supervisory information via the nonbank registry will put the information at risk. The Bureau has adequate data safeguards to protect the written statement information that supervised registered entities provide to the Bureau under § 1092.204(d). Such information will be protected by the Bureau's confidentiality regulations at 12 CFR part 1070, the Federal Trade Secrets Act, 18 U.S.C. 1905, and other laws. In addition, the Bureau is subject to data breach requirements provided in the Federal Information Security Management Act (FISMA), applicable Office of Management and Budget (OMB) Memoranda, U.S. Department of Homeland Security (DHS) Binding Operational Directives, National Institute of Standards and Technology (NIST) Federal Information Processing Standards and documents, and other applicable guidance.

To the extent that certain comments might be read as expressing concern that § 1092.204(d) might require the submission of information protected by the attorney-client privilege or another legal privilege, the commenters do not identify any particular scenarios under

which submission of privileged information might be required to comply with § 1092.204(d), and as discussed in the section-by-section discussion of § 1092.201(d), the Bureau does not intend for the final rule to require the submission of privileged information to the nonbank registry.

As discussed in part VIII below, the Bureau acknowledges that certain firms that are subject to covered orders and that lack adequate compliance systems may be forced to pay attesting executives a salary premium because of the written-statement requirements, but believes that there will be few such firms. The Bureau also disagrees with commenters' assertions that, for most covered nonbanks, the requirement for covered nonbanks to designate attesting executives for covered orders will discourage competent compliance and risk management personnel from serving in such roles. Neither § 1092.204(b)'s designation requirements nor the publication of the name and title of the attesting executive as provided at § 1092.205 will materially increase the legal obligations of such executives. As discussed elsewhere in this section, § 1092.204(d) requires the submission only of certain limited statements on behalf of the supervised registered entity to the executive's knowledge. For most companies, this statement should be straightforward and noncontroversial. Thus, for most supervised registered entities, the Bureau does not agree with commenters' assertions that the proposed requirements would have a significant chilling effect on the hiring and retention of senior executives.

The written-statement requirement does not violate the First Amendment. The final rule merely requires a factual disclosure regarding (1) the steps the attesting executive has taken to review and oversee the supervised registered entity's activities subject to the applicable covered order, and (2) whether, to the attesting executive's knowledge, the supervised registered entity during the preceding calendar year identified violations or other instances of noncompliance with the entity's obligations under such a covered order. It only requires that the written statement be made to the Bureau, not to the general public. The rule excludes the written statement from its publication requirements and expressly provides that the written statement "will be treated as Bureau confidential supervisory information." The written-statement requirement will facilitate Bureau supervisory efforts. It bears no resemblance to the type of "Government-mandated pledge or

motto" that has been held to violate the First Amendment.⁴¹⁷ Such a limited reporting requirement, especially one connected to extant conduct regulations, complies with the First Amendment.⁴¹⁸

The Bureau disagrees with the industry commenter that the written-statement requirements would be redundant because the applicable covered order, if issued under consent, would already have been signed by a company officer. A signature of a supervised registered entity's officer with respect to a covered consent order (such as on a stipulation or consent agreement) would not serve the purposes of § 1092.204's written-statement requirements. Among other things, there generally would be no requirement that such an executive would satisfy the criteria established under § 1092.204(b); such an executive generally would not be designated on an annual basis, depriving the Bureau of relevant up-to-date information; an executive signature consenting to a covered order generally would not provide any of the information that would be submitted in the annual written statement required under § 1092.204(d); and the other requirements established in § 1092.204, including § 1092.204(c) and (e), generally would not be imposed with respect to the covered order.

Regarding the comment that the attestation described at § 1092.203(d)(2) should not be made by an executive but by the supervised registered entity itself, the written statement—as discussed above⁴¹⁹—is a statement by the supervised registered entity. To be sure, § 1092.204(d) requires the written statement to be made and signed "on behalf of the supervised registered entity" by a particular individual agent, the attesting executive. Section 1092.204(b) establishes requirements for the entity's designation of its attesting

⁴¹⁷ *Rumsfeld v. Forum for Academic & Institutional Rights, Inc.*, 547 U.S. 47, 61–62 (2006) (discussing *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943), and *Wooley v. Maynard*, 430 U.S. 705 (1977)).

⁴¹⁸ See, e.g., *Arkansas Times LP v. Waldrup*, 37 F.4th 1386, 1394 (8th Cir. 2022) (en banc) (holding that requirement that government contractors certify compliance with conduct-based regulations did not unconstitutionally compel speech); *United States v. Arnold*, 740 F.3d 1032, 1033–35 (5th Cir. 2014) (rejecting "compelled speech" challenge to Federal sex-offender registration requirements); *United States v. Conces*, 507 F.3d 1028, 1040 (6th Cir. 2007) (holding that requiring responses to discovery requests did not violate First Amendment); *United States v. Sindel*, 53 F.3d 874, 878 (8th Cir. 1995) (rejecting "compelled speech" challenge to providing information required by an IRS form).

⁴¹⁹ See the Bureau's response to certain comments regarding the Bureau's legal authority to impose written-statement requirements above.

executive(s) to ensure that the person who signs the written statement has sufficient authority and access to all the relevant company stakeholders to ensure that the report—which is filed on behalf of the entity, not the individual executive—is as complete and accurate as possible.⁴²⁰ But the obligations under § 1092.204 belong to supervised registered entities, not to particular individuals acting in their personal capacities.

The Bureau disagrees that § 1092.204(d)(2) represents an inappropriate attempt to substitute the individual liability of the attesting executives for the liability of the supervised registered entities they represent. As discussed above, even for those covered orders that the Bureau is authorized to enforce, § 1092.204(b)'s requirement to designate an attesting executive does not mean that the Bureau intends to hold that executive solely responsible for the entity's compliance with those covered orders. The final rule does not impose any additional requirements to take steps to address any covered order, nor does it establish any standards for imposing liability on any individual in connection with any covered order. Any individual accountability in connection with violations of such orders shall continue to be determined in accordance with existing law, which the final rule does not purport to change. Nor does the final rule affect the Bureau's existing approach to assessing board and management oversight at supervised registered entities.

The Bureau disagrees that § 1092.203(d)(2) would cause a supervised registered entity to place undue emphasis on compliance with covered orders, to the detriment of its other compliance responsibilities. As stated in part IV(A) above, agency and court orders are not suggestions. It is incumbent on supervised registered entities to comply with such orders and also manage their other responsibilities. As explained in the proposal,⁴²¹ the Bureau believes, based on its experience and expertise, that most entities subject to covered orders endeavor in good faith to comply with them and will already have in place systems and procedures to help achieve such compliance. The Bureau thus believes that few entities would significantly alter their compliance systems, procedures, or priorities in response to § 1092.204.⁴²²

Further, the risk of legal sanctions will likely deter entities from neglecting other legal obligations not associated with covered orders. The Bureau thus does not believe that § 1092.204 will cause supervised registered entities to ignore other legal requirements not set forth in covered orders.

For the reasons discussed in part IV and the section-by-section discussions of § 1092.201(c) and (e) above, the Bureau concludes that the term “covered order” should include orders issued or obtained by agencies other than the Bureau. As discussed in part IV(D) and this section-by-section discussion of § 1092.204, submission of a written statement regarding either compliance or noncompliance with covered orders will provide the Bureau with important additional information regarding risks to consumers that may be associated with the orders and the applicable supervised registered entities' compliance systems and procedures, and will otherwise facilitate the Bureau's supervision of such entities. The Bureau disagrees with commenters' assertions that the Bureau lacks a legitimate interest in obtaining such information from entities that are subject to its supervisory and examination jurisdiction under CFPB section 1024.

With respect to the comments stating that it would be impossible for an executive to attest that a supervised entity had complied with a broadly drafted covered order, including orders based on violations or alleged violations of Federal or State UDAP/UDAAP laws, final § 1092.204(d) does not require that the supervised registered entity prove its compliance with the covered order to the Bureau, as discussed above. Section 1092.204(d)(1) requires the executive to generally describe the steps that the attesting executive has undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order for the preceding calendar year, but imposes no minimum standards or other requirements regarding those steps. And all the entity need disclose under § 1092.204(d)(2) is whether, to the attesting executive's knowledge, the supervised registered entity during the preceding calendar year identified any violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order by the applicable

agency or court based on a violation of a covered law. Such matters are within the power of the supervised registered entity and its attesting executive to know and describe to the Bureau, and will provide important information that is useful to the Bureau. Should the Bureau desire additional information relating to the covered order or the supervised registered entity's compliance with the covered order, the Bureau may choose to follow up on the information provided by the supervised registered entity in its written statement, including via its supervisory and examination authority or by communicating with the appropriate agency.

The Bureau declines to adopt the alternative approach proposed in the notice of proposed rulemaking that the written statement contain a short description of the entity's compliance systems and procedures relating to the covered order.⁴²³ The Bureau concludes the written-statement requirements included in the final rule will provide sufficient information to the Bureau to serve the purposes of the written-statement requirement. The written statement will provide valuable information to the Bureau regarding the entity's attesting executive for each applicable covered order, the steps undertaken by that executive to review and oversee compliance with the covered order, and any applicable recent violations of the order identified by the supervised registered entity. To the extent the Bureau desires to obtain more information about the entity's compliance systems or procedures than is provided in the written statement, the Bureau may choose to follow up directly with the supervised registered entity through its supervisory authority or through other means. The Bureau does not believe it is necessary at this time to require all supervised registered entities to submit a description of the entity's relevant compliance systems and procedures on an annual basis, or to dedicate staff and other Bureau resources to reviewing such submissions.

Likewise, the Bureau declines to adopt the alternative approach proposed by the commenter to obtain a single representation about all covered orders to which the entity is subject. The Bureau believes that requiring a separate written statement for each covered order will be more likely to provide the Bureau with meaningful and useful information regarding the covered order, the entity's compliance with that covered order, other risks to consumers

⁴²⁰ See 88 FR 6088 at 6121–22.

⁴²¹ See 88 FR 6088 at 6133.

⁴²² The final rule does not obligate supervised registered entities to spend an inordinate amount of time, or indeed any time at all, on compliance with

covered orders. The final rule does not establish any minimum level of compliance management or expectations for compliance systems and procedures at supervised registered entities. It only requires such entities to report information about their compliance to the Bureau.

⁴²³ See 88 FR 6088 at 6126.

that are related to that covered order, and other matters. The Bureau also believes this proposed alternative is inconsistent with the approach to designation of attesting executives taken under § 1092.204(b). As described in the proposal,⁴²⁴ the Bureau believes it is desirable to require a supervised registered entity to annually designate one attesting executive for each applicable covered order to which it is subject and for all submissions and other purposes related to that covered order under subpart B. If an entity has designated multiple attesting executives under the rule, the Bureau would not necessarily expect each such executive to be able to provide a meaningful attestation with respect to all covered orders. See part IV above for additional discussion of these issues.

With respect to the comment opposing the adoption of this proposed alternative, while the Bureau does not necessarily agree with the industry commenter's assertion that the proposed alternative would fail to provide adequate or accurate information to the Bureau, the Bureau believes the written-statement requirements included in the final rule will provide sufficient information to the Bureau to serve the purposes of the written-statement requirement. Regarding the inclusion of confidential information in the written statement, the Bureau expects that the written statement may contain certain confidential information about the entity and its compliance system or procedures. Anticipating this issue, the final rule treats the written statement as Bureau confidential supervisory information (§ 1092.205(b)) and would not publish it. As discussed in the section-by-section discussion of § 1092.205(b), this approach will enhance the usefulness of submissions under final § 1092.204(d)(1) and (2), increase the Bureau's ability to detect and assess potential noncompliance and emerging risks to consumers, and promote compliance with the law.

With respect to the comments stating that the Bureau should use its existing supervisory authorities instead of imposing the written-statement requirements, the Bureau disagrees to the extent the comments suggest that the Bureau should collect written statements only in connection with particular examinations via direct communication with supervised registered entities. Such an approach would not be more reliable and predictable for all parties than a rule-based approach, and would be less administrable for the Bureau. The

approach adopted in the final rule will structure the information collected and establish a regular cadence for collecting it. This approach also will enable the Bureau to more readily utilize this information, as it will be linked via the nonbank registry to the other information submitted by the relevant supervised registered entity regarding the applicable covered order.⁴²⁵

In addition, there is no existing comprehensive list of nonbank entities subject to Bureau supervision, so the Bureau would be unable to issue a standing order to such entities to produce such information. The final rule requires supervised registered entities, within the timeframes established by the rule, to identify themselves to the Bureau and to provide information that is relevant to the Bureau's assessment and detection of risks to consumers related to such entities. As discussed in part IV(D) above, the collection of this information will facilitate Bureau supervision by, among other things, helping the Bureau identify when a nonbank entity subject to its supervisory authority is subject to a covered order, and by annually collecting information about the entity's compliance with the covered orders to which it is subject. This information will in turn help the Bureau prioritize its nonbank examinations under CFPB section 1024(b)(2) and otherwise inform how the Bureau supervises and examines the entity. As appropriate, the Bureau may also, as one commenter suggests, obtain more detailed and comprehensive information about the entity's compliance systems and procedures for complying with the order via direct communication with the entity through the supervisory process.

See the section-by-section discussion of § 1092.201(e) above regarding the final rule's treatment of covered orders that may be subject to appeal.

Final Rule

The Bureau adopts § 1092.203(d) as proposed (renumbered as § 1092.204(d)) for the reasons discussed above and in the description of the proposal, with changes to the wording of the paragraph's first sentence.⁴²⁶ That sentence now reads (with additions marked with italics): "On or before March 31 of each calendar year, the supervised registered entity shall, in the form and manner specified by the Bureau, submit to the nonbank registry a written statement with respect to each

covered order described in paragraph (a)(1) of this section *to which it is subject.*"⁴²⁷ The changes reflect revisions to § 1092.204(a) that are discussed in the section-by-section analysis of that subsection (as well as the Bureau's adoption of the term "nonbank registry" described in the section-by-section discussion of § 1092.101(d) above).

Under § 1092.204(d) of the final rule, written statements only need to address periods during which covered nonbanks qualify as supervised registered entities. Therefore, if a covered nonbank did not qualify as a supervised registered entity at any point during the preceding calendar year, it does not need to file a written statement in the current calendar year, even if the covered nonbank becomes a supervised registered entity by March 31 of the current calendar year.

Section 1092.204(e) Requirement To Maintain and Make Available Related Records

Proposed Rule

Proposed § 1092.203(e) would have imposed recordkeeping requirements with respect to the preparation of the written statement. These requirements were designed to promote effective and efficient enforcement and supervision of proposed § 1092.203. The Bureau would have relied on its rulemaking authorities under CFPB section 1024(b)(7)(A)–(C) in imposing proposed § 1092.203(e)'s recordkeeping requirements.

Proposed § 1092.203(e) would have required a supervised registered entity to maintain documents and other records sufficient to document the entity's preparation of the written statement, to provide reasonable support for the written statement, and to otherwise demonstrate compliance with the requirements of proposed § 1092.203 with respect to any submission under that section. The proposed section would have required the supervised registered entity to maintain those documents and records for five years after such submission was required. The proposal would have also required the supervised registered entity to make such documents and other records available to the Bureau upon the Bureau's request. The Bureau explained that the purpose of this requirement would be to enable the Bureau to assess, as part of its normal supervisory

⁴²⁷ Under § 1092.204(a)(2), a supervised registered entity is not required to comply with § 1092.204—including the requirements of § 1092.204(d)(2)—with respect to any NMLS-published covered order for which it has chosen to comply with the one-time registration option described in § 1092.203.

⁴²⁵ See also part IV(D) above.

⁴²⁶ See also the section-by-section discussion of § 1092.101(d) above regarding the Bureau's adoption of the revised term "nonbank registry."

⁴²⁴ See 88 FR 6088 at 6123.

process, the supervised registered entity's compliance with proposed § 1092.203. The Bureau explained that it expected such documents and other records to be in a form sufficient to enable the Bureau to conduct this assessment. The Bureau believed that the five-year time period would appropriately facilitate the Bureau's examination and enforcement capabilities with respect to compliance with proposed § 1092.203's requirements.

Comments Received

One industry commenter stated that the requirement to "provide reasonable support" for the written statement was vague and overly broad, and that it could extend to every record that a company has. Relatedly, the commenter stated that the costs associated with this requirement could not be quantified as a result of this uncertainty.

The commenter also stated that the proposed recordkeeping requirement would be unduly burdensome because it would require a supervised registered entity to maintain evidence of compliance with covered orders. And the commenter objected to the duration of the recordkeeping requirement, as the five-year obligation imposed under proposed § 1092.203(e) might exceed the duration of the requirements imposed by the other provisions of the proposal (such as where the order terminates earlier). The commenter also stated the Bureau should have considered obtaining documents from other regulators as an alternative to proposed § 1092.203.

Response to Comments Received

The Bureau disagrees with the industry commenter's statement that the requirements of § 1092.204(e) (which was initially proposed as § 1092.203(e)) are vague and overly broad, and that an estimate of the costs associated with those requirements cannot be quantified. Section 1092.204(e) does not require a supervised registered entity to comply with any covered order, nor does it require the entity to prove that it is in compliance with any covered order. Instead, § 1092.204(e) requires the entity to maintain documents sufficient to allow the Bureau, through its normal supervisory process, to review the entity's compliance with the requirements of § 1092.204 with respect to a submission under that section. Thus, § 1092.204(e) requires a supervised registered entity to maintain documents that demonstrate compliance with the various paragraphs of § 1092.204.

Specifically, a supervised registered entity would satisfy § 1092.204(e) with respect to the requirements of § 1092.204(b) regarding the designation of an attesting executive for a particular covered order by maintaining records that reasonably support the entity's designation, including records that demonstrate that the attesting executive satisfies the criteria established by § 1092.204(b).

Section 1092.204(d)(1) requires the attesting executive to "[g]enerally describe the steps that the attesting executive has undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order for the preceding calendar year." A supervised registered entity would satisfy § 1092.204(e) with respect to a statement submitted under § 1092.204(d)(1) by maintaining documents that reasonably support the description submitted. If the entity chooses to submit a statement under § 1092.204(d)(1) that describes specific steps undertaken by the attesting executive to review and oversee the entity's applicable activities, § 1092.204(e) would require that the entity maintain documents that demonstrate that the executive undertook the steps described. For example, the entity could preserve relevant reports provided to the executive regarding compliance with the relevant order, or emails that demonstrate the questions asked by the executive as part of the executive's review.

Section 1092.204(d)(2) requires the attesting executive to "[a]ttest whether, to the attesting executive's knowledge, the supervised registered entity during the preceding calendar year identified any violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order by the applicable agency or court based on a violation of a covered law." If, to the executive's knowledge, the entity did identify such a violation, the executive should so attest under § 1092.204(d)(2), and the entity should maintain records sufficient to provide reasonable support for the executive's statement. For example, the entity could preserve relevant documents that caused the executive to know that a violation had occurred, such as a report or email sent to the executive. On the other hand, if the executive attests that he or she does not know of any such violation, the Bureau anticipates that attestation will generally be based upon the executive's review and oversight as described in the portion of the written statement submitted under § 1092.204(d)(1). By

demonstrating what steps (if any) the executive had undertaken to review and oversee the activities subject to the covered order, the entity generally would also provide support for the statement that the executive was not aware of applicable violations. Thus, in such cases the Bureau would generally expect the documentation that supports the portion of the written statement submitted under § 1092.204(d)(1) also to adequately support the portion submitted under § 1092.204(d)(2), and § 1092.204(e) would generally not require the entity to maintain any other additional records specifically in connection with the portion of the written statement submitted under § 1092.204(d)(2).

With respect to the comment regarding potential burden associated with § 1092.204(e)'s recordkeeping requirements, this provision would not require a supervised registered entity to maintain documents to enable the Bureau to assess whether the entity is in compliance with any covered order. Instead, this provision would require a supervised registered entity to maintain documents that demonstrate compliance with § 1092.204 itself. Section 1092.204 imposes a set of requirements regarding the designation of one or more attesting executives and submission of one or more annual reports. It requires neither that the entity comply with any covered order nor that it demonstrate to the Bureau that it is in compliance with any covered order. Documents that demonstrate the entity's compliance with § 1092.204 will not generally be available from other regulators or from sources other than the entity itself.

The Bureau acknowledges that in some cases, a supervised registered entity's obligation to maintain documents under § 1092.204(e) may extend, perhaps by several years, past the time required for the entity's final filing under § 1092.202(f)(1). While, as provided in § 1092.202(f)(2), a supervised registered entity's final filing under § 1092.202(f)(1) relieves the entity of its obligations to update its filing or to file written statements with respect to the applicable covered order under subpart B, the entity would remain subject to § 1092.204(e)'s requirements to maintain and make available applicable records. Nevertheless, the Bureau believes § 1092.204(e)'s five-year recordkeeping requirement is consistent with the final rule's approach to final filings in § 1092.202(f). The purpose of § 1092.204(e)'s recordkeeping requirement is to promote effective and efficient enforcement and supervision of § 1092.204. The Bureau may wish to review a supervised registered entity's

past compliance with § 1092.204 even after the entity has been released, as provided under § 1092.202(f)(2), from its ongoing obligations to update information under § 1092.202 and to file annual written statements under § 1092.204. The Bureau believes the five-year period is an appropriate length of time to require preservation of records in order to facilitate any review that may occur. For a discussion of the economic costs and benefits associated with this provision, see part VIII.

Final Rule

The Bureau adopts § 1092.203(e) as proposed (renumbered as § 1092.204(e)) for the reasons discussed above and in the description of the proposal.

Section 1092.204(f) Notification of Entity's Good-Faith Belief That Requirements Do Not Apply

Proposed Rule

Proposed § 1092.203(f) would have provided that a person may submit a notice to the NBR system stating that it is neither designating an attesting executive nor submitting a written statement pursuant to proposed § 1092.203 because it has a good-faith basis to believe that it is not a supervised registered entity or that an order in question is not a covered order. Such a filing may be combined with any similar filing under proposed § 1092.202(g).⁴²⁸ Proposed § 1092.203(f) would have also required the person to promptly comply with § 1092.203 upon becoming aware of facts or circumstances that would not permit it to continue representing that it has a good-faith basis to believe that it is not a supervised registered entity or that an order in question is not a covered order. The Bureau proposed to treat information submitted under § 1092.203(f) as “administrative information” as defined by proposed § 1092.201(a).

The Bureau proposed § 1092.203(f) for several reasons. First, while the Bureau believed that determining whether a company qualifies as a “supervised registered entity” (or whether an order is a covered order) should be straightforward in most cases, some persons may be uncertain about whether they are a supervised registered entity (or whether an order is a covered order). The Bureau acknowledged in its proposal that even when they have a good-faith basis to believe they are not

a supervised registered entity (or an order is not a covered order), they could annually designate an attesting executive and file annual written statements if they did not want to incur the risk of violating the requirements of proposed § 1092.203. But the Bureau believed that that approach could impose burden on persons who ultimately are not supervised registered entities (or whose orders are not covered orders). The Bureau therefore proposed an alternative option for these persons. Rather than facing the burden of designating an attesting executive and filing written statements, such an entity could have elected to file a notice under proposed § 1092.203(f). The Bureau explained that, when a person makes a non-frivolous filing under proposed § 1092.203(f) stating that it has a good-faith basis to believe that it is not a supervised registered entity (or an order is not a covered order), the Bureau would not bring an enforcement action against that person based on the person's failure to comply with proposed § 1092.203 unless the Bureau has first notified the person that the Bureau believes the person does in fact qualify as a supervised registered entity (or the order in question qualifies as a covered order) and has subsequently provided the person with a reasonable opportunity to comply with proposed § 1092.203.⁴²⁹

The Bureau also believed that filings under proposed § 1092.203(f) may reduce uncertainty by the Bureau about why certain entities are not designating an attesting executive or providing a written statement under proposed § 1092.203. In addition, the Bureau believed that these notifications might provide the Bureau with information about how market participants are interpreting the scope of proposed § 1092.203, about the potential need for the Bureau to instruct certain persons to designate an attesting executive and provide written statements, and about the potential need for guidance or rulemaking clarifying the scope of proposed § 1092.203.

As in the case of proposed § 1092.202(g), the Bureau considered an alternative to proposed § 1092.203(f) under which entities would *not* file a notice with the Bureau, but they could avoid penalties for non-compliance with § 1092.203 if in fact they could establish a good-faith belief that they did not

qualify as supervised registered entities subject to § 1092.203 (or their order was not a covered order). Under this alternative, entities would have maintained such good-faith belief so long as the Bureau had not made clear that § 1092.203 would apply to them. Although the Bureau preliminarily concluded that this alternative was not preferable to requiring entities to actually file notices under proposed § 1092.203(f), the Bureau sought comment on whether it should finalize this alternative instead. It also sought comment on whether, if it finalized this alternative, entities would require additional guidance on the circumstances pursuant to which an entity could no longer legitimately assert a good-faith belief that § 1092.203 would not apply to its conduct. While the Bureau anticipated that such circumstances would certainly include entity-specific notice from the Bureau that § 1092.203 applies, the Bureau did not believe such notice should be required to terminate a good faith defense to registration. Among other circumstances, the Bureau anticipated that at least formal Bureau interpretations of (for example) the provisions of CFPA section 1024(a)(1) would generally suffice to terminate such belief.⁴³⁰

Comments Received

As discussed in the section-by-section discussion of § 1092.202(g) above, the Bureau received a number of comments from tribes regarding proposed §§ 1092.202(g) and 1092.203(f). The tribes commenting on the proposal generally opposed proposed §§ 1092.202(g) and 1092.203(f) and submitted specific objections to aspects of the proposal.

Response to Comments Received

See the section-by-section discussion of § 1092.202(g) above for a description of the Bureau's responses to comments received regarding proposed § 1092.203(f).

Final Rule

The Bureau adopts § 1092.203(f) as proposed (renumbered as § 1092.204(f)) for the reasons discussed above and in the description of the proposal.⁴³¹

⁴²⁸ See also the section-by-section discussion of § 1092.202(g), which provides a similar option with respect to § 1092.202.

⁴²⁹ The Bureau explained that, under proposed § 1092.102(c), the filing of a notification under proposed § 1092.203(f) would not affect the entity's ability to dispute more generally that it qualifies as a person subject to Bureau authority.

⁴³⁰ 12 U.S.C. 5514(a)(1).

⁴³¹ See the section-by-section discussion of § 1092.101(d) above regarding the Bureau's adoption of the revised term “nonbank registry.”

*Section 1092.205 Publication and Correction of Registration Information**Section 1092.205(a) Internet Posting of Registration Information**Proposed Rule**Proposed § 1092.204(a)*

Proposed § 1092.204(a) would have required the Bureau to make available to the public the information submitted to it by persons pursuant to proposed § 1092.202, except that the Bureau could choose not to publish certain administrative information or other information that the Bureau determined may be inaccurate, not required to be submitted under subpart B, or otherwise not in compliance with part 1092 and any accompanying guidance. Proposed § 1092.204(a) would have further provided that the Bureau may make registration information available to the public by means that include publishing it on the Bureau's publicly available internet site within a timeframe determined by the Bureau in its discretion. However, as discussed below regarding proposed § 1092.204(b), the proposal would have specifically provided that the Bureau would not disclose the written statement submitted under proposed § 1092.203.

The Bureau explained that publication of registered entities' identifying information would facilitate the ability of consumers to identify covered persons that are registered with the Bureau.⁴³² And the Bureau believed that publication of additional information about registered entities and covered orders would be in the public interest.⁴³³ Namely, as discussed in more detail in section IV(E) of the proposal's preamble, proposed § 1092.204(a) would have provided information of use to consumers, other regulators, industry, nongovernment organizations, and the general public. Proposed § 1092.204(a) also would have formally aligned the proposed NBR system with Federal Government emphasis on making government data available to and usable by the public, by default, to the greatest extent possible.⁴³⁴

The Bureau explained that making the data collected publicly available would further the rationale of the proposal—that is, enhancing oversight and

awareness of covered orders and the covered nonbanks that are subject to them. The Bureau believed that regulators and other agencies at all levels of government (not just the Bureau) could use the information the Bureau would make publicly available to set priorities. The Bureau believed publication was also in the public interest because researchers could analyze the information the Bureau would make publicly available to gain valuable insight into the issues addressed in the NBR system. For example, as the Bureau explained in its proposal, they could produce reports that may inform consumers and the public more broadly of potential risks related to covered orders, or otherwise use the public data to promote private innovation. The Bureau also believed that organizations representing consumer interests could use the information to assist with their consumer protection efforts. The Bureau further explained in its proposal that publication can also help inform the public, including industry actors, about how regulators are enforcing Federal consumer financial laws and other similar laws. The Bureau cited, for example, that industry actors could use the registry as a convenient source of information regarding regulator actions and trends across jurisdictions, helping them to better understand legal risks and compliance obligations. The Bureau believed that at least in certain cases, consumers may be able to use the information in the registry to make informed choices regarding consumer financial products and services, including potentially using the information to assist with the assertion of private rights of action that might be available under the Federal consumer financial laws. Finally, the Bureau believed that publication would help promote Bureau accountability by helping the public better see and understand the results of the nonbank registry initiative, and helping the public gain greater insight into Bureau decision-making. As discussed in section IV(E) of the proposal, the Bureau believed that identifying the executive who has knowledge and control of the supervised entity's efforts to comply with the covered order would provide particular benefits to the Bureau, the public, and other users of the registry.

Proposed § 1092.204(a) would have provided that the Bureau may choose not to publish certain administrative information or other information that the Bureau determines may be inaccurate, not required to be submitted under proposed subpart B, or otherwise

not in compliance with part 1092 and any accompanying guidance. The Bureau proposed to exclude administrative information, as defined at proposed § 1092.201(a), from the proposed publication requirement because it believed the publication of such information may not in all instances be especially useful to external users of the registry. The Bureau explained that administrative information is likely to include information such as time and date stamps, contact information, and administrative questions. The Bureau anticipated that it may need such information to work with personnel at nonbanks and in order to administer the NBR system. The Bureau believed that publishing such information would not be in the public interest because publication would be unnecessary and likely would be counterproductive to the goals of ensuring compliance with the proposal and publishing usable information.

The Bureau would have also reserved the right not to publish any information that it determines may be inaccurate, not required to be submitted under proposed subpart B, or otherwise not in compliance with part 1092 and any accompanying guidance. For example, the Bureau explained, persons may submit unauthorized or inadvertent filings, or filings regarding orders that would not require registration under the proposal, or other inaccurate or inappropriate filings. The Bureau believed it would require flexibility not to publish such information in order to maintain the accuracy and integrity of the NBR system and the data that would be published by the Bureau. And publication of information that the Bureau determines is, or may be, inaccurate, not required to be submitted under proposed subpart B, or that is otherwise not appropriately submitted under the proposal and accompanying guidance, would not further the goals of the proposal.

Furthermore, consistent with CFPB section 1022(c)(8),⁴³⁵ the Bureau explained that it would not publish information protected from public disclosure under 5 U.S.C. 552(b) or 552a or any other provision of law. The Bureau, however, did not believe that any of the information proposed to be

⁴³² 12 U.S.C. 5512(c)(7)(B).

⁴³³ 12 U.S.C. 5512(c)(3)(B).

⁴³⁴ See, e.g., Open, Public, Electronic, and Necessary Government Data Act, in title II of Public Law 115–435 (Jan. 14, 2019); Office of Management and Budget, M–19–18, *Federal Data Strategy—A Framework for Consistency* (June 4, 2019), <https://www.whitehouse.gov/wp-content/uploads/2019/06/M-19-18.pdf>.

⁴³⁵ 12 U.S.C. 5512(c)(8) (“In . . . publicly releasing information held by the Bureau, or requiring covered persons to publicly report information, the Bureau shall take steps to ensure that proprietary, personal, or confidential consumer information that is protected from public disclosure under [the FOIA] or [the Privacy Act of 1974, 5 U.S.C. 552a,] or any other provision of law, is not made public under [the CFPB].”).

collected under proposed § 1092.202 would be protected from public disclosure by law. The Bureau requested comments on this question, and whether any other steps should be taken to protect this information from public disclosure.

The Bureau recognized that by relying in part on its supervisory authority in section 1024 of the CFPB to require submission of information to the nonbank registry, registry information could be construed to be “confidential supervisory information” as defined in the Bureau’s confidentiality rules at 12 CFR 1070.2(i). The Bureau stated that, under the proposal, public release of information pursuant to § 1092.204(a) would have been authorized by the Bureau’s confidentiality rules at 12 CFR 1070.45(a)(7), which permits the Bureau to disclose confidential information “[a]s required under any other applicable law.” The Bureau did not believe that the information proposed to be published under § 1092.204(a) would have raised the concerns generally addressed by the Bureau’s restrictions on disclosure of confidential supervisory information. For example, the Bureau anticipated that the information collected pursuant to § 1092.202 would otherwise be subject to disclosure under the Freedom of Information Act and would not be particularly sensitive to financial institutions or compromise any substantial privacy interest; that disclosure of the information would not impede the confidential supervisory process; and that disclosure would not present risks to the financial system writ large.

Proposed § 1092.204(b)

Proposed § 1092.204(b) would have provided that the publication described in proposed § 1092.204(a) would not have included the written statement submitted under proposed § 1092.203, and that such information would be treated as confidential supervisory information subject to the provisions of part 1070. The Bureau proposed to require the submission of the written statement pursuant to CFPB section 1024(b)(7), which authorizes the Bureau to prescribe rules regarding registration, recordkeeping, and other requirements for covered persons subject to its supervisory authority under CFPB section 1024. The Bureau believed that treating the written statements that it would receive under proposed § 1092.203 as confidential, and not publishing them under proposed § 1092.204, would facilitate the Bureau’s supervision of supervised registered entities by enabling the Bureau to obtain

frank and candid assessments and other information from supervised registered entities regarding violations and noncompliance in connection with covered orders. The Bureau believed this information in turn would better enable the Bureau to spot emerging risks, focus its supervisory efforts, and address underlying issues regarding noncompliance, compliance systems and processes, and risks to consumers.

The Bureau recognized that there may have been some benefit to other users of the NBR system from publishing the written statements that it would receive under proposed § 1092.203, including enhancing the ability of other agencies and affected consumers to monitor compliance. However, the Bureau believed that these potential benefits were likely to be outweighed by increased candor and compliance with proposed § 1092.203. The Bureau noted that its supervision program depends upon the full and frank exchange of information with the institutions it supervises. The Bureau explained that, consistent with the policies of the prudential regulators, the Bureau’s policy is to treat information obtained in the supervisory process as confidential and privileged.⁴³⁶ For example, the Bureau explained in its proposal that it would treat all such information as exempt from disclosure under exemption 8 of the Freedom of Information Act.⁴³⁷ The Bureau believed that these considerations would also underlie supervisory communications with supervised registered entities under proposed § 1092.203, and that the proposed approach would enhance the usefulness of submissions under proposed § 1092.203, increase the Bureau’s ability to detect and assess potential noncompliance and emerging risks to consumers, and promote compliance with the law.⁴³⁸

⁴³⁶ See CFPB Compliance Bulletin 2015–01 (Jan. 27, 2015), https://files.consumerfinance.gov/f/201501_cfpb_compliance-bulletin_treatment-of-confidential-supervisory-information.pdf; CFPB Bulletin 2012–01 (Jan. 4, 2012), https://files.consumerfinance.gov/f/2012/01/GC_bulletin_12-01.pdf. Also consistent with the policies of the prudential regulators, the Bureau recognized that the sharing of confidential supervisory information with other government agencies may in some circumstances be appropriate, and in some cases, required. See *id.* For example, in accordance with the scheme of coordinated supervision established by Congress, the Bureau’s policy is to share confidential supervisory information with the prudential regulators and State regulators that share supervisory jurisdiction over an institution supervised by the Bureau. See *id.*

⁴³⁷ See 5 U.S.C. 552(b)(8).

⁴³⁸ Proposed § 1092.102(c) would have provided that proposed part 1092 would not alter applicable processes whereby a person may dispute that it qualifies as a person subject to Bureau authority. The Bureau believed written statements submitted

Comments Received

Comments Received Regarding Proposed § 1092.204(a)

General comments received regarding publication.

Many commenters opposed the proposal’s approach to publication of registry information, and either questioned whether the proposed public registry was necessary or opposed publication of the registry. Commenters stated that the proposed publication of the registry information would create a much more elevated level of scrutiny and risk for covered nonbanks subject to covered orders.

Consumer advocate commenters and some industry and individual commenters generally supported the publication of the registry, stating that it would provide a valuable resource to help regulators and consumers. A consumer advocate commenter stated that the public registry would be immensely useful for the Bureau and other Federal and State regulators alike, and another consumer advocate commenter stated that it would unify the efforts of the various enforcers of consumer protection laws. A consumer advocate commenter stated that the public registry would be particularly beneficial for low-income consumers. A consumer advocate commenter agreed that making the proposed registry public would enhance the ability of consumer advocacy organizations conducting due diligence, and would better equip organizations to warn consumers against companies with patterns or practices of illegal or otherwise harmful behaviors. The consumer advocate commenter also stated that searchable public databases like the proposed registry empower consumers, regulators, and consumer advocates, and that the registry would help protect older Americans and all consumers as well as benefit Bureau supervision. Consumer advocate commenters stated the information obtained from the public registry would also assist the Bureau and other regulators in developing new regulations and other reforms for consumer protection. Consumer advocate and industry commenters stated that the public registry would

to the NBR system under § 1092.203 of the proposed rule (renumbered to § 1092.204 of the final rule) would constitute Bureau confidential supervisory information under the regulatory definition of that term even if the submitter later disputed that it qualified as a person subject to the Bureau’s supervisory authority. See 12 CFR 1070.2(i) (defining Bureau confidential supervisory information), (q) (“Supervised financial institution means a financial institution that is or that may become subject to the Bureau’s supervisory authority.”).

create heightened accountability and have a deterrent effect on violations. Consumer advocate commenters stated that the public registry would promote compliance with orders. An industry commenter stated that the public registry would help entities conduct due diligence and choose their service providers, would motivate nonbanks to comply with the law, and would provide financial institutions with examples of the types of acts and practices that constitute violations of consumer financial protection laws.

See part V above for a discussion of comments regarding publication received from other agencies during the Bureau's interagency consultation process.

Comments received regarding alternatives to the proposal's approach to publication.

Many commenters proposed alternatives to the proposal's approach to publication of registry information. An industry commenter stated that the Bureau could just provide links on a web page instead. An industry commenter stated that the additional benefit of publication to consumers was unclear in light of the existence of other, more user-friendly registries. Another industry commenter stated that the Bureau should instead work with State and other Federal agencies to create a unified database. An industry commenter stated that the Bureau should use its other tools instead to provide transparency and public guidance, including the Bureau's Supervisory Highlights publication, advisory opinions, and other rulemakings such as larger participant rules. A consumer advocate commenter stated the Bureau should work with the Federal Deposit Insurance Corporation (FDIC) and other regulators to establish other similar registries in addition to establishing the proposed Bureau registry. An industry commenter stated that the publication of registry information might deter other regulators from maintaining their own sites containing information about covered orders.

An industry commenter stated that publication of information about covered orders would lack context and be unfair and misleading because entities are precluded from similarly publicly disclosing outcomes of successful audits and examinations.

An industry commenter stated that the Bureau should permit a covered nonbank to publish its own accompanying statement or explanation in connection with information published in the registry so that other financial institutions in the market and

consumers can better understand the reason for the covered order.

Comments received stating publication of registry information would further improper purposes.

Commenters stated that the true purpose of publishing the registry was to name and shame the entities that were registered as well as their executives, to impose a "scarlet letter" on such persons, or to punish such entities, and not the purposes stated in the Bureau's proposal.

Industry commenters also stated that the Bureau's true purpose in publishing registry information was to benefit plaintiffs' lawyers and class action lawsuits against industry participants. Industry commenters stated that the information published in the proposed registry would be used against the covered nonbank in other litigation, and that increased litigation and risk of litigation against covered nonbanks will hurt consumers by raising costs.

Commenters stated that the references in the proposal and in related Bureau statements identifying the proposed registry as relating to "repeat offenders" indicated that the registry was being adopted for an improper purpose. Commenters stated that the Bureau should not call the proposed registry a "repeat offender registry." Commenters also questioned what it might mean to be a "repeat offender" as the Bureau used that term, and what the consequences of such a designation might be. An industry commenter stated that such a designation would imply wrongdoing, even though the entity might not have admitted liability. An industry commenter stated that such a designation would mislead consumers by indicating that less significant violations listed on the registry were comparable to more serious ones. An industry commenter stated that the term "repeat offenders" was inflammatory, and expressed concern that the Bureau would impose "repeat offender penalties" based on non-CFPB orders. An industry commenter stated that the use of such language demonstrated a belief on the part of the Bureau that past violations are an indication of potential future violations. And an industry commenter stated that the proposal did not truly address "repeat offenders" but rather perhaps those businesses who are not able to afford defending themselves from government attacks.

Comments received regarding the publication of the name and title of attesting executives.

The Bureau specifically requested comment on whether the requirement to submit the name and title of the attesting executive "would assist users

of the NBR system and whether it would unduly interfere with the privacy interests of the attesting executive or other interests of the supervised entity."⁴³⁹ A consumer advocate commenter stated that it would be appropriate to publish the name and title of the attesting executive, and that the Bureau would be able to make clear that the executive is not necessarily an at-fault individual. Other commenters objected to the proposal's provisions regarding the publication of the name and title of the attesting executive. Commenters stated that publishing the name and title of the attesting executive would impose reputational harm or would violate due process and the presumption of innocence by shaming the executive and the company. An industry commenter stated that the proposed requirement to designate a current executive as an attesting executive would unfairly implicate executives in previous wrongdoing, and that the rule should only require designation of an attesting executive where the executive had been serving at the time of the violations underlying the order. Some industry commenters expressed privacy concerns about this aspect of the Bureau's proposal. Most of the commenters generally expressed this concern without added explanation, but one industry commenter asserted that it was highly likely publishing this information would result in these individuals being subject to unfair and unjust harassment.

Other comments received regarding publication.

An individual commenter stated that the proposed publication of registry information would focus on larger companies, leading consumers to smaller but possibly more harmful entities. Other commenters asserted that smaller entities will be disproportionately affected. A joint comment from industry groups stated that the proposed registry would risk public trust in new and emerging companies. An industry commenter stated that the proposed registry would deter consumers from working with legitimate companies, including debt collection businesses.

A consumer advocate commenter urged the Bureau to make the proposed public database searchable, sortable, and downloadable.

Industry commenters and another commenter stated that the proposal was contrary to the public policy behind the Fair Debt Collection Practices Act

⁴³⁹ 88 FR 6088 at 6102.

(FDCPA).⁴⁴⁰ A commenter stated that the proposal would publish the names of covered nonbanks in order to punish and harm them in a manner precluded by the FDCPA. An industry commenter stated that while the proposal might not directly conflict with the FDCPA, it could prompt additional interest in public information in court records and other materials that might embarrass consumers.

Commenters disagreed with the Bureau's statements in the proposal that publication of registry information would benefit other regulators and agencies. An industry commenter stated that publication would be of small or no benefit to other agencies because the orders published under the proposal would already be public and because the relevant State regulators already have adequate information about covered orders.

Commenters stated that publication of the proposed registry would confuse consumers and other public users, thus itself leading to risk and harm to consumers.

Commenters stated that the proposal would present all orders as the same, which would be misleading. An industry commenter stated that one State's orders may not appropriately compare to other States, and expressed concern that companies with covered orders addressing other matters not related to consumer products, data, or market harm could still inadvertently be included with companies that have an actual track record of consumer harm. The commenter also asserted that orders with effective dates before 2019 were less relevant to the registry because covered nonbanks were more likely to have taken remedial steps in connection with the order, and expressed concern that the publication of such earlier orders together with orders issued later would unfairly characterize the earlier orders as having the same relevance as later ones. And the commenter stated that the registry should only require registration once a nonbank became subject to at least five non-expired covered orders.

Comments Received Regarding Proposed § 1092.204(b)

The Bureau specifically sought comment on the proposed approach with respect to treatment of the written statement,⁴⁴¹ whether treatment of written statement submissions as Bureau confidential supervisory

information was warranted, and whether the Bureau should consider taking other steps to facilitate the submission of written statements. An industry commenter expressed concern about proposed § 1092.203(b) and the Bureau's treatment of the written statements submitted under proposed § 1092.203, stating that the Bureau might change its mind about protecting written statements as confidential supervisory information.

Response to Comments Received

Response to Comments Received Regarding Proposed § 1092.204(a)

Response to general comments received regarding publication.

For the reasons given in the description of the proposal above and further addressed below, the Bureau intends to publish a registry that contains the identifying information for covered nonbanks that the nonbank registry collects under § 1092.202(c) and the information regarding covered orders collected under § 1092.202(d), as well as certain information collected under § 1092.203 for the purposes of enabling users of the registry to identify NMLS-published covered orders and the applicable covered nonbanks subject to them. Except as described further below, the Bureau concludes that publication of such information will be in the public interest. However, as described further below, the Bureau is modifying the proposal to provide that the Bureau may choose, in its sole discretion, not to publish such information based on operational considerations.

The Bureau agrees with commenters that the nonbank registry's centralization and republication of covered orders that are already public may make them easier to locate and access, and thus somewhat increase their visibility. That is part of the point of publishing them. The Bureau believes that publication of registry information as described in § 1092.205 will serve the purposes described in part IV.

Response to comments received regarding alternatives to the proposal's approach to publication.

The Bureau does not agree that the proposed alternative approaches to publication suggested by commenters would serve the purposes for which the Bureau is adopting the final rule. Among other things, these alternative approaches would be more resource intensive for Federal and State agencies, including the Bureau, and would make it more difficult to identify covered orders and the covered nonbanks that are subject to them.

As discussed in part IV and the section-by-section discussion of § 1092.203 above, the Bureau is finalizing a new § 1092.203 that provides, with respect to any NMLS-published covered order, a covered nonbank that is identified by name as a party subject to the order may elect to comply with the one-time registration option described in that section in lieu of complying with the requirements of §§ 1092.202 and 1092.204. Also as discussed in part IV and the section-by-section discussion of § 1092.203 above, the Bureau disagrees with commenters that the other sources of information identified by commenters diminish the need for the nonbank registry, or that the rule should accept registration of covered orders under those sources in lieu of registration with the nonbank registry. While the Bureau intends to continue using all of its available tools to promote transparency and provide guidance as appropriate, the Bureau concludes that it is also appropriate to adopt the final rule to accomplish the purposes described herein.

With respect to the industry commenter's assertion that the publication of registry information might deter other regulators from maintaining their own sites containing information about covered orders, first, the Bureau believes establishing the registry accomplishes the goals established for it under the CFPB, and would do so even if the effect described by this commenter were to occur. The Bureau does not believe this consideration should outweigh the benefits resulting from the final rule. Second, it is not clear this described effect would occur, and whether it does or not depends upon many factors outside the Bureau's control. Other agencies must make their own decisions regarding how best to utilize their own resources to meet their own goals and priorities. As described at part V, the Bureau engaged in consultations with many Federal, State, and Tribal agencies with respect to both the proposal and the final rule, as required by the CFPB. No other agency, in those discussions or otherwise, has indicated to the Bureau that it was considering ceasing the publication of any of its own published orders in light of the final rule. Third, even if the Bureau were to consider this potential effect, the Bureau would expect it to be a very small one, since the Bureau expects agencies would generally continue to maintain their current approach to publishing their own orders. Many agencies are under an existing legal obligation to publish their

⁴⁴⁰ 15 U.S.C. 1692 *et seq.* The FDCPA is an enumerated consumer law and a Federal consumer financial law, as provided at 12 U.S.C. 5481(12)(H) and (14).

⁴⁴¹ 88 FR 6088 at 6129.

orders.⁴⁴² For agencies that have discretion over whether to publish their orders enforcing the law, the Bureau does not anticipate that the Bureau's rule would cause many, if any, agencies to change their practices regarding publication. The orders defined as "covered orders" under the final rule represent only a portion of the orders issued or obtained by most, if not all, agencies other than the Bureau. For example, covered orders do not include orders against individuals, or that do not relate to covered laws. Likewise, other agencies may have jurisdiction over entities that do not qualify as covered nonbanks and thus are not subject to the final rule. The Bureau thus expects that few, if any, agencies would modify their general practices regarding publication to avoid a subset of their orders from appearing in the Bureau's public registry. Therefore, the Bureau does not expect the final rule to have much, if any, effect on the publication decisions made by other agencies.

As explained above, an industry commenter expressed concern that the Bureau's public registry would be unfair and misleading because it would not contain information regarding successful audits and examinations of registered entities. The Bureau disagrees. The existence of prior successful audits or examinations does not render the information that would be published in the registry inaccurate, inconsistent, or misleading.

The consumer advocate commenter's suggestion to establish other similar registries in addition to establishing the proposed Bureau registry is outside the scope of the proposal, but the Bureau may consider related action at a later date.

The Bureau declines to create a mechanism for a covered nonbank to publish its own accompanying statement or explanation on the nonbank registry in connection with information published in the registry. The Bureau believes requiring the nonbank registry to publish such statements would increase the complexity and costs associated with the nonbank registry and may confuse users. The Bureau declines to republish on its own registry statements provided by covered nonbanks regarding either

the Bureau's own orders or orders issued or obtained by other agencies, especially as those statements may contain factual or legal errors. The Bureau also declines to utilize its resources to review and screen such statements for materials that may not be appropriate to publish, such as personally identifiable information about consumers. Such statements are not generally included with orders published by the Bureau or by other agencies. Subject to other applicable law, covered nonbanks would be free to issue their own statements about a covered order or the matters underlying it.

Response to comments received stating publication of registry information would further improper purposes.

The Bureau disagrees with the commenters stating publication of registry information would further improper purposes. The Bureau reiterates that its purposes in publishing registry information are described in part IV and in the description of the Bureau's proposal above, and include informing the public, other regulators, academic researchers, consumer advocacy organizations, and public education efforts regarding covered orders and the covered nonbanks that are subject to them. Any publication by the Bureau of the information collected through the registry is not intended to punish companies or individuals for their past acts. As discussed in part IV(F) above, consumers may benefit from the publication of the information collected by the registry, including information about orders that are already public. For example, the Bureau believes that, at least in certain cases, publishing information about the entity and its applicable orders in a public registry will help certain consumers make informed decisions regarding their choice of consumer financial products or services, especially if the information in the registry is recirculated, compiled, or analyzed by other users such as consumer advocacy organizations, researchers, or the media. And publication of covered orders in the registry may also facilitate private enforcement of the Federal consumer financial laws by consumers, to the extent those laws provide private rights of action, where consumers have been harmed by a registered nonbank. These purposes are consistent with the public interest, with the Bureau's other purposes in publishing registry information, and with the Bureau's statutory authorities. The Bureau disagrees that its purpose in publishing such information is to shame companies

or executives that are listed in the registry.

With respect to the industry comments regarding use of published orders in litigation, and potential additional costs that may be associated, the covered orders subject to publication under § 1092.205 are already public, which will limit the costs imposed on firms by the final rule's publication provisions. As discussed in part IV(F) above, the Bureau believes that users who have access to information published in the registry may potentially use that information to assist with the assertion of private rights of action that might be available under the Federal consumer financial laws. That is part of the reason the Bureau is issuing the final rule. The Bureau disagrees that litigation brought by other agencies or consumers to enforce rights under Federal consumer financial law, as applicable, is necessarily inappropriate. While the registry information published under the final rule may include plaintiffs' lawyers among its users, or help inform class action lawsuits against industry participants, it is not the purpose of the registry to encourage or promote lawsuits purely for the sake of litigation. Rather, the Bureau is finalizing § 1092.205 for the purposes described in part IV and in the description of final § 1092.205 below. For additional discussion about these and other potential costs associated with this provision, see part VIII.

With respect to the comments regarding the statements in the proposal and other related Bureau statements about "repeat offenders," one of the purposes of the rule is to help the Bureau identify persons that repeatedly violate the law. The information that the Bureau intends to publish under § 1092.205 will help the Bureau and other users identify entities that have violated the law, including those that have become subject to more than one covered order. Such entities would be more difficult to identify without the existence of the registry because the information about these entities and orders is scattered across multiple sources, and may no longer be accurate or updated in a timely fashion. However, the proposal did not purport to comprehensively define the term "repeat offender"⁴⁴³ or to establish any specific legal consequences of any such designation, and the Bureau declines to

⁴⁴² See, e.g., 12 U.S.C. 1818(u) (requiring appropriate Federal banking agencies to publish certain final orders and agreements); 5 U.S.C. 552(a)(2)(A) ("[E]ach agency, in accordance with published rules, shall make available for public inspection in an electronic format . . . final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases").

⁴⁴³ But see 88 FR 6088 at 6095 ("Recidivism—whether in the form of a company that repeatedly violates the law and as a result becomes subject to multiple orders, or in the form of a company that violates the orders to which it is subject—poses particular risks to consumers.").

do so in the final rule. The Bureau will use the information supplied by the registry in accordance with relevant law, including to inform its supervisory and enforcement functions. For example, as stated in part IV(B) above, the information contained in the proposed registry may be relevant in assessing civil penalties for violations of Federal consumer financial laws, given that Congress has provided that such penalties should take into account an entity's "history of previous violations" and "such other matters as justice may require."⁴⁴⁴ As stated in part IV(B) above, the Bureau may consider certain matters identified in previous enforcement actions published in the nonbank registry to be relevant under these provisions. But the final rule does not establish new requirements or guidelines for such determinations, which will be made in accordance with existing law.

Response to comments received regarding the publication of the name and title of attesting executives.

The Bureau intends to publish the names and titles of attesting executives designated under § 1092.204(b).⁴⁴⁵ Publishing this name and title information will provide information of use to consumers, other regulators, industry, nongovernment organizations, and the general public.

As explained elsewhere in this preamble, collecting information regarding the name and title of the attesting executive for a given covered order will provide the Bureau with insight into the entity's organization, business conduct, and activities, and will inform the Bureau's supervisory work, including its risk-based prioritization process. As discussed in part IV(F) above, the Bureau believes this information will be similarly valuable to other users of the nonbank registry, and thus intends to publish it in connection with covered orders registered by supervised registered entities. Disclosure of this information would increase transparency regarding how the Bureau processes and verifies information submitted as part of the nonbank registry. Thus, publication would further the rationale of the proposal—that is, enhancing oversight and awareness of covered orders and the covered nonbanks that are subject to them. Publishing the name and title of attesting executives for the covered orders listed on the registry will bring specificity and concreteness to the

information that is available to users of the nonbank registry allowing users to better understand the nature of particular covered orders, which activities of the applicable supervised registered entity they relate to, and who at the entity has control over the entity's efforts to comply with a particular covered order. Publishing name and title information for attesting executives could help consumers and consumer advocacy organizations better understand and monitor the conduct of the entities with whom consumers do business.

While the Bureau will treat the contents of the written statements as CFPB confidential supervisory information (§ 1092.204(b)), publishing the name and title of each supervised registered entity's attesting executive(s) for each covered order will provide transparency to users of the registry and the general public regarding important matters connected with the applicable covered order. The entity will be identified as potentially subject to Bureau supervision under CFPB section 1024,⁴⁴⁶ the officers will be designated as satisfying the criteria established in § 1092.204(b) with respect to each covered order, and registry users will be able to quickly and efficiently identify which officer is responsible for filing the annual written statement with respect to the covered order. Thus, the registry will provide users with an up-to-date and accessible source of information about supervised registered entities, the covered orders to which they are subject, and the senior officers who are responsible for filing annual written statements about those orders.

The Bureau does not intend, in publishing the name and title of the attesting executive, to convey the impression that the executive is solely responsible for compliance at the entity, or that problems with the entity's compliance with the covered order should be directed solely to the attention of the attesting executive, or that the executive was necessarily in any way responsible for the entity's violations of law or other actions or omissions that resulted in the imposition of the covered order. The Bureau also disagrees with commenters' assertions that the designation requirement will unfairly implicate the

attesting executive in previous wrongdoing, and declines to adopt the industry commenter's suggestion that the rule should only require designation of an executive where the executive had been serving at the time of the violations underlying the order. As discussed in the section-by-section discussion of § 1092.204(b), even for those covered orders that the Bureau is authorized to enforce, § 1092.204(b)'s requirement to designate an attesting executive does not mean that the Bureau intends to hold that executive solely responsible for the entity's compliance with those covered orders. For example, § 1092.204(b)'s requirements for the entity's designation of its attesting executive(s) do not imply that the attesting executive is, merely by dint of that individual's designation under the final rule, more responsible or accountable than is a supervised registered entity's board of directors for any of the entity's acts or omissions. The Bureau acknowledges that some nonbank registry users may be susceptible of misimpressions on these matters, and may misunderstand the Bureau's publication of the executive's name and title as a statement about the executive's culpability or responsibility. Nevertheless, the Bureau does not believe this misconception will be widespread, and believes the publication of the name and title of attesting executives will generally be in the public interest for the reasons discussed. As discussed in the section-by-section discussion of § 1092.204(b) above, the final rule does not establish any new standards, or alter any existing standards, regarding individuals' liability for supervised registered entities' violations of covered orders or other legal obligations.

Likewise, publishing the name and title of the attesting executive will not violate due process or the presumption of innocence. As discussed above, such publication as provided in § 1092.205 is consistent with the public interest, with the Bureau's other purposes in publishing registry information, and with the Bureau's statutory authorities. The Bureau disagrees that publishing such information will shame executives that are listed in the registry. Publishing such information also does not impose criminal penalties on or otherwise punish such executives. Publication will inform potential users of the registry that the supervised registered entity has designated the individual named on the grounds that the individual satisfies the criteria established under § 1092.204(b) with respect to the particular covered order.

⁴⁴⁴ See, e.g., 12 U.S.C. 5565(c)(3)(D), (E).

⁴⁴⁵ As discussed further below, the Bureau is retaining the discretion not to publish this information based on operational considerations.

⁴⁴⁶ 12 U.S.C. 5514. While, under § 1092.102(c) of the final rule, an entity's compliance with § 1092.204 would not prevent the entity from disputing that it is subject to Bureau supervision under 12 U.S.C. 5514, publication of the fact that an entity has designated an attesting executive under § 1092.204 would indicate to users of the nonbank registry that the entity may be subject to Bureau supervision.

Those criteria do not carry any connotation of shame or wrongdoing, and publication of such information is not a punishment or penalty.

The Bureau believes that the publication of the name and title of the attesting executive associated with each covered order who satisfies the criteria of § 1092.204(b) with respect to that order will be useful to users of the nonbank registry, and disagrees that it will only cause reputational harm. For example, such information will facilitate coordination and communication regarding the order between the Bureau, other government agencies, and the supervised registered entity. Other regulators, especially those that have issued covered orders regarding the supervised entity, would likely benefit from understanding which executive(s) have been tasked with ensuring compliance with their orders. Clients or other companies that do business with the entity would have a better understanding of which areas of the company are affected by a covered order and who is responsible for compliance with it. And researchers, media, and other users of the information may be able to detect trends or patterns associated with such information.

Such additional regulatory and public scrutiny of the individuals who are so designated, and the awareness on the part of the executive and supervised registered entity that other parties may associate the executive's name with the entity's efforts to comply with the order, will promote identification and assessment of risks to consumers and compliance with the laws that the Bureau administers. In particular, with respect to covered orders enforced by the Bureau, publication as authorized under the final rule will help ensure accountability at the entity for noncompliance and provide an incentive to pay more attention to such covered orders.

One industry commenter challenged the Bureau's assertion that the publication of name and title information would promote compliance, asserting that because this information is already public in some other form, it is difficult in the commenter's view to see how this requirement creates an enhanced incentive other than creating negative reputational costs. Since the requirement to designate an attesting executive specific to each covered order stems from the rule itself and is not a preexisting requirement, information about the name and title of any particular attesting executive associated under the rule with a particular covered order would not already be public

information. The Bureau believes that many attesting executives will already be publicly identified as employees of these entities in some other way (e.g., on the company's website or in filings, licenses, or registrations required under applicable Federal or State securities or corporate law). However, such sources would not generally provide information regarding the entity's designation of attesting executives in the manner prescribed by the final rule. Also, not all public sources of information about the names and titles of executives may be as accurate or reliable, or as frequently updated, as the Bureau's registry. Publishing the name and title information in the nonbank registry itself will enhance users' ability to identify accurate and up-to-date information about such matters quickly, and to associate it with the correct covered order and supervised registered entity. By enabling enhanced monitoring of such matters, publication of the name and title information will promote compliance and the identification and assessment of risks to consumers.

One industry commenter asserted that publishing an attesting executive's name and title would disrupt supervised registered entities' normal complaint-handling procedures by creating a false perception that reaching out to a particular executive would be more effective. The Bureau agrees with the commenter that consumers generally should not rely on the name and title of the attesting executive as a tool for identifying where to direct their complaints or inquiries. Section 1092.203(b) does not identify an executive's role in the entity's complaint-handling process as one of the criteria for designating an attesting executive, and consumers should not rely on this designation for such a purpose. The Bureau acknowledges that the notice of proposed rulemaking stated that publishing the attesting executive's name and title would "inform consumers of a person to whom they could direct escalated complaints."⁴⁴⁷ However, in this final rule, the Bureau is not adopting this rationale for publishing the name and title of the attesting executive. The Bureau agrees with the commenter that a supervised registered entity's normal complaint-handling procedures may not always involve the designated executive in the entity's complaint-handling process, and that consumers' escalating of complaints or inquires to officers whom the entity has not designated as responsible for fielding complaints or

inquiries directly from the public may not always be effective or appropriate. Nor should consumers or other users of the nonbank registry utilize this information for the purposes of harassment, badgering, or intimidation of the entity's officers.

However, as described in the proposal,⁴⁴⁸ it is possible that at least under certain scenarios, consumers who are affected by a supervised registered entity's compliance (or failure to comply) with a covered order may benefit from knowing the name and title of the executive who has knowledge and control of the supervised entity's efforts to comply with the covered order. Publishing this information will enable consumers to better understand the operations and structure of the supervised registered entity—for example, which of the entity's lines of business or business names has responsibility for the matters addressed by the order, how their complaints or inquiries regarding matters relating to the order may be addressed, and how the entity's compliance efforts with respect to any one covered order may relate to its efforts with respect to other such orders.

Likewise, as stated in the proposal,⁴⁴⁹ publication of executive name and title information will enable employee whistleblowers, or other consumers who have knowledge and information about violations of the applicable order, to ensure that such information gets to the appropriate department or office within the supervised registered entity. Again, the Bureau agrees with commenters that whistleblowers and consumers generally should not rely on the name and title of the attesting executive as a tool for identifying the individual to whom to direct this information. The final rule is not intended to require supervised registered entities to establish different processes for such matters or to require attesting executives to become responsible for all whistleblower complaints. Nevertheless, publishing this information will help whistleblowers and consumers better understand the operations and structure of the supervised registered entity, including where—using any applicable processes established by the entity for obtaining information about such matters—to direct whistleblowing complaints or information about violations of the covered order in order to ensure that their complaint or information is being sent to the appropriate part of the organization.

⁴⁴⁸ *Id.*

⁴⁴⁹ *Id.*

⁴⁴⁷ 88 FR 6088 at 6102.

One commenter asserted that publication of the name and title of attesting executives would not ensure that supervised registered entities are legitimate entities and are able to perform their obligations to consumers under CFPA section 1024(b)(7)(C). First, to the extent this comment is intended to assert that § 1092.204(b)'s designation requirement is unlawful, the Bureau disagrees; see parts III and IV and the section-by-section discussion of § 1092.204(b). Second, this concern is not relevant to the Bureau's legal authority to publish this information. While the Bureau is promulgating the written-statement requirements, including the requirement to designate attesting executive(s) and submit written statements, under its authority under CFPA section 1024(b)(7)(A)–(C), the Bureau is also collecting attesting executives' names and titles under its market-monitoring authorities in CFPA section 1022(c).⁴⁵⁰ and it intends to publish such information under its authority at CFPA section 1022(c)(3), not under CFPA section 1024(b)(7)(A)–(C).⁴⁵¹ Nevertheless, the Bureau believes that publication of the name and title information will in fact independently help ensure that supervised registered entities are legitimate entities and are able to perform their obligations to consumers. Publishing this information will promote accountability and compliance at the supervised registered entity, helping to ensure that the supervised registered entity takes its legal duties seriously, and that it is not treating the risk of enforcement actions for violations of legal obligations as a mere cost of doing business. While the commenter questioned why an illegitimate entity would register at all, the Bureau believes that not all entities that register in compliance with the final rule will necessarily be perfectly willing and able to comply with their other legal obligations to consumers,

including those imposed by Federal consumer financial law. Collecting and publishing name and title information for attesting executives will help ensure these entities are legitimate.

With respect to commenters' privacy concerns, the only information collected under § 1092.204 related to the written statement that would be published under § 1092.205 is the attesting executive's name and title. The Bureau would not publish any contact information required to be submitted through the registry, which the Bureau intends to obtain as "administrative information" pursuant to filing instructions issued under § 1092.102(a). It is not clear how publication of this limited name and title information would result in any harassment of the attesting executives. Moreover, under the Freedom of Information Act,⁴⁵² an individual's expectation of privacy is diminished concerning matters where the individual is acting in a business capacity.⁴⁵³ Finally, the rule requires that the attesting executive be a high-ranking senior executive officer at the entity. As such, the Bureau believes that many attesting executives will already be publicly identified as employees of these entities in some other way (e.g., on the company's website or in filings, licenses, or registrations required under applicable Federal or State securities or corporate law). The Bureau does not believe publishing the name and title of the attesting executives implicates any more than a de minimis privacy interest.

Response to other comments received regarding publication.

Commenters did not provide any data supporting their claims about the likely size of covered nonbanks that would be subject to covered orders. Likewise, the industry commenter provided no evidence that new and emerging covered nonbanks are more likely to be subject to covered orders, or that the proposed registry would impose an unfair burden on them. While the Bureau does not expect the final rule to impose unfair or disproportionate effects on either small or large covered nonbanks, or based upon their new or emerging status, in any case the rule's requirements do not depend upon such matters. The Bureau intends to use the information it obtains through the rule to better understand the size and other characteristics of entities that are subject to covered orders. This information will be highly relevant and useful not just to

the Bureau but to all government regulators of covered nonbanks as well as the other potential users of the registry discussed above. With respect to potential costs associated with this provision on smaller entities, see parts VIII and IX.

As part of the purpose of the Bureau's publication of registry information under § 1092.205 is to make the information available and easily usable for a range of potential users, including the general public, the Bureau intends to develop a nonbank registry with the goal of making registry information searchable, sortable, and downloadable, among other things.

The Bureau believes the registry is authorized by the CFPA and does not conflict with other laws, including the FDCPA or its implementing Regulation F.⁴⁵⁴ The Bureau disagrees with commenters' suggestion that the Bureau's publication of information about covered orders and covered nonbanks as described in § 1092.205 is likely to lead to the disclosure of embarrassing information about consumers. As stated in part III(B), the Bureau's registry is designed to not collect any protected proprietary, personal, or confidential consumer information, and thus, the Bureau will not publish, or require public reporting of, any such information under § 1092.205.

Notwithstanding commenters' assertions, the Bureau believes that collection and publication of information will benefit other agencies, for the reasons provided in the description of the proposed rule above. The Bureau's publication of identifying information, which may not have been previously made public, will enable other agencies, as well as consumers and other users, to more readily identify companies that are subject to covered orders and otherwise obtain relevant information about them, such as their legal name and principal place of business. While certain identifying information about covered nonbanks, especially those that are subject to other disclosure obligations under Federal and State securities laws or other laws, may already be available, information about many covered nonbanks may not be publicly available. Nor will all covered nonbanks necessarily be subject to licensing regimes or, even if they are so subject, be duly licensed and registered in every jurisdiction where it is required. Publication by the Bureau of identifying information under § 1092.205 also will present such information in a consistent and readable

⁴⁵⁰ See *id.* at 6119.

⁴⁵¹ As discussed in the proposed rule, see 88 FR 6088 at 6128, the Bureau recognizes that the attesting executives' names and titles could be construed as "confidential supervisory information" as defined in the Bureau's confidentiality rules at 12 CFR 1070.2(i) because the Bureau is relying in part on its supervisory authority in 12 U.S.C. 5514 to collect the information. In the proposal, the Bureau explained that public release of information pursuant to proposed § 1092.204(a) would have been authorized by the Bureau's confidentiality rules at 12 CFR 1070.45(a)(7), which permits the Bureau to disclose confidential information "[a]s required under any other applicable law." The Bureau recognizes that 12 CFR 1070.45(a)(7) is no longer applicable because publication under the final rule is discretionary. As such, if the Bureau publishes the above-described information, it would do so pursuant to an authorization from the Director in accordance with 12 CFR 1070.46.

⁴⁵² 5 U.S.C. 552.

⁴⁵³ See, e.g., *Brown v. Perez*, 835 F.3d 1223, 1234–37 (10th Cir. 2016); *King & Spalding, LLP v. U.S. Dep't of Health & Human Servs.*, 395 F. Supp. 3d 116, 119–23 (D.D.C. 2019).

⁴⁵⁴ See 12 CFR part 1006.

format and will otherwise assist other agencies as well as other registry users in locating and using this information. In addition, Bureau publication of information regarding covered orders as described under § 1092.205 will collect and organize that information and make it easier to find and use. By requiring covered nonbanks to provide and maintain information about the orders under § 1092.202(d), the final rule will help ensure that other agencies and other users have ready access to collected and updated information about covered orders that may be relevant to their jurisdiction. As described in part V above, during interagency consultation some agencies stated they would use the information published in the registry, while others stated they would not.

See the section-by-section discussion of § 1092.203 above with respect to comments received regarding potential consumer confusion that commenters stated could be caused by the publication of information in the proposed registry in connection with the NMLS Consumer Access website, and the Bureau's adoption of optional one-time registration of NMLS-published covered orders under that section. As to other types of consumer confusion addressed by commenters, in the proposal,⁴⁵⁵ the Bureau acknowledged there may be some uncertainty over the degree to which consumers would use the publicized information and, when they do, over how consumers could interpret such information. The Bureau stated that it would continue to evaluate the possibility that publishing information collected under subpart B has the potential to create confusion, which, to the extent it occurs, is unlikely to serve the public interest. And the Bureau stated that, if it finalized the proposed provision on publishing registry information, it would consider options for publishing the information in a manner that mitigates this risk. No commenter submitted specific suggestions.

To be clear, registration of any covered person under the final rule does not constitute endorsement by the Bureau or any other agency of the Federal Government. Registered entities may also be subject to orders that are not published in the registry.

The Bureau does not believe, and does not intend by finalizing the rule or publishing information under § 1092.205 to suggest, that all covered orders are somehow equivalent. To the contrary, the Bureau understands that

covered orders are likely to vary widely in many ways, including in the types of covered nonbanks they are issued against, the types of covered laws they enforce, the type and magnitude of the harm to consumers they address, the types of remedies they impose, their duration, and any number of other matters. One of the reasons the Bureau is adopting the final rule is so that it may collect and review covered orders, including from covered nonbanks that it may not know about, in order to better understand such issues. As discussed in the section-by-section discussion of § 1092.201(e), the Bureau does not believe these differences among covered orders require modification of the proposal. An order that satisfies the definition of the term “covered order” is subject to the rule's requirements with respect to such orders, to the extent they apply.

Nor does the Bureau believe that any differences among covered orders would render publication of such orders or the other registration information required by the rule to be misleading or inappropriate. To the contrary, publication of the information collected through the registry will better enable users to review and understand such covered orders directly for themselves, and thus to better appreciate any differences among them that may exist. Thus, publication of registry information as intended by the Bureau will accord with the Bureau's objectives and functions under the CFPA of, among other things, ensuring that “markets for consumer financial products and services are fair, transparent, and competitive,”⁴⁵⁶ and “publishing information relevant to the functioning of markets for consumer financial products and services” to facilitate “identifying risks to consumers and the proper functioning of such markets.”⁴⁵⁷ Publication of the copies of covered orders obtained under § 1092.202(d)(1) will provide users with the opportunity to review the differences among covered orders.

The Bureau's potential publication of information relating to consent orders as described at § 1092.205 will not provide inaccurate, inconsistent, or misleading information to consumers, as the Bureau will simply be collecting and presenting factual information regarding orders that are already published (or required to be published) elsewhere. As discussed in parts VIII and IX below, the Bureau concludes that the publication provisions of the rule will impose only minor costs on affected entities resulting

from changes in consumer behavior. Publication of information as intended by the Bureau will enable users of the registry to access relevant factual information about covered nonbanks and covered orders and will not cause, but rather help prevent, confusion and the distribution of misleading information.

With respect to the commenter's objection to the publication of older orders, as discussed in the section-by-section discussion of § 1092.201(e) above, the Bureau acknowledges that in the intervening time following the issuance of a covered order and before registration, it is possible that many entities will have taken steps to address the violations and other issues identified in the covered order. But information regarding the issuance of such a covered order, and the information that will be collected under the final rule about the covered nonbank and the order, will still be useful to users of the registry. With respect to the comment that the Bureau should only require registration once a covered order has become subject to a minimum of five covered orders, the Bureau concludes that such an approach would omit useful information about both covered nonbanks and covered orders and would otherwise not further the purposes of the final rule. The Bureau also concludes that such an approach is not necessary in order to limit confusion for users of the registry. As discussed above, while the Bureau may publish information about covered nonbanks and covered orders as authorized under § 1092.205 in part to facilitate identification of entities that repeatedly break the law, the Bureau in this final rule does not purport to comprehensively define the term “repeat offender” or to establish any specific legal consequences of any such designation.

For further discussion of these and other comments regarding potential confusion related to the publication of information about covered orders, see the section-by-section discussion of § 1092.201(e) above.

The Bureau concludes that publication of the information collected under the registry with respect to such covered orders as described in § 1092.205 will serve the purposes described herein.

Response to Comments Received Regarding Proposed § 1092.204(b)

For the reasons given in the description of proposed § 1092.204(b) above, the Bureau concludes that treating the written statements that it receives under § 1092.204 of the final

⁴⁵⁵ See 12 U.S.C. 5511(a).

⁴⁵⁷ See 12 U.S.C. 5511(c)(3).

rule as CFPB confidential supervisory information, and not publishing them under § 1092.205 of the final rule, would facilitate the Bureau's supervision of supervised registered entities by enabling the Bureau to obtain frank and candid assessments and other information from supervised registered entities regarding violations and noncompliance in connection with covered orders. This information in turn would better enable the Bureau to spot emerging risks, focus its supervisory efforts, and address underlying issues regarding noncompliance, compliance systems and processes, and risks to consumers. The final rule adopts the proposal's approach and identifies the written statement as CFPB confidential supervisory information under § 1092.204(a)(1). The Bureau believes its existing regulations under part 1070 are adequate to establish safeguards for protecting the confidentiality of such information.

Final Rule

For the reasons described in parts III(B), IV(F), the section-by-section discussion of § 1092.205(a) above, and as follows, the Bureau is not finalizing § 1092.204(a) as proposed, but is instead adopting a revised § 1092.205(a) that provides that the Bureau "may" publish the information submitted to the nonbank registry pursuant to §§ 1092.202 and 1092.203.⁴⁵⁸ As described below, this provision will preserve the Bureau's discretion not to publish information based on operational considerations, such as resource constraints. The Bureau is also adopting proposed § 1092.204(b), which would have provided that the Bureau would not publish the annual written statement and would treat it as Bureau confidential supervisory information, largely as proposed but with revisions to reflect the renumbering of this provision as § 1092.205(a)(1) of the final rule. The Bureau is also adopting a provision at § 1092.205(a)(2) that expressly provides that the Bureau will not publish administrative information collected pursuant to subpart B.

Except as described below, the Bureau intends to publish a registry that contains the identifying information for covered nonbanks that the nonbank registry collects under § 1092.202(c) and the information regarding covered orders collected under § 1092.202(d) and (f), as well as certain information collected under § 1092.203 for the purposes of enabling users of the

registry to identify NMLS-published covered orders and the applicable covered nonbanks subject to them. Under CFPB section 1022(c)(3), the Bureau "shall publish not fewer than 1 report of significant findings of its monitoring required by this subsection in each calendar year," and "may make public such information obtained by the Bureau under this section as is in the public interest."⁴⁵⁹ Except as described below, the Bureau finds that it would be in the public interest to publish information (other than "administrative information," which the final rule provides the Bureau will not publish) that has been appropriately submitted to the nonbank registry as required under § 1092.202. In addition, except as described below, the Bureau finds that the publication of certain information submitted under § 1092.203 will be in the public interest where publication would serve the purposes of allowing users of the Bureau's public registry to identify that a covered nonbank has become subject to a covered order and to be able to locate information about that covered nonbank and covered order on the NMLS Consumer Access website. The Bureau may also collect additional information under § 1092.203 for the purpose of coordinating the nonbank registry with the NMLS that it may choose not to publish. The Bureau concludes that such publication of the above-described information will be in the public interest for the reasons provided in parts III(B) and IV(F) and this section-by-section discussion of § 1092.205(a).

However, and notwithstanding the conclusions in the paragraph above, the Bureau reserves discretion not to publish information based on operational considerations, including resource constraints.

In light of the adopted provision providing the Bureau with discretion not to publish any or all of the information collected, the Bureau is not finalizing the provision in the proposed rule that would have expressly reserved the right not to publish any information that it determines may be inaccurate, not required to be submitted under subpart B, or otherwise not consistent with part 1092 and any accompanying guidance. However, under the final rule, the Bureau retains the discretion not to publish any information that it determines may be inaccurate, not required to be submitted under subpart B, or otherwise not consistent with part 1092 and any accompanying guidance.

The final rule provides that the publication described in § 1092.205(a)

will not include the annual written statement submitted by supervised registered entities under § 1092.204. The Bureau adopts § 1092.204(b) as proposed (renumbered as § 1092.205(a)(1)) for the reasons described above, with minor revisions to reflect the renumbering of § 1092.204 and this provision.

The Bureau is also adopting a provision at § 1092.205(a)(2) that expressly provides that the publication described in § 1092.205(a) will not include "administrative information," as that term is defined at § 1092.201(a). The proposed rule had reserved the Bureau's right not to publish administrative information, but did not expressly prohibit its publication under proposed § 1092.204(a). However, the Bureau concludes that administrative information should not be made publicly available under § 1092.205(a). The identifying information collected under § 1092.202(c) already will facilitate the ability of consumers to identify covered persons for purposes of the Bureau's authority in CFPB section 1022(c)(7)(B) to publicly disclose registration information. Further, including administrative information with other information the Bureau publishes pursuant to § 1092.205(a) is unlikely to serve the public interest for purposes of the Bureau's authority to publish information under CFPB section 1022(c)(3). The publication of information collected for a purely administrative purpose generally will not be useful to external users of the registry. Administrative information is likely to include information such as time and date stamps, contact information, and administrative questions. The Bureau may need such information to work with personnel at nonbanks and in order to administer the nonbank registry. As discussed in the section-by-section discussion of § 1092.201(a) above, the Bureau will also treat as administrative information the notifications of nonregistration submitted under §§ 1092.202(g) and 1092.204(f). Publishing such information would not be in the public interest because it is unclear what use the public would have for such information. In addition, publishing such information likely would be counterproductive to the goals of ensuring compliance with the proposal.

Also, as discussed in the section-by-section discussion of § 1092.202(d) above, under the final rule, the Bureau will treat as "administrative information" and not publish information collected under the nonbank registry regarding the names of the person's affiliates registered under

⁴⁵⁸ See the section-by-section discussion of § 1092.101(d) above regarding the Bureau's adoption of the revised term "nonbank registry."

⁴⁵⁹ 12 U.S.C. 5512(c)(3).

subpart B with respect to the same covered order. The proposal would have collected this information under proposed § 1092.202(d)(1)(v) and published it under § 1092.204(a). Under the final rule, § 1092.201(d)(1)(v) has been deleted, but the Bureau may determine to collect this information as “administrative information” under § 1092.202(c). In filing instructions issued under § 1092.102(a), the Bureau will specify whether and how it will collect such information. The Bureau anticipates that collecting such affiliate information may be useful in administering the nonbank registry including in connection with administering any joint or combined submissions by affiliates under § 1092.202. However, while such affiliate information will generally be obvious from the face of the relevant covered order or otherwise from information that has been reported publicly, it may not always be, and the Bureau at this time does not believe that there would be a significant public benefit associated with publishing this information through its registry. Therefore, the Bureau has determined not to mandate the collection of such information in the final rule, and not to publish such information under § 1092.205 if it is collected.

Section 1092.205(b) Other Publications of Information

Proposed Rule

Proposed § 1092.204(c) would have provided that the Bureau may, at its discretion, compile and aggregate data submitted by persons under proposed subpart B and may publish such compilations or aggregations (in addition to any other publication under proposed § 1092.204(a)). The Bureau explained that any such publication that relates to annual written statements submitted under proposed § 1092.203 would be in a form that is consistent with the Bureau’s treatment of those annual written statements as Bureau confidential supervisory information.⁴⁶⁰

Comments Received

Commenters did not specifically address proposed § 1092.204(c).

Final Rule

For the reasons set forth in the above description of the proposal, the Bureau adopts § 1092.204(c) as proposed (renumbered as § 1092.205(b)), with minor technical edits. Any publication under § 1092.205(b) that relates to administrative information submitted to the nonbank registry under § 1092.202

will be in an aggregated or other appropriate format that is designed not to disclose that particular administrative information relates to a particular covered nonbank.

Section 1092.205(c) Correction of Submissions to the Nonbank Registry

Proposed Rule

Proposed § 1092.204(d) would have clarified that a covered nonbank must correct an information submission within 30 days of when it becomes aware or has reason to know the submitted information was and remains inaccurate. Proposed § 1092.204(d) would have clarified that the process for making corrections will be described in the filing instructions the Bureau issues pursuant to proposed § 1092.102(a). Proposed § 1092.204(d) also would have clarified that the Bureau may direct a covered nonbank to correct errors or other non-compliant submissions to the NBR system. Under proposed § 1092.204(d), the Bureau could have directed corrections at any time and in its sole discretion.

Comments Received

Commenters did not specifically address proposed § 1092.204(d).

Final Rule

For the reasons set forth in the above description of the proposal, the Bureau adopts § 1092.204(d) as proposed (renumbered as § 1092.205(c)), with minor technical changes.⁴⁶¹

Section 1092.206 Nonbank Registry Implementation Dates

Proposed Rule

Proposed § 1092.101(e) would have defined the term “nonbank registration system implementation date” to mean, for a given requirement or subpart of part 1092, the date(s) determined by the Bureau to commence the operations of the NBR system in connection with that requirement or subpart. As stated in the proposal, the Bureau proposed to provide advance public notice regarding the nonbank registration system implementation date with respect to proposed subpart B to enable entities subject to subpart B to prepare and submit timely filings to the NBR system.

Comments Received

Commenters did not specifically address the definition of “nonbank registration system implementation date” in proposed § 1092.101(e). For a discussion of comments addressing the

timing of the effective date of the Bureau’s proposed rule, see part VII below.

Final Rule

For the reasons discussed below and in the section-by-section discussion of § 1092.101(e) above and part VII below, the Bureau is adopting the revised term “nonbank registry implementation date” instead of the term “nonbank registration system implementation date” used in the proposed rule and is adopting a revised definition of this term to provide that the Bureau may specify a nonbank registry implementation date with respect to a given person or category of persons. The Bureau is also adopting § 1092.206 to specify the nonbank registry implementation date for given categories of covered nonbanks. The Bureau is not adopting the proposal to provide in the rule that the Bureau would specify the “nonbank registration system implementation date” for subpart B following the issuance of the final rule. Instead, to provide greater certainty and clarity to covered nonbanks as of the issuance of the final rule, the Bureau is specifying nonbank registry implementation dates for subpart B in § 1092.206 of the final rule.

The nonbank registry implementation date established under § 1092.206 is relevant to two provisions of the final rule. As provided in § 1092.202(b)(2)(i), each covered nonbank required to register under § 1092.202 must submit a filing containing the information described in § 1092.202(c) and (d) to the nonbank registry within the later of 90 days after the applicable nonbank registry implementation date under § 1092.206 or 90 days after the effective date of any applicable covered order. And as provided in § 1092.204(a)(1), § 1092.204 applies only with respect to covered orders with an effective date on or after the applicable nonbank registry implementation date. Thus, this provision will affect the timeframe for submission of covered orders during the initial rollout of the nonbank registry and the covered orders that will be subject to § 1092.204’s written-statement requirements.

Section 1092.206 establishes the nonbank registry implementation date for purposes of subpart B as follows. Under § 1092.206(a)(1), for a covered nonbank that (as of the effective date of subpart B) is a larger participant of a market for consumer financial products or services described under CFPA section 1024(a)(1)(B) as defined by one or more rules issued by the Bureau, the nonbank registry implementation date for subpart B is 30 days after subpart B

⁴⁶¹ See the section-by-section discussion of § 1092.101(d) above regarding the Bureau’s adoption of the revised term “nonbank registry.”

⁴⁶⁰ See, e.g., 12 CFR 1070.41(c).

takes effect with respect to that covered nonbank. Under § 1092.206(a)(2), for a covered nonbank that (as of the effective date of subpart B) is described under any other provision of CFPA section 1024(a)(1), the nonbank registry implementation date for subpart B is 120 days after subpart B takes effect with respect to that covered nonbank. Under § 1092.206(a)(3), for any other covered nonbank, the nonbank registry implementation date for subpart B is 210 days after subpart B takes effect with respect to that covered nonbank. (Section 1092.206(a)(3) shall apply to a covered nonbank that for the first time becomes subject to the Bureau's supervision and examination authority under CFPA section 1024(a)(1) after the effective date of subpart B.)

For the administrability of the nonbank registry, which has numerous potential registrants, the Bureau has determined that registering different categories of nonbank covered persons in different phases will be appropriate. The phased implementation approach will also alleviate potential confusion in complying with the requirements of the final rule and promote greater stability and certainty for registered entities. This phased implementation approach will better enable the Bureau to learn from the information collected and its experience in maintaining the registry, and to enhance its processes before information from a wider universe of covered nonbanks is collected. As described above, the first phase under subpart B will register larger participants, the second phase will register other supervised nonbanks, and the third phase will register other covered nonbanks. Larger participants generally have greater resources to comply with the rule's requirements than do smaller business concerns. Other supervised markets may include smaller business concerns that are affected by the rule to the extent they are not excluded, such as by the exclusion for entities with less than \$5 million in relevant receipts described in § 1092.201(q) discussed in the section-by-section discussion of that paragraph above. As a result, the phased registration groupings described above (registering larger participants first, then other covered nonbanks supervised under any other provision of CFPA section 1024(a)(1), then other covered nonbanks) would leave more time for most supervised registrants that are not larger enterprises to comply with the registration requirements. In addition, the Bureau believes it is appropriate to begin collecting information from covered nonbanks that are subject to the

Bureau's supervision and examination authority first before extending the rule's registration requirements to other covered nonbanks, as such information will generally be more relevant to the Bureau's supervisory prioritization efforts and its supervision program.

The Bureau is also adopting § 1092.206(b), which clarifies that if paragraph (a) would establish a nonbank registry implementation date on a date that is a Saturday, Sunday, or Federal holiday, the applicable nonbank registry implementation date will be the next day that is not a Saturday, Sunday, or Federal holiday. Therefore, given an effective date for the final rule of September 16, 2024, for purposes of subpart B the nonbank registry implementation date established under § 1092.206(a)(1) will be Wednesday, October 16, 2024; under § 1092.206(a)(2), the date will be Tuesday, January 14, 2025; and under § 1092.206(a)(3), the date will be Monday, April 14, 2025.

VII. Effective Date of Final Rule

Proposed Rule

The Administrative Procedure Act generally requires that rules be published not less than 30 days before their effective dates.⁴⁶² The Bureau proposed that, once issued, the final rule would be effective 30 days after it is published in the **Federal Register**. However, it proposed that registrants would only need to submit information once the Bureau launched and announced a registration system, which the proposal noted was likely to be no earlier than January 2024.

Comments Received

An industry commenter stated that the effective date of the rule should be at least a year from the date it is promulgated, in order to provide adequate time to establish the suggested processes, procedures, and reports in addition to adding additional staff to support the process that would be required under the proposal.

Response to Comments Received

The final rule will take effect on September 16, 2024. The Bureau disagrees with the commenter that additional time will be needed for entities to comply with the final rule. The final rule's effective date is more than three months from the issuance of the rule, and more than 60 days after anticipated publication in the **Federal Register**. This is a longer time period than the 30 days in the proposed rule. This longer period will provide

additional time for covered nonbanks to prepare to comply with their obligations under the final rule. In addition, as discussed in the section-by-section analysis of § 1092.206 above, for the administrability of the nonbank registry the Bureau has determined that registering different nonbank covered persons in different phases will be appropriate. This phased implementation approach will better enable the Bureau to learn from the information collected and its experience in maintaining the registry, and to enhance its processes before information from a wider universe of covered nonbanks is collected. The Bureau is also specifying nonbank registry implementation dates for subpart B in § 1092.206 of the final rule to provide greater certainty and clarity to covered nonbanks as of the issuance of the final rule. Given an effective date of September 16, 2024, the earliest nonbank registry implementation date is Wednesday, October 16, 2024, or 30 days after the final rule's effective date, and no entity will be required to submit any information to the nonbank registry before Tuesday, January 14, 2025.

In addition, the reporting obligations imposed by the rule are modest. As discussed further in part VIII, the impact of the registration provisions of the rule on affected firms would be limited, and, relative to the baseline, the written-statement requirements should impose only modest costs on most covered entities. The Bureau disagrees with the industry commenter that covered nonbanks will be required to adopt costly new processes or hire a significant number of additional staff in order to achieve compliance with the final rule.

Final Rule

The effective date of the final rule is September 16, 2024. This date is more than three months after the issuance of the rule, and more than 60 days after anticipated publication in the **Federal Register**. This is a longer time period than the 30 days in the proposed rule. This longer time period will provide additional time for covered nonbanks to prepare to comply with their obligations under the final rule.

VIII. Dodd-Frank Act Section 1022(b)(2) Analysis

A. Overview

In developing this final rule, the Bureau has considered the rule's potential benefits, costs, and impacts.⁴⁶³

⁴⁶³ Specifically, section 1022(b)(2)(A) of the CFPA requires the Bureau to consider the potential benefits and costs of the regulation to consumers

⁴⁶² 5 U.S.C. 553(d).

In developing this final rule, the Bureau has consulted with, or offered to consult with, the appropriate prudential regulators and other Federal agencies, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies. Under CFPB sections 1022(c)(7)(C) and 1024(b)(7)(D), the Bureau has also consulted with State agencies regarding this final rule's requirements and registry.⁴⁶⁴

The Bureau is issuing this final rule to require nonbanks to report certain public agency and court orders imposing obligations based on violations of consumer protection laws because the creation and maintenance of a central repository for information regarding such public orders that have been imposed upon nonbank covered persons will support Bureau functions in a variety of ways and thus ultimately benefit consumers. The Bureau also believes that consumers, the public, and other potential users of the proposed registry would benefit if the Bureau publishes certain information from the registry, as it intends to do.⁴⁶⁵ In addition, the Bureau's receipt of annual supervisory reports from its supervised nonbanks regarding their compliance with such orders would facilitate the Bureau's supervisory efforts and assessment and detection of risks to consumers and help ensure that supervised nonbanks are legitimate entities and are able to perform their obligations to consumers.

This final rule has three principal sets of substantive provisions, which are separately analyzed below. The first set of provisions (hereinafter referred to as the "Registration Provisions") will require nonbank covered persons that are subject to certain public orders to register with the Bureau and to submit certain information related to those public orders to the Bureau. The second set of provisions (hereinafter referred to as the "Supervisory Reports Provisions") will require nonbank covered persons that are subject to supervision and examination by the Bureau to prepare and submit an annual written statement, signed by a designated individual, regarding compliance with each covered public

and covered persons, including the potential reduction of access by consumers to consumer financial products and services; the impact of the proposed rule on insured depository institutions and insured credit unions with \$10 billion or less in total assets as described in section 1026 of the CFPB; and the impact on consumers in rural areas. 12 U.S.C. 5512(b)(2)(A).

⁴⁶⁴ 12 U.S.C. 5512(c)(7)(C), 5514(b)(7)(D).

⁴⁶⁵ For more information on the issue of publication, see the section-by-section discussion of § 1092.205.

order. The third set of provisions (hereinafter referred to as the "Publication Provisions") describes the registration information the Bureau may make publicly available.

The Bureau received multiple comments on the proposal stating that the proposed registry was redundant with existing registries and other published information, and in particular with the NMLS. See the section-by-section analysis of § 1092.203 above for a discussion of these comments and the Bureau's response. Consistent with an approach suggested by commenters, the Bureau is adopting an express exception from the requirements of the rule for orders that are published on the NMLS Consumer Access website, except for orders issued or obtained at least in part by the Bureau; that exception may be exercised at the option of the covered nonbank. Nonbanks that exercise this option may submit a one-time registration regarding certain agency and court orders that are published on the NMLS Consumer Access website maintained at www.NMLSCConsumerAccess.org, in lieu of complying with the other requirements of the rule with respect to the order. Such nonbanks will be required to submit certain limited information to the nonbank registry to enable the Bureau to identify the relevant nonbank and order and otherwise coordinate the nonbank registry with the NMLS. Upon exercising this option and submitting the required information about the relevant order, a nonbank will have no further obligation under subpart B to provide information to, or update information provided to, the nonbank registry regarding the order. By allowing this option, this final rule addresses many comments received and lowers the cost to firms of the final rule relative to the proposed rule.

B. Data Limitations and Quantification of Benefits, Costs, and Impacts

The discussion below relies in part on information that the Bureau has obtained from commenters, other regulatory agencies, and publicly available sources. The Bureau has performed outreach with other regulatory agencies on many of the issues addressed by this final rule. However, as discussed further below, the data are generally limited with which to quantify the costs, benefits, and impacts of the final provisions. In light of these data limitations, the analysis below generally provides a qualitative discussion of the benefits, costs, and impacts of the final provisions. General economic principles

and the Bureau's experience and expertise in consumer financial markets, together with the limited data that are available, provide insight into these benefits, costs, and impacts.

C. Baseline for Analysis

In evaluating the benefits, costs, and impacts of the final rule, the Bureau takes as a baseline the current legal framework regarding orders that will be covered under the final rule. Therefore, the baseline for the analysis of the final rule is that nonbank covered persons are not required to register with the Bureau, nonbank covered persons subject to Bureau supervision and examination generally are not required to prepare and submit annual reports regarding compliance with public orders enforcing the law, and information on the nonbank covered persons and most corresponding covered orders is generally not published by the Bureau in the manner contemplated by the final rule.

The final rule should affect the market as described below for as long as it is in effect. However, the costs, benefits, and impacts of any rule are difficult to predict far into the future. Therefore, the analysis below of the benefits, costs, and impacts of the final rule is most likely to be accurate for the first several years following implementation of the final rule.

D. Potential Benefits and Costs of the Final Rule to Consumers and Covered Persons

With certain exceptions, the final rule will apply to covered persons as defined in the CFPB, including persons that engage in offering or providing a consumer financial product or service.⁴⁶⁶ Among others,⁴⁶⁷ these products and services generally include those listed below, at least to the extent they are offered or provided for use by consumers primarily for personal, family, or household purposes:

- Extending credit and servicing loans;
- Extending or brokering certain leases of personal or real property;
- Providing real estate settlement services;
- Engaging in deposit-taking activities, transmitting or exchanging funds, or otherwise acting as a custodian of funds;
- Selling, providing, or issuing stored value or payment instruments;
- Providing check cashing, check collection, or check guaranty services;

⁴⁶⁶ For the full scope of the term "covered person," see 12 U.S.C. 5481(6).

⁴⁶⁷ For the full scope of the term "consumer financial product or service," see 12 U.S.C. 5481(5).

- Providing payments or other financial data processing products or services to a consumer by any technological means;
- Providing financial advisory services;
- Collecting, analyzing, maintaining, or providing consumer report information or certain other account information; and
- Collecting debt related to any consumer financial product or service.⁴⁶⁸

The Registration and Publication Provisions will affect such covered persons (as that term is defined in 12 U.S.C. 5481(6)) that (1) do not fall within any of the listed exclusions in § 1092.201(d), such as those for insured depository institutions, insured credit unions, and related persons (as that term is defined in 12 U.S.C. 5481(25)), and (2) have had covered orders issued against them. The Supervisory Reports

Provisions will affect such covered persons that (1) are subject to supervision and examination by the Bureau pursuant to CFPB section 1024(a),⁴⁶⁹ (2) have had covered orders issued against them, (3) are at or above the \$5 million annual receipt threshold, unless such covered persons are subject to certain exclusions, and (4) are not registering covered orders under the one-time registration option for NMLS-published covered orders under § 1092.203.

A major benefit of the final rule is that it will give the Bureau comparatively high-quality data on the number and type of covered orders. Currently, the Bureau does not have high-quality data on the number of covered orders, nor does it have high-quality data on the number of nonbank covered persons that are subject to covered orders.

To derive an estimate of the number of affected entities under the final rule

using publicly available data, the Bureau used data from the most recent available Economic Census. Table 1 below presents entity counts for the North American Industry Classification System (NAICS) codes that generally align with the financial services and products listed above. The markets defined by NAICS codes in some cases include entities that will not qualify as covered nonbanks under the final rule. It is also possible that some covered nonbanks may not be counted in the table below, because, for example, the financial services they provide are not their primary line of business. The Bureau sought comment on NAICS codes not included in table 1 that include a significant number of entities that will be affected by the final rule, and no commenters recommended that other NAICS codes be included.

TABLE 1—POTENTIAL SCOPE OF FINAL RULE

NAICS name(s)	NAICS code(s)	Number of NAICS entities
Nondepository Credit Intermediation	5222	14,330
Activities Related to Credit Intermediation	5223	13,618
Portfolio Management	523920	24,430
Investment Advice	523930	17,510
Passenger Car Leasing	532112	449
Truck, Utility Trailer, and Recreational Vehicle Rental and Leasing	532120	1,612
Activities Related to Real Estate	5313	79,563
Consumer Reporting	561450	307
Debt Collection	561440	3,224
Total .....	.....	155,043

Therefore, for purposes of its analysis of the final rule, the Bureau estimates that there are roughly 155,043 covered nonbanks. As noted above, covered nonbanks will only be affected by the rule if they are subject to covered orders. Based on its experience and expertise, the Bureau estimates that perhaps one percent, and at most five percent, of covered nonbanks are subject to covered orders. Therefore, the Bureau estimates that the rule would likely affect between 1,550 and 7,752 covered nonbanks. The Bureau sought comment and submissions of data concerning the number and characteristics of covered nonbanks subject to covered orders but did not receive data contradicting its estimate. The Bureau also sought input on this subject during its consultation process with other Federal, State, and Tribal regulators. Notably, a coalition of State-regulator commenters with access to data from NMLS did not question the

Bureau’s estimate. Moreover, this coalition used the Bureau’s estimate in combination with NMLS data to make arguments, which are discussed below, regarding the rule’s potential impact on small entities and covered nonbanks subject to supervision and examination by the Bureau.

However, a different commenter appeared to disapprove of the Bureau’s estimates, asserting that the CFPB was merely guessing on the potential scope of its rule. This commenter did not provide other analytical approaches or data for the CFPB to consider when estimating the number of affected nonbanks, nor did the commenter provide a different estimate. In response to this comment, the Bureau sought to check the reasonableness of its estimate by obtaining data from a database titled “Violation Tracker,” maintained by Washington, DC-based nonprofit Good Jobs First (<https://violationtracker>.

goodjobsfirst.org/). The database collects reports of orders entered against companies for violating a wide range of laws. From the database, the Bureau obtained data on agency actions identified in the database as involving “consumer-protection related offenses” or “financial offenses” with penalty announcement dates between 2017 and April 2024. This data set includes roughly 13,200 orders. The Bureau further limited the data to orders identified by the database as involving a “primary offense type” related to “consumer protection,” “discriminatory practices (non-employment),” “privacy,” “banking,” “mortgage abuses,” or “payday lending,” which resulted in a collection of roughly 4,500 orders. Of these, some orders apply to the same entity. Taking those orders into account, the Bureau estimates that this set of orders applies to roughly 3,700–4,000 unique entities. The Bureau

⁴⁶⁸ See 12 U.S.C. 5481(15) (defining term “financial product or service”).

⁴⁶⁹ 12 U.S.C. 5514(a).

notes that these numbers are consistent with its estimate of the number of entities likely to be affected by the final rule (1,550 to 7,752 covered nonbanks), which the Bureau provided in the proposal and reaffirms here.⁴⁷⁰

The Bureau sought comment and submissions of data concerning the number and characteristics (such as annual revenues, number of employees, and main area of business) of covered nonbanks subject to covered orders. However, commenters generally did not provide, and the Bureau does not have, this kind of quantitative data to analyze the costs, benefits, and impacts of the final rule. In light of the limited data available to the Bureau on the number of covered nonbanks subject to covered orders, the analysis below focuses on the potential benefits and costs of the proposed rule for affected consumers and covered nonbanks.

1. Registration Provisions

Under these final provisions, affected entities will have to provide: (1) identifying information and

⁴⁷⁰ The Bureau's analysis of the Violation Tracker data may exclude some covered nonbanks subject to covered orders. The Violation Tracker database excludes orders with penalties of less than \$5,000, so the estimates above do not account for them. In addition, the filters that the Bureau has applied may have excluded some orders that would qualify as "covered orders" subject to the rule's requirements. Moreover, the Bureau has not verified the accuracy or completeness of the Violation Tracker data, so it is possible the data do not include some covered orders that would need to be registered under the rule.

The estimates derived above also likely include some entities that are not covered nonbanks subject to covered orders. The Violation Tracker database does not purport to identify "covered orders" that would be subject to the final rule's registration requirements, and the "primary offense types" identified in the data may be highly overinclusive. Further, among the orders in the data set, the rule's registration requirements would apply only to those orders that remain in effect as of the rule's effective date, but the Bureau lacks data to exclude from its analysis of the Violation Tracker data orders that are no longer in effect. Indeed, the written statement provisions apply only to orders with an effective date on or after the applicable nonbank registry implementation date, so none of the orders described above will implicate the written statement provisions. The data include orders that may not be "public" as defined in the final rule; see § 1092.201(m) of the final rule. And many entities subject to the identified orders are insured depository institutions or insured credit unions and so will not be "covered nonbanks" under the final rule; see § 1092.201(d)(1) of the final rule. Thus, many, and perhaps most, of the orders included in the estimates above are likely not "covered orders" under the final rule.

Because of these caveats, the Bureau does not view the 3,700–4,000 numbers derived above from the Violation Tracker database as a highly accurate estimate of the number of entities likely to be affected by the final rule. However, the Bureau finds that these data further confirm the reasonableness of the Bureau's estimate in the proposed rule of the number of entities that the rule will likely affect.

administrative information and (2) information regarding covered orders. The Bureau believes this information should be readily available to affected firms. Therefore, the cost of complying with the Registration Provisions for most affected firms should be on the order of a few hours of an employee's time. The cost would likely be even lower for firms that have and exercise the option to register NMLS-published covered orders under § 1092.203. The cost may be higher for firms with several covered orders, or with covered orders that are frequently modified and are not registered under § 1092.203's one-time-registration provisions.

The Bureau generally expects that firms will know whether they are covered persons or are subject to covered orders. If a firm is unsure of its obligations under the Registration Provisions, one option would be to hire outside legal counsel to advise them on these issues. However, another option for such firms would be to register using the nonbank registry, even if doing so is not legally required. As explained above, the cost associated with registering an order is likely low—a few hours of an employee's time. In addition, if firms have a good-faith basis to believe they are not covered nonbanks (or that their orders are not covered orders), they may submit a notice to the nonbank registry stating such under § 1092.202(g). Preparing and submitting such notices would take at most a few hours of an employee's time. The Bureau further notes that the mere act of registering an order or submitting a § 1092.202(g) notice is unlikely to have significant indirect costs because § 1092.102(c) would provide that the rule "does not alter any applicable process whereby a person may dispute that it qualifies as a person subject to Bureau authority." Firms should generally choose the lowest-cost option available to them, and low-cost options—either registering under the nonbank registry or filing a notice under proposed § 1092.202(g)—are options available to firms.

To obtain a quantitative estimate of the cost of this final provision, the Bureau assesses the average hourly base wage rate for the reporting requirement at \$49.29 per hour. This is the mean hourly wage for employees in four major occupational groups assessed to be most likely responsible for the registration process: Management (\$66.23/hr); Legal Occupations (\$64.34/hr); Business and Financial Operations (\$43.55/hr); and Office and Administrative Support

(\$23.05/hr).⁴⁷¹ We multiply the average hourly wage of \$49.29 by the private industry benefits factor of 1.42 to get a fully loaded wage rate of \$70.00/hr.⁴⁷² The Bureau includes these four occupational groups in order to account for the mix of specialized employees that may assist in the registration process. The Bureau assesses that the registration process will generally be completed by office and administrative support employees that are generally responsible for the registrant's paperwork and other administrative tasks. Employees specialized in business and financial operations or in legal occupations are likely to provide information and assistance with the registration process. Senior officers and other managers are likely to review the registration information before it is submitted and may provide additional information. Assuming as outlined above a fully loaded wage rate of roughly \$70, and that complying with this provision would take around five hours of employees' time, yields a cost impact of around \$350 per firm. Again, the cost would likely be even lower for firms that have and exercise the option to register NMLS-published covered orders under § 1092.203. Because § 1092.203 requires less information from covered nonbanks than § 1092.202, exercising the option made available in § 1092.203 should take even less employee time.⁴⁷³ Therefore, the impact of this final provision on affected firms will be limited.

One commenter appeared to disagree with the Bureau's cost estimate, objecting to the proposed rule because of the expense of submitting, monitoring, and updating the "vast" amount of information under the rule. As discussed in more detail above, the Bureau does not agree that the Registration Provisions require entities to submit "vast" amounts of information. The commenter did not elaborate on this point or provide alternative data or analysis to produce

⁴⁷¹ See U.S. Bureau of Labor Statistics, National Occupational Employment and Wage Estimates United States (May 2023), https://www.bls.gov/oes/current/oes_nat.htm. The hourly wage estimates used in the proposed rule were slightly different because they were drawn from 2021 data.

⁴⁷² As of December 2023, the ratio between total compensation and wages for private industry workers is 1.42. See U.S. Bureau of Labor Statistics, Employer Costs for Employee Compensation: Private industry dataset (December 2023), <https://www.bls.gov/web/ecec/ecec-private-dataset.xlsx>.

⁴⁷³ In the unlikely event that a covered nonbank concluded that registering an NMLS-published covered order under § 1092.203 would be more costly than registering it under § 1092.202, the covered nonbank could forgo the option presented in § 1092.203 and register the order under § 1092.202 instead.

an alternative cost estimate of the Registration Provisions. However, the Bureau agrees that entities registering orders under § 1092.202 may incur ongoing costs to comply with § 1092.202(b)(2)(ii), which requires that covered nonbanks submit revised registration filings within 90 days after any amendment to a registered covered order or information required under § 1092.202(c) or (d). Similarly, § 1092.202(f) requires a registered entity to submit a revised filing within 90 days if a covered order is terminated, modified, or abrogated, or if it ceases to be a covered order by operation of § 1092.202(e).⁴⁷⁴ The Bureau believes that the cost of those subsequent filings would generally be less than the cost of preparing and submitting the initial registration.

These final provisions will likely not provide any benefits for affected firms.

These final provisions will give the CFPB comparatively high-quality information on outstanding covered orders and the entities subject to those orders. That information will assist the Bureau in monitoring for risks to consumers in the offering or provision of consumer financial products or services. The registry will allow the Bureau to more effectively monitor for potential risks to consumers arising from both individual violations of consumer protection laws and broader patterns in such violations and enforcement actions intended to address them. Such monitoring, in turn, will help inform the Bureau's exercise of its other authorities. It will assist the Bureau in determining whether to prioritize certain entities for risk-based supervision, or to investigate whether certain entities have committed violations that warrant Bureau enforcement actions. The Bureau also anticipates that the Registration Provisions will give it more information on important gaps in existing consumer financial protection laws and will therefore improve future Bureau regulations. In addition, by providing the Bureau with more information on consumer harms in various markets, the Registration Provisions will improve the Bureau's consumer education efforts. All of these effects would benefit consumers.⁴⁷⁵ The Bureau does not have any data to quantify these benefits.

⁴⁷⁴ Covered nonbanks registering NMLS-published covered orders under § 1092.203 are not required to submit revised filings under § 1092.202(b)(2)(ii) or (f).

⁴⁷⁵ The Bureau will achieve these benefits even for NMLS-published covered orders registered under § 1092.203 of the final rule. Although registrations under § 1092.203 will include less information than under § 1092.202, registrations

A joint letter by State regulators argued that the notice of proposed rulemaking overstated the benefits to the Bureau of the proposed rule. The letter asserted that the Bureau has not proven that there is a recidivism problem among nonbanks that would necessitate the creation of the Bureau's registry and that State regulators are effectively protecting consumers from repeat offenders through existing mechanisms and authorities. To substantiate this claim, the letter provided examples of instances in which agencies have brought actions against entities that have repeatedly violated the law. The Bureau agrees with the point that it and other regulators have at times successfully brought enforcement actions against entities that have repeatedly violated the law. But the Bureau disagrees with the commenter's view that this implies the Bureau and other regulators could not or should not improve their regulatory, supervisory, and enforcement activity. As described in the paragraph above, the registry will assist the Bureau in monitoring for risks to consumers in the offering or provision of consumer financial products or services. Among other things, the registry will assist the Bureau in analyzing trends in enforcement actions against covered nonbanks, including trends regarding nonbank recidivism. Notably the State regulators' joint letter provides no concrete data on such trends and instead only provides anecdotal examples of individual enforcement actions; providing data on such trends will be one benefit of the rule.

The Registration Provisions will likely not impose any significant costs on consumers. As noted above, the final provisions would impose limited costs on a minority of firms in consumer finance markets. Firms are unlikely to raise prices as a consequence, given the minimal size of the cost increase and the fact that it is borne by a small portion of the overall market.

2. Supervisory Reports Provisions

These final provisions will only affect covered nonbanks subject to Bureau supervision and examination. Furthermore, such covered nonbanks that have opted to register NMLS-published covered orders under § 1092.203 will not be subject to these

under § 1092.203 will notify the Bureau about the existence of the covered nonbank and the issuance of an applicable order against it. The Bureau will then generally be able to obtain further information about the order and the covered nonbank through the NMLS and the agency that issued or obtained the order.

final provisions with respect to such orders. Therefore, they will affect fewer covered nonbanks and fewer consumers than the Registration Provisions analyzed above.

Some firms may be unsure whether they are supervised covered persons not otherwise excluded from the requirements of the final Supervisory Reports Provisions, or whether they are subject to covered orders, so they may be unsure whether they will have to comply with these final provisions. The Bureau notes that complying with these final provisions if it is legally unnecessary is unlikely to have greater costs than if it is legally necessary, because § 1092.102(c) provides that the rule does not alter applicable processes whereby a person may dispute that it qualifies as a person subject to Bureau authority. Also, under § 1092.204(f), if a firm has a good-faith basis to believe that it is not a supervised registered entity subject to the Supervisory Reports Provisions (or that its order is not a covered order), it may submit a notice to the nonbank registry stating as such. Preparing and submitting such a notice would take at most a few hours of an employee's time. Firms should generally choose the lowest-cost option available to them. Therefore, firms are unlikely to spend more to determine whether they need to comply with the Supervisory Reports Provisions than the cost to the firms of complying with the provisions or, for firms with a good-faith basis to believe they are not supervised registered entities (or their orders are not covered orders), of filing a § 1092.203(f) notice.

These provisions will require that affected supervised entities designate an attesting executive for each applicable covered order. The attesting executive will be a duly appointed senior executive officer (or, if no such officer exists, the highest-ranking individual at the entity charged with managerial or oversight responsibilities) (i) whose assigned duties include ensuring the supervised registered entity's compliance with Federal consumer financial law, (ii) who possesses knowledge of the supervised entity's systems and procedures for achieving compliance with the covered order, and (iii) who has control over the supervised entity's efforts to comply with the covered order. The Bureau believes that, even under the baseline scenario, most supervised entities would take active steps to comply with covered orders, and therefore would already have such an officer or individual in place to oversee the entity's compliance with its obligations under the covered order. Therefore, the Bureau anticipates that

this designation requirement would impose little or no additional cost on most supervised registered entities. The Bureau notes that the cost may be higher for supervised entities that lack a high-ranking officer or other employee with the requisite qualifications to serve as an attesting executive. But the Bureau believes that there would be few such entities because the Bureau expects most supervised registered entities maintain adequate board and management oversight consistent with an appropriate compliance management system.

The Supervisory Reports Provisions will also require that the supervised registered entity submit a written statement signed by the applicable attesting executive for each covered order to which it is subject. In the written statement, the attesting executive will: (i) generally describe the steps that the attesting executive has undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order for the preceding calendar year; and (ii) attest whether, to the attesting executive's knowledge, the supervised registered entity during the preceding calendar year identified any violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order by the applicable agency or court based on a violation of a covered law.

The Bureau cannot precisely quantify the impact of the written-statement requirement on impacted firms. But based on its experience and expertise, the Bureau believes that most entities subject to covered orders endeavor in good faith to comply with them and will already have in place some manner of systems and procedures to help achieve such compliance. For these entities, the written-statement requirement will require little more than submitting a written statement from the attesting executive that generally describes the steps the executive took consistent with the established systems and procedures to reach conclusions regarding entity compliance with the orders. Thus, relative to the baseline, the written-statement requirement will impose only modest costs on most covered entities, related primarily to the time and effort needed to (i) memorialize the attesting executive's existing oversight of compliance and (ii) determine whether the supervised registered entity during the preceding calendar year identified any violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order by the applicable

agency or court based on a violation of a covered law.

While the attesting executive would sign the written statement, the Bureau expects that other employees in other major occupational groups (Legal Occupations, Business and Financial Operations, and Office and Administrative Support) would support the attesting executive in preparing the statement. Assuming that satisfying the written-statement requirement would take twenty hours of employees' time, and that the average cost to entities of an employee's time is roughly \$70 an hour as discussed above, yields an estimate that the cost of this requirement on covered entities would be roughly \$1,400 per firm.

The Bureau acknowledges that, under the baseline, some supervised registered entities may not have in place systems and procedures to allow them to confidently identify violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order. As discussed elsewhere in this preamble, the Supervisory Reports Provisions will likely prompt some such entities to adopt new or additional compliance systems and procedures, imposing a greater cost on them. However, as noted above, based on its experience and expertise, the Bureau believes that most entities subject to covered orders endeavor in good faith to comply with them and will already have in place some manner of systems and procedures to help achieve such compliance. Therefore, the Bureau believes that the number of supervised registered entities that will put in place significant new compliance systems and procedures as a result of the rule will be relatively small.

In addition, the Supervisory Reports Provisions will require entities to maintain records related to the written statement for five years. Conservatively assuming that ensuring the necessary documents are properly stored also requires ten hours of employee time adds \$700 to the costs to affected entities of these final provisions. One commenter stated that entities would have to pay for document retention and storage to comply with the proposed rule, but did not suggest that the Supervisory Reports Provisions' recordkeeping requirements would impose more than \$700 in costs on affected entities.

The Bureau notes that, for the purposes of the final rule, the term "supervised registered entity" excludes persons with less than \$5 million in annual receipts resulting from offering or providing consumer financial

products and services described in CFPB section 1024(a).⁴⁷⁶ Relative to this final rule, the proposed rule further included in the term "supervised registered entity" persons with more than \$1 million in annual receipts. Therefore, this final rule should impact fewer firms, with higher average annual receipts, than anticipated by the proposed rule. The combined costs of around \$2,100 imposed by the Supervisory Reports Provisions on the majority of affected entities should be roughly 0.04 percent or less of annual receipts.

The costs of the Supervisory Reports Provisions may be higher in absolute terms at larger entities because identifying instances of noncompliance with obligations imposed in a public provision of a covered order may be more complex at larger entities. But because larger entities will generally have greater annual receipts, the applicable compliance costs as a percentage of annual receipts will likely remain nominal even for larger entities. The costs of the Supervisory Reports Provisions will also likely be higher at entities with multiple instances of noncompliance with public provisions of covered orders, or with multiple covered orders.

Some commenters argued either that the Supervisory Reports Provisions would impose an undue burden or that the analysis in the proposed rule underestimated the costs imposed by the Supervisory Reports Provisions. Those commenters, however, did not provide data, information, or analysis to support their claims. Another commenter suggested a higher employee cost estimate of \$118 per hour for work to prepare the written statement, based on the commenter's members' experience. The Bureau notes that, as discussed above, in data from the Bureau of Labor Statistics the highest wage rate among all occupations considered (for Management) is \$66.23 per hour; multiplied by a benefits factor of 1.42 as discussed above, this yields an employee cost estimate of \$94.05 per hour. Still, using the commenter's preferred hourly cost estimate yields a total cost estimate of roughly \$2,400 per firm for the twenty hours of employees' time estimated to be required to prepare a written statement. This represents roughly .05 percent of the annual revenue of an entity with annual revenue of \$5 million per year. Another commenter argued that the proposed rule's requirements were vague and so

⁴⁷⁶ 12 U.S.C. 5514(a). See the section-by-section discussion of § 1092.201(q)(4) for more information regarding how annual receipts are calculated.

would take more staff time, at a higher average hourly rate, than analyzed in the proposed rule; this commenter instead favored compliance cost estimates of \$4,200–\$7,200 for internal employees plus roughly \$4,000 for outside counsel, for a total cost of \$8,200–\$12,200. The Bureau disagrees with this commenter's view that the rule's requirements are vague and will generally impose costs this high. Still, to put the commenter's estimates in perspective, the Bureau notes that \$12,200 would still constitute less than .25 percent of annual receipts for firms with average annual receipts of at least \$5 million.

Similarly, another commenter argued the Bureau significantly underestimated the amount of time involved with complying with the written-statement requirement; this commenter estimated that the time involved would be akin to the time spent by public companies preparing CEO and CFO certifications of Securities and Exchange Commission (SEC) filings under section 302 of the Sarbanes-Oxley Act and 18 U.S.C. 1350, which was enacted in section 906 of that Act.⁴⁷⁷ The Bureau disagrees that the time and internal verification processes associated with the CEO and CFO certifications under those provisions of the Sarbanes-Oxley Act are comparable to what is required to fulfill a supervised registered entity's obligations under the Supervisory Reports Provisions. Section 302 of the Sarbanes-Oxley Act required the SEC to issue a rule requiring CEOs and CFOs to certify in annual and quarterly reports that the reports do not contain material misstatements or misleading omissions and that they fairly present in all material respects the entity's financial condition and results of operations. Section 302 also required the SEC's rule to mandate that CEOs and CFOs make certain certifications regarding the entity's internal controls and disclosures to auditors. Similarly, under 18 U.S.C. 1350, when an issuer files a periodic report containing financial statements with the SEC, that report must be accompanied by a written statement from the CEO and CFO certifying that the periodic report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that the information contained in the report "fairly presents, in all material respects, the financial condition and results of operations of the issuer."⁴⁷⁸ The commenter stated that these

certifications typically require hundreds of hours and the involvement of a disclosure committee comprised of other professionals who, in addition to providing the CEO and CFO necessary assurances to support their certifications, may also provide their own sub-certifications.

The contents of the written statement required under the final rule here, by contrast, are of a more general, non-technical character and can be derived from the executive's own knowledge, with reference as needed to documents and information related to the entity's compliance with the covered order.⁴⁷⁹ The written statement merely requires a general description of the steps the executive has *personally* undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order, and a statement, "to the attesting executive's knowledge," of whether the supervised registered entity identified any violations or instances of noncompliance with applicable obligations under the order during the preceding calendar year.⁴⁸⁰ Because the written statement is far more limited than the certifications required under the cited provisions of the Sarbanes-Oxley Act, the Bureau does not believe that the costs of complying with those Sarbanes-Oxley Act provisions provide an appropriate benchmark for estimating the costs of the written-statement requirements. Indeed, as noted elsewhere in this preamble, this final rule does not establish any minimum procedures or otherwise specify the steps the attesting executive must take in order to review and oversee the supervised registered entity's activities. Nor does the final rule establish any minimum level of compliance management or expectation for compliance systems and procedures at supervised registered entities, or purport to impose any restrictions on the manner in which supervised registered entities address such matters. Therefore, the Bureau reaffirms its conclusion that, for most supervised registered entities, the written-statement provisions will impose only modest costs beyond the costs entities are already incurring to ensure compliance with covered orders.

As explained in greater detail in part IV(D) and the section-by-section discussion of § 1092.204 above, the Supervisory Reports Provisions will

facilitate the Bureau's risk-based supervision efforts, including its efforts to assess compliance with the requirements of Federal consumer financial law, obtain information about the supervised entities' activities and compliance systems or procedures, and detect and assess risks to consumers and to markets for consumer financial products and services. All of these effects would benefit consumers. Moreover, while as noted above the Bureau believes that most entities subject to covered orders endeavor in good faith to comply with them and will already have in place some manner of systems and procedures to help achieve such compliance, it is also likely that these final provisions will cause a few entities without such systems and procedures to develop them. This will also benefit consumers. The Bureau does not have any data to quantify this benefit.

One commenter agreed with the analysis above that most entities subject to covered orders already endeavor in good faith to comply with them, and so the number of supervised registered entities that will put in place significant new compliance systems and procedures as a result of the rule will be relatively small. However, this commenter argued that this in turn implies that the rule will have little compliance benefits. The Bureau agrees with this commenter that the final rule is unlikely to have a significant effect on the compliance efforts of the entities already endeavoring in good faith to comply with covered orders. But the Bureau also notes that the final rule will likely improve the compliance efforts of a smaller number of entities that under the baseline would not endeavor in good faith to comply with covered orders. As discussed in both the proposed rule and this preamble, this should have a number of beneficial effects for consumers.

One commenter argued that the attestation requirement would divert entities' limited resources away from serving consumers. Similarly, another commenter argued the requirement would lead entities to prioritize compliance with covered orders over other compliance obligations, creating compliance risks for consumers. As stated above, the Bureau believes that no more than 5 percent of all covered nonbanks are subject to covered orders; of these many may have less than \$5 million in relevant annual receipts, otherwise not be supervised registered entities, or exercise their option to register NMLS-published covered orders under § 1092.203, so the number of firms impacted by the Supervisory

⁴⁷⁷ See Sarbanes-Oxley Act of 2002, Public Law 107–204, secs. 302, 906, 116 Stat. 745, 777–78, 806.

⁴⁷⁸ 18 U.S.C. 1350(b).

⁴⁷⁹ See § 1092.204(c) of the final rule (requiring supervised registered entities to provide attesting executives access to documents and information necessary to make the written statement).

⁴⁸⁰ § 1092.204(d) of the final rule.

Reports Provisions should be limited. Finally, as argued above the Bureau expects that even entities subject to the Supervisory Reports Provisions will generally incur minor costs because of it. For these reasons the Bureau disagrees with these commenters that the Supervisory Reports Provisions would have any meaningful costs for consumers. Indeed, as described in the paragraph above, the Bureau believes this provision will benefit consumers, including through providing a further incentive for entities to comply with their legal obligations.

3. Publication Provisions

For affected covered nonbanks, the main effect of these provisions will be that (1) their identifying information, (2) information regarding covered orders that they provide to the Bureau, and (3) for supervised registered entities, the name and title of the attesting executive, may be posted on the internet by the Bureau.⁴⁸¹ Much of this information would be public even under the baseline, so the additional direct effect of this information being posted on the Bureau's website should be small. While as detailed below there will be indirect benefits and costs associated with improving accountability, general public awareness, and enforcement of consumer protection law, the Bureau does not anticipate publishing its registry would have a significant direct impact on consumer shopping decisions.

Because covered nonbanks will provide the required registry information only if they are subject to covered orders, consumers might interpret the presence of a covered nonbank on the Bureau's website as negative information about that covered nonbank. Therefore, these provisions may have negative reputational costs for covered nonbanks whose information is published on the Bureau website. Yet

⁴⁸¹ As explained elsewhere in this preamble, the Bureau intends to publish this information but is retaining the discretion not to publish the information based on operational considerations, such as resource constraints. The analysis here assumes that the Bureau will effectuate its intended approach of publishing the stated information. If the Bureau were not to publish any of the information it collects under the final rule, the potential benefits and costs discussed in this section largely would not be realized, except that, to a more limited extent, some of the benefits and costs associated with the Publication Provisions could result from the Bureau's sharing of registry information with other government agencies under memorandums of understanding or other interagency arrangements. Similarly, if the Bureau were to publish only a portion of the information that it currently intends to publish, the benefits and costs of the Publication Provisions likely would be more limited than the benefits and costs associated with the Bureau's current publication plans.

covered orders would be public information even under the baseline with no rule. Therefore, these provisions will not make public any non-public orders. This will limit the likely costs to covered nonbanks of these provisions.

These final provisions will allow certain information related to covered orders that is already public to be centralized on the Bureau's website. This will make the information more readily accessible than it would otherwise be. One commenter argued that the proposed rule did not give any weight to this effect, but it was explicitly acknowledged in the proposed rule. A large body of research has studied the circumstances under which providing consumers better access to information does, and does not, improve consumer outcomes.⁴⁸² One consensus from this research is that well-designed information disclosures can be effective at directing consumer attention. For example, one study found that providing certain borrowers with information about the costs of their loans reduced borrowing.⁴⁸³ However, another consensus from this research is that information disclosures do not always materially affect consumer decision-making, and that the impact of information disclosures on consumer decision-making depends on their design and implementation. Impactful information disclosures are typically more direct (e.g., disclosing the costs of a particular type of loan to prospective borrowers) and more timely (e.g., disclosed to prospective borrowers at the time they are obtaining a loan) than the information that will be centralized and published under this final provision. Therefore, the Bureau believes that most consumers will not change their behavior directly because of this final provision, so the impact of this final provision on most affected entities will likely not be significant.

Many commenters agreed with this analysis, although one mischaracterized the proposed rule as arguing that consumers would be likely to use the public registry. In response to these comments, the Bureau notes that as discussed in the proposed rule the registry may benefit consumers in a number of ways beyond directly influencing their behavior. As discussed in the proposed rule, the Publication

⁴⁸² For one review of this research, see Thomas A. Durkin and Gregory E. Elliehausen, *Truth in Lending: Theory, History, and a Way Forward* (2011).

⁴⁸³ See Marianne Bertrand and Adair Morse, *Information Disclosure, Cognitive Biases, and Payday Borrowing*, 66 *The Journal of Finance* 1865, 1865–93 (2011).

Provisions are likely to help government agencies, including the Bureau, enforce consumer protection laws. As noted by some commenters, the Publication Provisions may also help provide valuable information to other individuals or organizations, such as researchers, investors and business partners of covered persons, and media and advocacy organizations.⁴⁸⁴ Providing additional information to these entities through publication will also benefit consumers. Moreover, although the Bureau expects that a fraction of consumers may use the registry to make informed decisions in the market for consumer financial products and services, directly informing consumers of covered orders was not the exclusive purpose of the Publication Provisions in either the proposed or final rules.

Commenters also argued that publishing the registry information will have a small effect on consumer behavior because the registered orders will already be public and available for consumers to review. While these comments appear to disagree with the comments discussed in the previous paragraph regarding the reasons why the Bureau's registry likely will have a small direct effect on consumer behavior, these commenters appear to agree with those in the previous paragraph, and with the Bureau, that the direct effect on consumer behavior will in fact be small. Again, this would imply that the Publication Provisions would impose only minor costs on affected entities resulting from changes in consumer behavior. And again, in response to these comments, the Bureau notes that directly informing consumers of covered orders was not the exclusive purpose of the Publication Provisions in either the proposed or final rules.

Conversely, other commenters argued that the Bureau's analysis understates the reputational costs of publication, including to new and emerging financial institutions. These commenters, however, did not provide any support for this claim or provide an alternative estimate of the Publication Provisions' costs.

Commenters also argued that the public registry would misinform consumers because consumers would not have the legal context to understand the orders. Similarly, another commenter argued that impacted entities would need to invest resources into combatting the reputational harm imposed by the Publication Provisions. These arguments, however, appear to

⁴⁸⁴ See part IV(F) and the section-by-section discussion of § 1092.205 above.

suppose that many consumers will themselves see, and change their behavior based on, the public orders, which as argued above (by both the Bureau and other commenters) is likely incorrect. While the Bureau agrees that some consumers, if they saw the covered orders, would find them to be complex and challenging to interpret, that is one reason the Bureau has concluded that the public registry would have less direct impact on consumers than other kinds of information disclosures that are generally found to be effective. The Bureau also reiterates its belief that few consumers would likely see these covered orders themselves, even under the final Publication Provisions.

The Bureau acknowledges that the issues disclosed by a few covered orders may be so controversial among consumers that their publication on the Bureau's website could impose a substantial impact on the firms affected by those orders. However, as noted above, covered orders would be public information even under the baseline with no rule. Therefore, covered orders that disclose particularly controversial practices would likely be well known among consumers even under the baseline.

Commenters also expressed concern that the Publication Provisions would result in increased litigation for covered nonbanks, both through enforcement actions by government agencies and through class action and other lawsuits by private litigants. The Bureau agrees that the public registry could provide some informational benefits to government enforcement agencies and private attorneys and would therefore impose corresponding enforcement, litigation, and insurance costs on some entities. As discussed above, the Publication Provisions may also help provide valuable information to other individuals or organizations, such as researchers, investors and business partners of covered persons, and media and advocacy organizations; providing information to these individuals or organizations may impose corresponding costs on entities affected by the Publication Provisions, such as costs to respond to publications based on information obtained from the Bureau's registry. The Bureau does not have any data with which to quantify these costs. However, as discussed above the Bureau believes that perhaps 1 percent and at most 5 percent of covered entities are subject to covered orders, and that among entities subject to covered orders, most endeavor in good faith to comply with them. Therefore, the Bureau expects that the

Publication Provisions will only expose a small number of entities to increased costs. Moreover, the Bureau does not share the commenters' belief that providing information to government enforcement agencies and attorneys provides no benefit to consumers. To the contrary, as explained above, the Bureau views facilitating public and private enforcement of the Federal consumer financial laws as a benefit of this registry.⁴⁸⁵ The Bureau thus agrees with different commenters that the registry will help the CFPB, law enforcement community, and the public limit the harms from repeat violators of their legal obligations.

One commenter noted that these final provisions could put affected entities at a competitive disadvantage relative to other entities in the market, by making information about them and the covered orders to which they are subject more accessible. The Bureau acknowledges that public awareness that an entity has been subjected to liability for violating a covered law may disadvantage that entity relative to other entities that have not been subjected to similar liability. However, the Publication Provisions would not make public any covered orders that were not already published (or required to be published). This in turn mitigates the direct effects of this final provision on marketplace competition.

These final provisions could benefit firms in affected markets, even those without covered orders, by centralizing certain information on covered orders. This could give firms a clearer picture of how consumer financial protection laws are enforced across agencies and jurisdictions, and could reduce costs for firms that would conduct research into this question under the baseline. As noted by one commenter, these provisions may have benefits to other market participants, such as potential investors, contractual partners, financial firms, and others that are conducting due diligence on a registered nonbank.⁴⁸⁶ Providing the public, including firms, with information on the extent and nature of covered orders is consistent with the Bureau's congressionally assigned purpose of ensuring that consumer financial markets are fair, transparent, and competitive.⁴⁸⁷ The Bureau does not have any data with which to quantify these benefits.

For consumers, one effect of the final provision will be improved access to

information about covered nonbanks with covered orders. However, as noted above, this information would be public even under the baseline. Moreover, as discussed in more detail above, impactful information disclosures are typically more direct and more timely than the information that would be centralized and published under this provision. Therefore, the Bureau believes that most consumers will not change their behavior due to this final provision. As discussed in more detail above, many commenters agreed with this conclusion.

By centralizing certain information on covered orders, another effect of the Publication Provisions will be to improve the ability of regulatory agencies besides the Bureau to conduct their activities, including supervision, enforcement, regulation, market monitoring, research, and consumer education. One commenter argued that the benefits of the rule for enforcement agencies were overstated in the proposed rule because covered orders are already public and because certain regulators are already aware of certain covered orders. However, the Bureau noted these points in the proposed rule. The Bureau argued in the proposed rule, and finds here, that the Publication Provisions would indirectly benefit consumers by centralizing certain information that is already public, which will assist agencies charged with enforcing Federal consumer financial laws with carrying out their responsibilities. Several commenters and consulting parties agreed that the proposed rule would help regulators and law enforcement. The Bureau does not have any data to quantify this benefit.

The Publication Provisions will likely not impose any significant costs on consumers. As noted above, the provisions may impose some costs on some firms, and it is possible that those firms may respond to these increased costs by increasing prices for consumers. But as discussed above, the costs of these provisions on affected firms will be limited, so any cost increases caused by the rule will be limited at affected firms. Moreover, many firms will not be affected at all by these provisions and so will not raise prices because of these provisions.

Finally, a number of commenters argued that the proposed rule, by increasing the costs to entities of consent orders, would discourage settlements in regulatory proceedings and so impose further costs on affected entities. The Bureau acknowledges that the final rule will increase the costs to entities of covered orders, and so may

⁴⁸⁵ See the section-by-section discussion of § 1092.205 above.

⁴⁸⁶ See discussion at part IV(F) above.

⁴⁸⁷ 12 U.S.C. 5511(a).

have a marginal effect on the decision of some entities to settle. However, as argued above, the Bureau believes that the costs imposed by the final rule on entities subject to covered orders will be quite limited, so relative to the baseline, the final rule should increase the expected costs of settlement by little. Therefore, the Bureau believes that, among entities deciding whether to settle an enforcement action, it would be rare for costs imposed by this final rule to make a difference in the decision. Moreover, as noted above, the Bureau believes that perhaps one percent, and at most five percent, of covered nonbank entities are subject to covered orders. The small number of covered entities subject to covered orders strongly suggests that only a small percentage of such entities become subject to covered orders each year, and so could arguably be deciding whether to settle an enforcement matter that might result in a covered order. Therefore, the final rule should have only a small effect on the decisions of a small number of firms contemplating whether or not to settle.

E. Potential Specific Impacts of the Final Rule

1. Insured Depository Institutions and Insured Credit Unions With \$10 Billion or Less in Total Assets, as Described in Section 1026

This final rule will only apply to nonbanks. Therefore, it will have no direct impacts on any insured depository institution or insured credit union. The rule may have some indirect effects on some insured depository institutions and insured credit unions with \$10 billion or less in total assets. For example, insured depository institutions and insured credit unions that are affiliated with affected entities might experience indirect costs because the final rule may impose some costs on their nonbank affiliates. Insured depository institutions and insured credit unions that compete with affected entities might experience indirect benefits because of the proposed rule because the proposed rule may impose some costs on their competitors. But as noted above, even for nonbanks that are directly affected by the final rule, the Bureau does not anticipate that the rule's impact will be significant in most cases. Therefore, the Bureau anticipates that any indirect effects on insured depository institutions or insured credit

unions with \$10 billion or less in total assets will be even less significant.

2. Impact of the Proposed Rule on Access to Consumer Financial Products and Services and on Consumers in Rural Areas

By imposing some costs on affected covered nonbanks, the final rule may cause affected covered nonbanks to provide fewer financial products and services (or financial products and services at higher cost) to consumers. However, as noted above, the final rule will likely impose only limited costs on a limited number of covered nonbanks. Therefore, the impact of the final rule on consumer access to financial products and services will be limited even at affected covered nonbanks. Moreover, bank and nonbank entities that will not be directly affected by the final rule could provide financial products and services to consumers that would otherwise obtain these financial products and services from affected covered nonbanks. Therefore, the negative impact of the final rule on consumer access to financial products and services would be limited. By improving the ability of the CFPB to conduct its activities, including supervision, enforcement, regulation, market monitoring, and consumer education, the final rule will likely improve the functioning of the broader market and so may also have positive effects on consumer access to consumer financial products or services provided in conformity with applicable legal obligations designed to protect consumers.

Broadly, the Bureau believes that the analysis above of the impact of the final rule on consumers in general provides an accurate analysis of the impact of the final rule on consumers in rural areas. The impact of the final rule on consumers in rural areas will likely be relatively smaller if the proposed rule affects fewer entities in rural areas. High-quality data on the rural market share of entities that will be affected by the final rule does not exist, so the Bureau cannot judge with certainty the relative impact of the rule on rural areas. However, for certain large and well-studied markets, there is evidence that nonbanks have larger market shares in urban areas and smaller market shares in rural areas.⁴⁸⁸ Based on this

⁴⁸⁸ For evidence on the mortgage market, see Julapa Jagtiani, Lauren Lambie-Hanson, and Timothy Lambie-Hanson, *Fintech Lending and*

limited evidence, the Bureau expects that the impact of the final rule will be smaller in rural areas.

IX. Regulatory Flexibility Act Analysis

A. Overview

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.⁴⁸⁹ The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives before proposing a rule for which an IRFA is required.⁴⁹⁰

A FRFA is not required for this final rule because it will not have a significant economic impact on a substantial number of small entities.

B. Impact of Final Provisions on Small Entities

The final rule has three principal sets of substantive provisions, which are separately analyzed below. The first set of provisions (hereinafter referred to as the "Registration Provisions") will require nonbank covered persons that are subject to certain public agency and court orders enforcing the law to register with the Bureau and to submit certain information related to those public orders to the Bureau. The second set of provisions (hereinafter referred to as the "Supervisory Reports Provisions") will require nonbank covered persons that are supervised by the Bureau to prepare and submit an annual written statement, signed by a designated individual, regarding compliance with each covered public order. The third set of provisions (hereinafter referred to as the "Publication Provisions") describes the registration information the Bureau may make publicly available.

The analysis below evaluates the economic impact of the final provisions on small entities as defined by the

Mortgage Credit Access, 1 The Journal of FinTech (2021). For evidence on the auto loan market, see Donghoon Lee, Michael Lee, and Reed Orchinik, *Market Structure and the Availability of Credit: Evidence from Auto Credit*, MIT Sloan Research Paper (2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3966710.

⁴⁸⁹ 5 U.S.C. 601 *et seq.*

⁴⁹⁰ 5 U.S.C. 609.

RFA.⁴⁹¹ The RFA's definition of "small" varies by type of entity.⁴⁹²

With certain exceptions, the final rule will apply to covered persons as defined in the CFPB, including persons that engage in offering or providing a consumer financial product or service.⁴⁹³ Among others,⁴⁹⁴ these products and services would generally include those listed below, at least to the extent they are offered or provided for use by consumers primarily for personal, family, or household purposes.

- Extending credit and servicing loans;
- Extending or brokering certain leases of personal or real property;
- Providing real estate settlement services;
- Engaging in deposit-taking activities, transmitting or exchanging funds, or otherwise acting as a custodian of funds;
- Selling, providing, or issuing stored value or payment instruments;
- Providing check cashing, check collection, or check guaranty services;
- Providing payments or other financial data processing products or services to a consumer by any technological means;
- Providing financial advisory services;
- Collecting, analyzing, maintaining, or providing consumer report information or certain other account information; and
- Collecting debt related to any consumer financial product or service.⁴⁹⁵

The Registration and Publication Provisions will affect such covered

persons (as that term is defined in 12 U.S.C. 5481(6)) that (1) do not fall within any of the listed exclusions in § 1092.201(d), such as those for insured depository institutions, insured credit unions, and related persons (as that term is defined in 12 U.S.C. 5481(25)), and (2) have had covered orders issued against them. The Supervisory Reports Provisions will affect such covered persons that (1) are subject to supervision and examination by the Bureau pursuant to CFPB section 1024(a),⁴⁹⁶ (2) have had covered orders issued against them, (3) are at or above the \$5 million annual receipts threshold, unless such covered persons are subject to certain exclusions, and (4) are not registering covered orders under the one-time registration option for NMLS-published covered orders under § 1092.203.

A major benefit of the final rule is that it will give the Bureau comparatively high-quality data on covered orders. Currently, the Bureau does not have high-quality data on the number of covered orders, nor does it have reliable information on the number of small, covered firms that are subject to covered orders. Therefore, the Bureau cannot reliably estimate the precise number of small entities that would be impacted by the final rule.

One commenter argued that the Bureau could not explain why its rule would not have a significant economic impact on a substantial number of small entities because the Bureau had not provided clear information about the number of small entities that would be impacted by the rule. Other commenters asserted that the Bureau's rule would affect a substantial number of small entities, although they did not provide evidence to support this assertion. One commenter argued that the proposed rule would increase burdens for smaller financial technology companies in particular. In response to these comments, the Bureau notes that its certification under 5 U.S.C. 605(b) does not depend on the total number of small entities that would be affected by the rule. That is because the Bureau has concluded that, regardless of the number of affected small entities, the economic impact of the rule for the vast majority of affected small entities would not be significant. Therefore, even if a substantial number of small entities were affected by the rule,⁴⁹⁷ the rule

still would not have a *significant* economic impact on a substantial number of small entities within the meaning of 5 U.S.C. 605(b).

The SBA Office of Advocacy asked if it would be possible for the Bureau to obtain information on the number of small entities subject to covered orders from States or Federal agencies that have issued these covered orders. The Bureau indeed asked for similar information from Federal agencies, State regulators, State attorneys general, and tribes in interagency consultations for the proposed rule. The specific question asked was: "Approximately how many public final orders are issued each year by agencies or courts in enforcement actions brought by Federal, State, Tribal governments, or local government agencies against covered person entities for violations of laws prohibiting unfair, deceptive, or abusive acts or practices, in cases involving consumer financial products or services? (In addition to the number of such orders, the CFPB is interested in information regarding the particular statutes or regulations prohibiting unfair, deceptive, or abusive acts or practices that are cited in such enforcement actions.) Approximately how many such orders are issued each year for violations of Federal consumer financial laws?" The Bureau also asked a similar question in consultations for the final rule, as follows:

"Approximately how many orders issued or obtained by your agency during the past seven years would qualify as 'covered orders' as defined in the draft final rule?" While not definitive, the responses the Bureau obtained to this question were consistent with its estimate above that perhaps one percent, and at most five percent, of covered entities are subject to covered orders. However, the Bureau concluded for several reasons that this information was still not sufficient to provide a rigorous quantitative estimate of the number of small entities subject to covered orders. First, most agencies with whom the Bureau consulted did not provide this requested information to the Bureau. Second, many of these agencies do not track the number of covered orders they have outstanding. Third, many of these agencies cannot reliably determine whether entities subject to covered orders qualify as "small entities" within the meaning of the RFA.

The SBA Office of Advocacy also asked if it would be possible for the CFPB to use economic data from the Census Bureau's Statistics of U.S.

impact will not be significant for the vast majority of affected small entities.

⁴⁹¹ For purposes of assessing the impacts of the proposed rule on small entities, "small entities" is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. 5 U.S.C. 601(6). A "small business" is determined by application of Small Business Administration regulations and reference to the North American Industry Classification System (NAICS) classifications and size standards. 5 U.S.C. 601(3). A "small organization" is any "not-for-profit enterprise which is independently owned and operated and is not dominant in its field." 5 U.S.C. 601(4). A "small governmental jurisdiction" is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. 5 U.S.C. 601(5).

⁴⁹² U.S. Small Bus. Admin., *Table of Small Business Size Standards Matched to North American Industry Classification System Codes*, https://www.sba.gov/sites/default/files/2022-09/Table%20of%20Size%20Standards%20NAICS%202022%20Final%20Rule_Effective%20October%201%2C%202022.pdf (current SBA size standards).

⁴⁹³ For the full scope of the term "covered person," see 12 U.S.C. 5481(6).

⁴⁹⁴ For the full scope of the term "consumer financial product or service," see 12 U.S.C. 5481(5).

⁴⁹⁵ See 12 U.S.C. 5481(15) (defining term "financial product or service").

⁴⁹⁶ 12 U.S.C. 5514(a).

⁴⁹⁷ To be clear, commenters have not presented data establishing that the final rule will *in fact* affect a substantial number of small entities. The Bureau here simply notes that, even if it were assumed that the final rule has some economic effect on a substantial number of small entities, that

Businesses to extrapolate the number of affected small entities. These data indicate that, of entities listed in table 1 above, roughly 96 percent are small. In the notice of proposed rulemaking, the Bureau did not estimate the number of small entities that will be affected by the final rule because, even with an estimate of the number of small entities in an industry, the Bureau could not provide a precise estimate of the number of such entities subject to covered orders. However, the Bureau notes that a conservative upper bound estimate of the number of small entities that will be affected by the final rule can be obtained if one assumes that *all* entities subject to covered orders are small.⁴⁹⁸ In this case, if at most 5 percent of all covered nonbanks are subject to covered orders and so will be affected by the final rule,⁴⁹⁹ all such affected entities are small, and roughly 96 percent of covered nonbanks in affected markets are small, then at most 5.2 percent of small covered nonbanks are subject to covered orders and so will be affected by the final rule.⁵⁰⁰ The Bureau reiterates that this 5.2 percent number provides a conservative upper bound on the fraction of small entities in relevant markets that will be affected by the final rule, and the actual fraction of small entities that will be affected by the final rule is likely to be smaller. Nonetheless, this analysis indicates that the rule will not in fact impact a substantial number of small entities. As explained above, however, the Bureau's certification under 5 U.S.C. 605(b) does not depend on the number of small entities affected by the rule.

A joint letter from State regulators misinterpreted the proposed rule as arguing that because only 1 percent to 5 percent of covered nonbanks would need to comply with the proposed rule's registration and reporting requirements, the proposed rule would not have a significant economic impact on a substantial number of small entities. In the context of its discussion of the rule's impacts under CFPB section 1022(b)(2)(A), the Bureau indeed estimated that between 1 percent and 5 percent of *all* covered nonbanks (including both small entities and larger entities) might be impacted by the

proposed rule. In its RFA analysis in the proposed rule, however, the Bureau did not estimate the percentage of covered-nonbank *small entities* that might be affected by the proposed rule. The Bureau's RFA analysis in the proposed rule thus did not rely on that 1-to-5 percent estimate, and the Bureau's RFA analysis here does not depend on that estimate, either. It is, however, notable that the State-regulator commenters, which have significant experience with enforcement actions against small entities and access to a substantial amount of information about such actions through the NMLS, do not argue that the percentage of covered-nonbank small entities with covered orders is substantially higher than 1 percent to 5 percent. As noted above, if no more than approximately 5 percent of covered-nonbank small entities will have covered orders subject to the rule's requirements, then the rule will not impact a substantial number of small entities.

The same state-regulator commenters cited NMLS data to argue that the proposed rule would predominantly impact small nonbank entities, because nearly 96 percent of state-licensed nonbank NMLS Call Report filers are small. As explained above, the Bureau's analysis of the Census Bureau's Statistics of U.S. Businesses data indicates that roughly 96 percent of entities listed in table 1 are small, so the Bureau agrees with these state-regulator commenters that a large majority of entities in affected markets are small. The Bureau notes that this does not necessarily imply that a large majority of affected entities are small, since among entities in affected markets, it is possible that large entities will disproportionately be subject to covered orders and thus will be disproportionately affected by the final rule. However, if one further assumes, as these commenters do, that small entities will be impacted by the rule in roughly the same proportion as other entities, the Bureau agrees that this indeed implies that a large majority of affected entities will be small. This finding merely reflects the fact that most nonbanks are likely small businesses under the Small Business Administration's regulations. Since most nonbanks likely qualify as small businesses, it is not surprising that a rule addressing orders entered against nonbanks would predominantly affect small businesses if small businesses were impacted in proportion to their representation among all businesses. This fact, however, does not affect the Bureau's assessment that the final rule

here will not have a significant economic impact on a substantial number of small entities. As explained above, the final rule will not have a significant economic impact on the vast majority of affected entities, including affected small entities. Further, as also noted above, the state-regulator commenters do not argue that the percentage of covered-nonbank small entities with covered orders is substantially higher than 1 percent to 5 percent. Again, if no more than 5 percent of all covered nonbanks are subject to covered orders (as the commenters do not dispute), and roughly 96 percent of all covered nonbanks in affected markets are small (as the commenters and the Bureau agree), then no more than 5.2 percent of small covered nonbanks can possibly be subject to covered orders and so be affected by the final rule. This implies that the rule will not impact a substantial number of small entities (although, to reiterate, the Bureau's 5 U.S.C. 605(b) certification does not depend on that fact).

1. Registration Provisions

The first set of provisions will require covered firms to register using the nonbank registry and submit certain required information. Required information includes identifying and administrative information, as well as information regarding covered orders. This information should be readily accessible to almost all entities affected, and providing it through the nonbank registry should be straightforward. Firms would not have to purchase new hardware or software, or train specialized personnel, to comply with these final provisions.

To obtain a quantitative estimate of the cost of these provisions, the Bureau assesses the average hourly base wage rate for the reporting requirement at \$49.29 per hour. This is the mean hourly wage for employees in four major occupational groups assessed to be most likely responsible for the registration process: Management (\$66.23/hr); Legal Occupations (\$64.34/hr); Business and Financial Operations (\$43.55/hr); and Office and Administrative Support (\$23.05/hr).⁵⁰¹ We multiply the average hourly wage of \$49.29 by the private industry benefits factor of 1.42 to get a

⁴⁹⁸ To be clear, it is not the case that all entities subject to covered orders are small entities. In response to comments, the Bureau here is merely using a simplifying assumption to derive a conservative upper bound estimate of the rule's potential impact on small entities.

⁴⁹⁹ As explained above, the estimate that perhaps 1 percent, and at most 5 percent, of covered nonbanks are subject to covered orders is based on the Bureau's experience and expertise and is not disputed by commenters.

⁵⁰⁰ Dividing 5% by 96% yields 5.2%.

⁵⁰¹ See U.S. Bureau of Labor Statistics, National Occupational Employment and Wage Estimates United States (May 2023), https://www.bls.gov/oes/current/oes_nat.htm. The hourly wage estimates used in the proposed rule were slightly different because they were drawn from 2021 data.

fully loaded wage rate of \$70.00/hr.⁵⁰² The Bureau includes these four occupational groups in order to account for the mix of specialized employees that may assist in the registration process. The Bureau assesses that the registration process will generally be completed by office and administrative support employees that are generally responsible for the registrant's paperwork and other administrative tasks. Employees specialized in business and financial operations or in legal occupations are likely to provide information and assistance with the registration process. Senior officers and other managers are likely to review the registration information before it is submitted and may provide additional information. Assuming as outlined above a fully loaded wage rate of roughly \$70, and that complying with this final provision would take around five hours of employees' time, yields a cost impact of around \$350 per firm. The cost would likely be even lower for firms that have and exercise the option to register NMLS-published covered orders under § 1092.203. Because § 1092.203 requires less information from covered nonbanks than § 1092.202, exercising the option made available in § 1092.203 should take even less employee time.⁵⁰³ Therefore, the impact of this final provision on affected firms will be limited.

Several commenters disagreed with this cost assessment.⁵⁰⁴ One preferred a higher estimate of \$5,000 per year, based in part on the argument that the scope of administrative information is "wholly unknown" and can encompass a "limitless breadth" of information. The Bureau disagrees with these claims.

⁵⁰² As of December 2023, the ratio between total compensation and wages for private industry workers is 1.42. See U.S. Bureau of Labor Statistics, Employer Costs for Employee Compensation: Private industry dataset (December 2023), <https://www.bls.gov/web/ecec/ecec-private-dataset.xlsx>.

⁵⁰³ In the unlikely event that a covered nonbank concluded that registering an NMLS-published covered order under § 1092.203 would be more costly than registering it under § 1092.202, the covered nonbank could forgo the option presented in § 1092.203 and register the order under § 1092.202 instead.

⁵⁰⁴ In this section, the Bureau discusses comments that focused primarily on the rule's potential effects on small entities. To the extent that these comments address the potential benefits and costs of the rule for covered persons, the Bureau recognizes that the comments are also relevant to its analysis under CFPB section 1022(b)(2)(A); it did not duplicate its responses to those comments in its section 1022(b)(2)(A) discussion above simply to avoid unnecessary repetition. Similarly, the Bureau has not repeated here responses to comments about general impacts on covered persons that are adequately addressed in its section 1022(b)(2)(A) discussion above.

As explained above,⁵⁰⁵ § 1092.202(c) only requires registered entities to submit the specific "administrative information" that is "required by the nonbank registry," and the Bureau has made clear that it will "specify the types of . . . administrative information registered entities would be required to submit" in "filing instructions . . . issue[d] under . . . § 1092.102(a)." ⁵⁰⁶ Therefore, covered nonbanks should have no need to hire outside legal counsel to ascertain what information qualifies as "administrative information" required to be submitted under the rule. Instead, the Bureau's filing instructions will specify what categories of information covered nonbanks must submit as "administrative information."

Another commenter based their disagreement on this cost assessment on the operational cost of developing new technologies and databases to satisfy the registration requirements. However, the Bureau does not believe many, if any, entities will have to develop new technologies and databases to comply with the Registration Provisions. Therefore, the Bureau believes its \$350 estimate is reasonable.

A joint letter from State regulators argued qualitatively that, because many small entities subject to covered orders are not subject to CFPB supervision, the costs imposed on them by the proposed rule would be larger than the Bureau estimated. However, the cost analysis performed both in the proposed rule and in this final rule does not presuppose supervision by the CFPB. Further, even if a covered nonbank is not subject to CFPB supervision, it would even under the baseline generally be expected to have systems in place to comply with its obligations under Federal consumer financial laws and other consumer-protection laws, and the rule's registration requirements do not significantly add to the legal obligations to which covered nonbanks are already subject. Therefore, the Bureau again concludes that its \$350 estimate is reasonable.

Commenters also noted that the rule will impose ongoing costs on entities after initial registration. The Bureau agrees that entities registering orders under § 1092.202 may incur ongoing costs to comply with § 1092.202(b)(2)(ii), which requires that covered nonbanks submit revised registration filings within 90 days after any amendment to a registered covered order or information required under

§ 1092.202(c) or (d). Similarly, § 1092.202(f) requires a registered entity to submit a revised filing within 90 days if a covered order is terminated, modified, or abrogated, or if it ceases to be a covered order by operation of § 1092.202(e).⁵⁰⁷ The Bureau believes that the cost of those subsequent filings would generally be less than the cost of preparing and submitting the initial registration. The Bureau also believes that most revised filings under § 1092.202(b)(2)(ii) or (f) would be submitted after the initial year in which an entity first registers an order. In determining whether a significant economic impact on a substantial number of small entities (SISNOSE) exists, the Bureau calculates impacts on a periodic (usually annual) basis that is relative to firm revenue. If the analysis were extended past the initial year, calculated costs would increase with time, but so would calculated firm revenue. The Bureau believes that, in the case of the Registration Provisions, the ratio of the two—which is the relevant number for SISNOSE analysis—likely would not increase significantly over time, and in fact would very likely decrease, because the cost of submissions under § 1092.202(b)(2)(ii) or (f) would generally be less than the cost of preparing and submitting the initial registration.

The same commenters also noted that firms with multiple orders will face higher costs. The Bureau agrees and noted this point in the proposed rule.⁵⁰⁸ The Bureau also notes that there are even fewer entities subject to multiple covered orders than there are entities subject to any covered order. The Bureau further notes that the average cost per order of registering orders is likely to be lower for firms with more covered orders, in part because some of the costs involved with registering orders (such as identifying and supplying the required administrative information) would generally only need to be incurred once.

Two commenters noted that even some entities not subject to covered orders would still be impacted by the proposed rule, if they were subject to orders they viewed as potentially covered, because they may have to determine if the potentially covered orders are actually covered. As it stated in the proposed rule, the Bureau agrees that some firms may be unsure whether

⁵⁰⁵ See the section-by-section discussion of § 1092.201(a) above.

⁵⁰⁶ 88 FR 6088 at 6118.

⁵⁰⁷ Covered nonbanks registering NMLS-published covered orders under § 1092.203 are not required to submit revised filings with respect to such orders under § 1092.202(b)(2)(ii) or (f).

⁵⁰⁸ See 88 FR 6088 at 6131.

they are covered persons not otherwise excluded from the rule, or whether they are subject to covered orders. As stated in the proposed rule, for firms unsure of their obligations under the Registration Provisions, one option would be to hire outside legal counsel to advise them on these issues, which the Bureau agrees could be costly for small firms. However, another option for such firms would be to register using the nonbank registry, even if doing so is not legally required. As explained above and in the proposed rule, the cost associated with registering an order is likely low—a few hours of an employee's time. In addition, if firms have a good-faith basis to believe they are not covered nonbanks (or that their orders are not covered orders), they may submit a notice to the nonbank registry stating as such under § 1092.202(g). Preparing and submitting such notices would take at most a few hours of an employee's time. The Bureau further notes that the mere act of registering an order or submitting a § 1092.202(g) notice is unlikely to have significant indirect costs because § 1092.102(c) would provide that the rule “does not alter any applicable process whereby a person may dispute that it qualifies as a person subject to Bureau authority.” Firms should generally choose the lowest cost option available to them, and low-cost options—either registering under the nonbank registry or filing a notice under proposed § 1092.202(g)—are options available to firms.

2. Supervisory Reports Provisions

This second set of provisions will require that affected supervised entities designate an attesting executive for each applicable covered order. The attesting executive will be a duly appointed senior executive officer (or, if no such officer exists, the highest-ranking individual at the entity charged with managerial or oversight responsibilities) (i) whose assigned duties include ensuring the supervised registered entity's compliance with Federal consumer financial law, (ii) who possesses knowledge of the supervised entity's systems and procedures for achieving compliance with the covered order, and (iii) who has control over the supervised entity's efforts to comply with the covered order. The Bureau believes that, even under the baseline scenario, most supervised entities would take active steps to comply with covered orders, and therefore would already have such an officer or individual in place to oversee the entity's compliance with its obligations under the covered order. Therefore, the Bureau anticipates that this designation

requirement will impose little or no additional impact on most supervised registered entities. The Bureau notes that the impacts may be higher for supervised entities that lack a high-ranking officer or other employee with the requisite qualifications to serve as an attesting executive, but the Bureau believes that there are few such entities because the Bureau expects most supervised registered entities maintain adequate board and management oversight consistent with an appropriate compliance management system. Furthermore, covered nonbanks that have opted to register NMLS-published covered orders under § 1092.203 will not be subject to the Supervisory Reports Provisions with respect to such orders.

The Bureau sought comment on whether proposed section 203(b)'s designation requirement is likely to impose material additional impacts on supervised registered entities, beyond the impacts those entities are already likely to incur as part of fulfilling their obligations under the covered orders to which they are subject. The SBA Office of Advocacy claimed that, in the proposed rule, the Bureau provided no basis for its claim that most supervised entities would already have such an officer or individual in place. This claim is incorrect. In the proposed rule, as in this final rule, the Bureau explained its reasoning. The Bureau anticipates that most supervised entities will take active steps to comply with covered orders, as the law requires. Therefore, the Bureau believes that, even under the baseline scenario, most supervised entities would already have an officer or individual satisfying § 1092.204(b)'s requirements in place to oversee the entity's compliance with its obligations under the covered order. This belief is supported by the Bureau's experience with supervising nonbanks, which includes examining their compliance systems. Based on its supervision experience, the Bureau believes it is unlikely that many entities subject to its supervision would have difficulty designating an individual who satisfies the criteria identified in § 1092.204(b).

The Supervisory Reports Provisions will also require that the supervised registered entity submit a written statement signed by the applicable attesting executive for each covered order to which it is subject. In the written statement, the attesting executive will: (i) generally describe the steps that the attesting executive has undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order for the preceding calendar year; and (ii)

attest whether, to the attesting executive's knowledge, the supervised registered entity during the preceding calendar year identified any violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order by the applicable agency or court based on a violation of a covered law.

The Bureau cannot precisely quantify the impact of the written-statement requirement on impacted firms. But based on its experience and expertise, the Bureau believes that most entities subject to covered orders endeavor in good faith to comply with them and will already have in place some manner of systems and procedures to help achieve such compliance. For these entities, the proposed written-statement requirement would require little more than submitting a written statement from the attesting executive that generally describes the steps the executive took consistent with the established systems and procedures to reach conclusions regarding entity compliance with the orders.

Thus, relative to the baseline, the written-statement requirement will impose only modest costs on most covered entities, related primarily to the time and effort needed to (i) memorialize the attesting executive's existing oversight of compliance and (ii) determine whether the supervised registered entity during the preceding calendar year identified any violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order by the applicable agency or court based on a violation of a covered law. While the attesting executive will sign the written statement and generally describe the steps the executive has taken to oversee the supervised registered entity's activities subject to the applicable order, the Bureau expects that other employees in other major occupational groups (Legal Occupations, Business and Financial Operations, and Office and Administrative Support) will support the attesting executive in preparing the statement. Assuming that satisfying the written-statement requirement would take twenty hours of employees' time, and that the average cost to entities of an employee's time is roughly \$70 an hour as discussed above, yields an estimate that the cost of this requirement on covered entities would be roughly \$1,400 per entity.

One commenter criticized this estimate, arguing that many small entities do not have employees in the various occupational groups assumed above and in particular would have to

contract with outside legal counsel to comply with the Supervisory Reports Provisions. However, the Bureau notes that the Supervisory Reports Provisions only requires that the attesting executive generally describe the steps the executive has taken to oversee compliance and state whether or not the company has identified a violation; it does not require the company to conduct any new analysis, legal or otherwise, in order to make that determination. The Supervisory Reports Provisions would not require, for example, an entity to hire counsel to conduct an assessment of past conduct for violations of orders it has not already identified. Therefore, for a sufficiently small entity that would be forced to employ management only (at a fully loaded wage rate of \$66.23 times 1.42 or \$94.05 per hour as discussed above) to satisfy the written-statement requirements, assuming again that compliance takes twenty hours of employee time, yields a cost estimate of approximately \$1,881 for such firms. This is substantially lower than the \$3,000 to \$6,000 estimate provided by the commenter.

The Bureau acknowledges that, under the baseline, some supervised registered entities may not have in place systems and procedures to allow them to confidently identify violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order. As discussed elsewhere in this preamble, the Supervisory Reports Provisions will likely prompt some such entities to adopt new or additional compliance systems and procedures, imposing a greater cost on them. However, as noted above, based on its experience and expertise, the Bureau believes that most entities subject to covered orders endeavor in good faith to comply with them and will already have in place some manner of systems and procedures to help achieve such compliance. Therefore, the Bureau believes that the number of supervised registered entities that will put in place significant new compliance systems and procedures as a result of the final rule will be relatively small.

Several commenters argued that employees would be reluctant to act as attesting executives because of the Supervisory Reports Provisions and would require a salary premium to do so, raising costs for affected entities. The Bureau acknowledges that, among entities subject to covered orders that lack adequate compliance systems, employees could indeed be reluctant to act as attesting executives under these provisions and might require a salary

premium to do so. However, as discussed above, the Bureau believes that most entities that are subject to covered orders endeavor in good faith to comply with them. Therefore, the Bureau believes that most entities will already have in place some manner of systems and procedures to help achieve such compliance. As a result, attesting executives for most entities should not require a salary premium in order to comply with the written-statement requirements. The Bureau acknowledges that some firms without sufficient systems and procedures in place to comply with covered orders may be forced to pay attesting executives a salary premium because of the Supervisory Reports Provisions, but believes that there will be few such firms. Furthermore, while the Bureau cannot precisely quantify the salary premium that would be required by attesting executives at such firms, the Bureau notes that an estimate of \$25,000 provided by one commenter represents less than .5 percent of annual receipts of entities with more than \$5 million per year in annual receipts.

In addition, the Supervisory Reports Provisions will require entities to maintain records related to the written statement for five years. Conservatively assuming that ensuring the necessary documents are properly stored also requires ten hours of employee time adds \$700 to the costs to affected entities of this final provision.

One commenter appeared to disagree with this cost assessment and argued, in reference to the recordkeeping requirements of the Supervisory Reports Provisions, that the added costs of compliance would be significant enough to cause small entities in the debt-collection industry material financial hardship, if not cause them to cease operations. However, this commenter did not directly dispute the Bureau's cost estimate of ten hours of employee time, nor did the commenter provide data or analysis to dispute this estimate, which as noted above implies a cost of compliance of roughly \$700.

The Bureau notes that, for the purposes of this final rule, the term "supervised registered entity" excludes persons with less than \$5 million in annual receipts resulting from offering or providing consumer financial products and services described in CFPA section 1024(a). Relative to this final rule, the proposed rule further included in the term "supervised registered entity" persons with more than \$1 million in annual receipts. Therefore, relative to the proposed rule that was discussed by commenters, the Supervisory Reports Provisions will

affect fewer small entities, and the entities they will affect will have higher annual receipts on average. The estimated combined costs of around \$2,100 imposed by the Supervisory Reports Provisions as discussed above on most affected entities should be roughly 0.04 percent or less of annual receipts. Therefore, the impact of this final provision on most affected small entities will be limited.

The costs of the Supervisory Reports Provisions may be higher at larger entities because identifying instances of noncompliance with obligations imposed in a public provision of a covered order may be more complex at larger entities. But because larger entities will generally have greater annual receipts, the applicable compliance costs as a percentage of annual receipts will likely remain nominal for larger entities, even if the absolute value of those compliance costs tends to increase as entity size increases. The costs will also likely be higher at entities with multiple instances of noncompliance with public provisions of covered orders, or with multiple covered orders. However, there are fewer entities subject to multiple covered orders than there are entities subject to any covered order.

Two commenters claimed that the proposed rule did not contain any assessment of the burden of the rule on entities large enough to be both not exempt and supervised (and so subject to the Supervisory Reports Provisions) but small enough to satisfy the SBA's definition of "small." This claim is not correct. The proposed rule contained analysis, comparable to the analysis in this final rule above, on the effect of the Supervisory Reports Provisions on small entities. This means that the proposed rule analyzed the effect of the Supervisory Reports Provisions on small entities large enough to be impacted by it. The final rule here does the same.

3. Publication Provisions

For affected covered nonbanks, the main effect of the third set of provisions will be that (1) their identifying information, (2) information regarding covered orders that they provide to the Bureau, and (3) for supervised registered entities, the name and title of the attesting executive, may be posted on the internet by the Bureau.⁵⁰⁹ Much of

⁵⁰⁹ As explained elsewhere in this preamble, the Bureau intends to publish this information but is retaining the discretion not to publish the information based on operational considerations, such as resource constraints. The analysis here assumes that the Bureau will effectuate its intended approach of publishing the stated information. If, however, the Bureau were not to publish any of the

this information would be public even under the baseline, so the additional direct effect of this information being posted on the Bureau's website should be small.

However, because covered nonbanks will provide this information only if they are subject to covered orders, consumers might interpret the presence of a covered nonbank on the Bureau's website as negative information about that covered nonbank. Therefore, these provisions may have negative reputational costs for the covered nonbanks whose information is published on the Bureau's website. Yet covered orders would be public information even under the baseline with no rule. Therefore, these provisions will not make public any non-public orders. This will limit the likely costs on covered nonbanks of these provisions.

These provisions will allow certain information related to covered orders that is already available to the general public to be centralized on the Bureau's website. This will make the information more readily accessible than it would otherwise be. A large body of research has studied the circumstances under which providing consumers better access to information does, and does not, improve consumer outcomes.⁵¹⁰ One consensus from this research is that well-designed information disclosures can be effective at directing consumer attention. For example, one study found that providing certain borrowers with information about the costs of their loans reduced borrowing.⁵¹¹ However, another consensus from this research is that information disclosures do not always materially affect consumer decision-making, and that the impact of information disclosures on consumer decision-making depends on their design and implementation. Impactful information disclosures are typically more direct (e.g., disclosing the costs of

a particular type of loan to prospective borrowers) and more timely (e.g., disclosed to prospective borrowers at the time they are obtaining a loan) than the information that will be centralized and published under this final provision. Therefore, the Bureau believes that most consumers will not change their behavior due to this final provision, so the impact of this final provision on most affected entities will likely not be significant. The Bureau acknowledges that the issues disclosed by a few covered orders may be so controversial among consumers that their publication on the Bureau website could impose a substantial impact on the firms affected by those orders. However, as noted above, covered orders would be public information even under the baseline with no rule. Therefore, covered orders that disclose particularly controversial practices would likely be well-known among consumers even under the baseline. As a result, the Bureau believes that these final provisions are unlikely to have a significant economic impact on a substantial number of small entities.

The SBA Office of Advocacy critiqued the analysis of the Publication Provisions in the proposed rule as "confusing and contradictory" because it concluded that the Publication Provisions could have a significant impact on a few small entities but would not have a significant impact on a substantial number of small entities. But the possibility that a provision may have a significant economic impact on a limited number of small entities does not mean that the provision will have a significant economic impact on a substantial number of small entities. Because the Bureau has found that few small entities would be significantly affected by the Bureau's re-publication through its registry of orders that are already public, the Bureau has concluded that the possibility of such significant impacts in relatively rare cases does not indicate that a SISNOSE exists. The Bureau's conclusion about the impact of the Publication Provisions is therefore neither confusing nor contradictory.

Another commenter argued that larger firms are more likely to have public relations funding to counteract the negative publicity of appearing on the Bureau's website, and so this provision would have an especially large relative effect on small firms. The Bureau acknowledges that larger firms are more likely to have more funding for public relations. However, the Bureau also notes that larger firms are also more likely to attract attention from consumers, regulators, the media, and

other public parties. Hence the Bureau does not necessarily agree that this provision would have an especially large relative cost for small firms. Furthermore, even if a provision may have a somewhat larger effect on smaller firms, that does not mean that the provision has a significant economic impact on a substantial number of small entities. A relevant consideration in determining whether the provision here will have a significant economic impact on a substantial number of small entities is the fraction of small nonbank entities that will be significantly impacted by the provision. The commenter did not provide such estimates.

For the reasons described above, the Bureau believes that no provision of the final rule will have a significant economic impact on a substantial number of small entities. Moreover, the impact of each provision is sufficiently small that the three provisions together will not have a significant economic impact on a substantial number of small entities.

Accordingly, the Director certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Thus, a FRFA is not required for this final rule.

X. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA),⁵¹² Federal agencies are generally required to seek approval from the Office of Management and Budget (OMB) for information collection requirements prior to implementation. Under the PRA, the Bureau may not conduct nor sponsor, and, notwithstanding any other provision of law, a person is not required to respond to, an information collection unless the information collection displays a valid control number assigned by OMB. The information collection requirements in this final rule are mandatory. Certain information collected under these requirements may be made available to the public, while other information would not be made available to the public, in accordance with applicable law.

The collections of information contained in this rule, and identified as such, have been submitted to OMB for review under section 3507(d) of the PRA. A complete description of the information collection requirements (including the burden estimate methods) is provided in the information collection request that the Bureau has submitted to OMB under the requirements of the PRA. The information collection request

information it collects under the final rule, the potential impacts on small entities discussed in this section largely would not be realized—except that, to a more limited extent, some of the impacts associated with the Publication Provisions could result from the Bureau's sharing of registry information with other government agencies under memorandums of understanding or other inter-agency arrangements. Similarly, if the Bureau were to publish only a portion of the information that it currently intends to publish, the Publication Provisions' impacts on small entities likely would be more limited than the impacts associated with the Bureau's current publication plans.

⁵¹⁰ For one review of this research, see Thomas A. Durkin and Gregory Elliehausen, *Truth in Lending: Theory, History, and a Way Forward* (2011).

⁵¹¹ See Marianne Bertrand and Adair Morse, *Information Disclosure, Cognitive Biases, and Payday Borrowing*, 66 *The Journal of Finance* 1865, 1865–93 (2011).

⁵¹² 44 U.S.C. 3501 *et seq.*

submitted to OMB requesting approval under the PRA for the information collection requirements contained herein is available at www.regulations.gov as well as on OMB's public-facing docket at www.reginfo.gov.

Title of Collection: Nonbank Registration—Agency and Court Orders Registration.

OMB Control Number: 3170–0076.

Type of Review: Request for approval of a new information collection.

Affected Public: Private sector.

Estimated Number of Respondents: 7,752.

Estimated Total Annual Burden

Hours: 35 hours.

In the notice of proposed rulemaking, the Bureau invited comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) the accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. The comments on the rule generally, and those relating to its burdens and utility, are summarized above. The Bureau is always interested in comments on its information collections, and how to improve their utility and reduce their burdens. These may be made at PRA_Comments@CFPB.gov.

XI. Congressional Review Act

Pursuant to the Congressional Review Act,⁵¹³ the Bureau will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States at least 60 days prior to the rule's published effective date. The Office of Information and Regulatory Affairs has designated this rule as a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1092

Administrative practice and procedure, Consumer protection, Credit, Intergovernmental relations, Law enforcement, Nonbank registration, Registration, Reporting and recordkeeping requirements, Trade practices.

Authority and Issuance

For the reasons set forth above, the Bureau amends 12 CFR chapter X by adding part 1092 to read as follows:

PART 1092—NONBANK REGISTRATION

Subpart A—General

Sec.

1092.100 Authority and purpose.

1092.101 General definitions.

1092.102 Submission and use of registration information.

1092.103 Severability.

Subpart B—Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders

1092.200 Scope and purpose.

1092.201 Definitions.

1092.202 Registration and submission of information regarding covered orders.

1092.203 Optional one-time registration of NMLS-published covered orders.

1092.204 Annual reporting requirements for supervised registered entities.

1092.205 Publication and correction of registration information.

1092.206 Nonbank registry implementation dates.

Subpart C—[Reserved]

Appendix A to Part 1092—List of State Covered Laws

Authority: 12 U.S.C. 5512(b) and (c); 12 U.S.C. 5514(b).

Subpart A—General

§ 1092.100 Authority and purpose.

(a) *Authority.* The regulation in this part is issued by the Bureau pursuant to section 1022(b) and (c) and section 1024(b) of the Consumer Financial Protection Act of 2010, codified at 12 U.S.C. 5512(b) and (c), and 12 U.S.C. 5514(b).

(b) *Purpose.* The purpose of this part is to prescribe rules governing the registration of nonbanks, and the collection and submission of registration information by such persons, and for public release of the collected information as appropriate.

(1) This subpart contains general provisions and definitions used in this part.

(2) Subpart B of this part sets forth requirements regarding the registration of nonbanks subject to certain agency and court orders.

§ 1092.101 General definitions.

For the purposes of this part, unless the context indicates otherwise, the following definitions apply:

(a) *Affiliate, consumer, consumer financial product or service, covered person, Federal consumer financial law, insured credit union, person, related*

person, service provider, and State have the same meanings as in 12 U.S.C. 5481.

(b) *Bureau* means the Consumer Financial Protection Bureau.

(c) *Include, includes, and including* mean that the items named may not encompass all possible items that are covered, whether like or unlike the items named.

(d) *Nonbank registry* means the Bureau's electronic registry identified and maintained by the Bureau for the purposes of this part.

(e) *Nonbank registry implementation date* means, for a given requirement or subpart of this part, or a given person or category of persons, the date(s) determined by the Bureau to commence the operations of the nonbank registry in connection with that requirement or subpart.

§ 1092.102 Submission and use of registration information.

(a) *Filing instructions.* The Bureau shall specify the form and manner for electronic filings and submissions to the nonbank registry that are required or made voluntarily under this part. The Bureau also may provide for extensions of deadlines or time periods prescribed by this part for persons affected by declared disasters or other emergency situations.

(b) *Coordination or combination of systems.* In administering the nonbank registry, the Bureau may rely on information a person previously submitted to the nonbank registry under this part and may coordinate or combine systems in consultation with State agencies as described in 12 U.S.C. 5512(c)(7)(C) and 12 U.S.C. 5514(b)(7)(D).

(c) *Bureau use of registration information.* The Bureau may use the information submitted to the nonbank registry under this part to support its objectives and functions, including in determining when to exercise its authority under 12 U.S.C. 5514 to conduct examinations and when to exercise its enforcement powers under subtitle E of the Consumer Financial Protection Act of 2010. However, this part does not alter any applicable process whereby a person may dispute that it qualifies as a person subject to Bureau authority.

(d) *Calculation of time periods.* In computing any date or period of time prescribed by this part, exclude the day of the event that triggers the period; count every day, including intermediate Saturdays, Sundays, and Federal holidays; and include the last day of the period. If any provision of this part would establish a deadline for an action that is a Saturday, Sunday, or Federal

⁵¹³ 5 U.S.C. 801 *et seq.*

holiday, the deadline is extended to the next day that is not a Saturday, Sunday, or Federal holiday.

§ 1092.103 Severability.

If any provision of this part, or any application of a provision, is stayed or determined to be invalid, the remaining provisions or applications are severable and shall continue in effect.

Subpart B—Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders

§ 1092.200 Scope and purpose.

(a) *Scope.* This subpart requires nonbank covered persons that are subject to certain public agency and court orders to register with the Bureau and to submit a copy of each such public order to the Bureau. This subpart also requires certain nonbank covered persons that are supervised by the Bureau to prepare and submit an annual written statement, signed by a designated individual, regarding compliance with each such public order. Finally, this subpart also describes the registration information the Bureau may make publicly available.

(b) *Purpose.* The purposes of the information collection requirements contained in this subpart are:

(1) To support Bureau functions by monitoring for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services, pursuant to 12 U.S.C. 5512(c)(1);

(2) To prescribe rules regarding registration requirements applicable to nonbank covered persons, pursuant to 12 U.S.C. 5512(c)(7);

(3) To facilitate the supervision of persons described in 12 U.S.C. 5514(a)(1), pursuant to 12 U.S.C. 5514(b);

(4) To assess and detect risks to consumers, pursuant to 12 U.S.C. 5514(b); and

(5) To ensure that persons described in 12 U.S.C. 5514(a)(1) are legitimate entities and are able to perform their obligations to consumers, pursuant to 12 U.S.C. 5514(b).

§ 1092.201 Definitions.

For the purposes of this subpart, unless the context indicates otherwise, the following definitions apply:

(a) *Administrative information* means contact information regarding persons subject to this subpart and other information submitted or collected to facilitate the administration of the nonbank registry including information

submitted under §§ 1092.202(g) and 1092.204(f).

(b) *Attesting executive* means, with respect to any covered order regarding a supervised registered entity, the individual designated by the supervised registered entity to perform the supervised registered entity's duties with respect to the covered order under § 1092.204.

(c) *Covered law* means a law listed in paragraphs (c)(1) through (6) of this section, to the extent that the violation of law found or alleged arises out of conduct in connection with the offering or provision of a consumer financial product or service:

(1) A Federal consumer financial law;

(2) Any other law as to which the Bureau may exercise enforcement authority;

(3) The prohibition on unfair or deceptive acts or practices under section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, or any rule or order issued for the purpose of implementing that prohibition;

(4) A State law prohibiting unfair, deceptive, or abusive acts or practices that is identified in appendix A to this part;

(5) A State law amending or otherwise succeeding a law identified in appendix A to this part, to the extent that such law is materially similar to its predecessor; or

(6) A rule or order issued by a State agency for the purpose of implementing a prohibition on unfair, deceptive, or abusive acts or practices contained in a State law described in paragraph (c)(4) or (5) of this section.

(d) *Covered nonbank* means a covered person that is not any of the following:

(1) An insured depository institution or insured credit union;

(2) A person who is a covered person solely due to being a related person;

(3) A State;

(4) A natural person;

(5) A motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, within the meaning of 12 U.S.C. 5519(a), except to the extent such a person engages in functions that are excepted from the application of 12 U.S.C. 5519(a) as described in 12 U.S.C. 5519(b); or

(6) A person that qualifies as a covered person based solely on conduct that is the subject of, and that is not otherwise exempted from, an exclusion from the Bureau's rulemaking authority under 12 U.S.C. 5517.

(e) *Covered order*—(1) *In general.* *Covered order* means a final public order issued by an agency or court,

whether or not issued upon consent, that:

(i) Identifies a covered nonbank by name as a party subject to the order;

(ii) Was issued at least in part in any action or proceeding brought by any Federal agency, State agency, or local agency;

(iii) Contains public provisions that impose obligations on the covered nonbank to take certain actions or to refrain from taking certain actions;

(iv) Imposes such obligations on the covered nonbank based on an alleged violation of a covered law; and

(v) Has an effective date on or later than January 1, 2017.

(2) *Exception.* The term “covered order” does not include an order issued to a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, within the meaning of 12 U.S.C. 5519(a), except to the extent such order is in connection with the functions that are excepted from the application of 12 U.S.C. 5519(a) as described in 12 U.S.C. 5519(b).

(f) *Effective date* means, in connection with a covered order, the effective date as identified in the covered order; provided that if no other effective date is specified, then the date on which the covered order was issued shall be treated as the effective date for purposes of this subpart. If the issuing agency or a court stays or otherwise suspends the effectiveness of the covered order, the effective date shall be delayed until such time as the stay or suspension of effectiveness is lifted.

(g) *Identifying information* means existing information available to the covered nonbank that uniquely identifies the covered nonbank, including the entity's legal name, State (or other jurisdiction) of incorporation or organization, principal place of business address, any doing business as or fictitious business names, and any unique identifiers issued by a government agency or standards organization.

(h) *Insured depository institution* has the same meaning as in 12 U.S.C. 5301(18)(A).

(i) *Local agency* means a regulatory or enforcement agency or authority of a county, city (whether general law or chartered), city and county, municipal corporation, district, or other political subdivision of a State, other than a State agency.

(j) *NMLS* means the Nationwide Multistate Licensing System.

(k) *NMLS-published covered order* means a covered order that is published on the NMLS Consumer Access website,

www.NMLSCConsumerAccess.org, except that no covered order issued or obtained at least in part by the Bureau shall be an NMLS-published covered order.

(l) *Order* includes any written order or judgment issued by an agency or court in an investigation, matter, or proceeding.

(m) *Public* means, with respect to a covered order or any portion thereof, published by the issuing agency or court, or required by any provision of Federal, State, or local law, rule, or order to be published by the issuing agency or court. The term does not include orders or portions of orders that constitute confidential supervisory information of any Federal, State, or local agency.

(n) *Registered entity* means any person registered or required to be registered under this subpart.

(o) *Remain(s) in effect* means, with respect to any covered order, that the covered nonbank remains subject to public provisions that impose obligations on the covered nonbank to take certain actions or to refrain from taking certain actions based on an alleged violation of a covered law.

(p) *State agency* means the attorney general (or the equivalent thereof) of any State and any other State regulatory or enforcement agency or authority.

(q) *Supervised registered entity* means a registered entity that is subject to supervision and examination by the Bureau pursuant to 12 U.S.C. 5514(a) except as provided in paragraphs (q)(1) through (4) of this section. For purposes of this definition, the term “subject to supervision and examination by the Bureau pursuant to 12 U.S.C. 5514(a)” includes an entity that qualifies as a larger participant of a market for consumer financial products or services under any rule issued by the Bureau pursuant to 12 U.S.C. 5514(a)(1)(B) and (a)(2), or that is subject to an order issued by the Bureau pursuant to 12 U.S.C. 5514(a)(1)(C). The term “supervised registered entity” does not include:

(1) A service provider that is subject to Bureau examination and supervision solely in its capacity as a service provider and that is not otherwise subject to Bureau supervision and examination;

(2) A motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, within the meaning of 12 U.S.C. 5519(a), except to the extent such a person engages in functions that are excepted from the application of 12 U.S.C. 5519(a) as described in 12 U.S.C. 5519(b);

(3) A person that qualifies as a covered person based solely on conduct that is the subject of, and that is not otherwise exempted from, an exclusion from the Bureau’s supervisory authority under 12 U.S.C. 5517; or

(4) A person with less than \$5 million in annual receipts resulting from offering or providing all consumer financial products and services described in 12 U.S.C. 5514(a). For purposes of this exclusion:

(i) The term “annual receipts” has the same meaning as that term has in 12 CFR 1090.104(a); and

(ii) A person’s receipts from offering or providing a consumer financial product or service subject to a larger participant rule under 12 U.S.C. 5514(a)(1)(B) count as receipts for purposes of the exclusion in this paragraph (q)(4) regardless of whether the person qualifies as a larger participant.

§ 1092.202 Registration and submission of information regarding covered orders.

(a) *Scope of registration requirement.* This section shall apply only with respect to covered orders with an effective date on or after the effective date of this subpart, or that remain in effect as of the effective date of this subpart.

(b) *Requirement to register and submit information regarding covered orders.*

(1) Each covered nonbank that is identified by name as a party subject to a covered order described in paragraph (a) of this section shall register as a registered entity with the nonbank registry in accordance with this section if it is not already so registered, and shall provide or update, as applicable, the information described in this subpart in the form and manner specified by the Bureau.

(2) Each covered nonbank required to register under this section shall:

(i) Submit a filing containing the information described in paragraphs (c) and (d) of this section to the nonbank registry within the later of 90 days after the applicable nonbank registry implementation date under § 1092.206 or 90 days after the effective date of any applicable covered order; and

(ii) Submit a revised filing amending any information described in paragraphs (c) and (d) of this section to the nonbank registry within 90 days after any amendments are made to the covered order or any of the information described in paragraph (c) or (d) of this section changes.

(c) *Required identifying information and administrative information.* A registered entity shall provide all identifying information and

administrative information required by the nonbank registry. In filing instructions issued pursuant to § 1092.102(a), the Bureau may require that covered nonbanks that are affiliates make joint or combined submissions under this section.

(d) *Information regarding covered orders.* A registered entity shall provide the following information for each covered order subject to this section:

(1) A fully executed, accurate, and complete copy of the covered order, in a format specified by the Bureau;

provided that any portions of a covered order that are not public shall not be submitted, and these portions shall be clearly marked on the copy submitted;

(2) In connection with each applicable covered order, information identifying:

(i) The agency(ies) and court(s) that issued or obtained the covered order, as applicable;

(ii) The effective date of the covered order;

(iii) The date of expiration, if any, of the covered order, or a statement that there is none;

(iv) All covered laws found to have been violated or, for orders issued upon the parties’ consent, alleged to have been violated; and

(v) Any docket, case, tracking, or other similar identifying number(s) assigned to the covered order by the applicable agency(ies) or court(s).

(3) If the registered entity is a supervised registered entity, the name and title of its attesting executive for purposes of § 1092.204 with respect to the covered order.

(e) *Expiration of covered order status.* A covered order shall cease to be a covered order for purposes of this subpart as of the later of:

(1) Ten years after its effective date; or

(2) If the covered order expressly provides for a termination date more than ten years after its effective date, the expressly provided termination date.

(f) *Requirement to submit revised and final filings with respect to certain covered orders.* (1) If a covered order is terminated, modified, or abrogated (whether by its own terms, by action of the applicable agency, or by a court), or if an order ceases to be a covered order for purposes of this subpart by operation of paragraph (e) of this section, the registered entity shall submit a revised filing to the nonbank registry within 90 days after the effective date of such termination, modification, or abrogation, or the date such order ceases to be a covered order.

(2) If, due to such termination, modification, or abrogation of a covered order, or due to the application of paragraph (e) of this section, the order

no longer remains in effect or is no longer a covered order, then, following its final filing under paragraph (f)(1) of this section with respect to such covered order, the registered entity will have no further obligation to update its filing or to file written statements with respect to such covered order under this subpart.

(g) *Notification by certain persons of non-registration under this section.* A person may submit a notice to the nonbank registry stating that it is not registering pursuant to this section because it has a good-faith basis to believe that it is not a covered nonbank or that an order in question is not a covered order. Such person shall promptly comply with this section upon becoming aware of facts or circumstances that would not permit it to continue representing that it has a good-faith basis to believe that it is not a covered nonbank or that an order in question is not a covered order.

§ 1092.203 Optional one-time registration of NMLS-published covered orders.

(a) *One-time registration option with respect to an NMLS-published covered order.* With respect to any NMLS-published covered order, a covered nonbank that is identified by name as a party subject to the order may elect to comply with the one-time registration option described in this section in lieu of complying with the requirements of §§ 1092.202 and 1092.204.

(b) *Information to be provided.* The covered nonbank, in the form and manner specified by the Bureau, shall provide such information that the Bureau determines is appropriate for the purpose of identifying the covered nonbank and the NMLS-published covered order, and otherwise for the purpose of coordinating the nonbank registry with the NMLS.

(c) *No further obligation to provide or update information with respect to the NMLS-published covered order.* Upon providing such information, the covered nonbank shall have no further obligation under this subpart to provide information to, or update information provided to, the nonbank registry regarding the NMLS-published covered order.

§ 1092.204 Annual reporting requirements for supervised registered entities.

(a) *Scope of annual reporting requirements.* (1) This section shall apply only with respect to covered orders with an effective date on or after the applicable nonbank registry implementation date under § 1092.206 and as to which information is provided

or required to be provided under § 1092.202.

(2) A supervised registered entity is not required to comply with this section with respect to any NMLS-published covered order for which it chooses to comply with the one-time registration option described in § 1092.203.

(b) *Requirement to designate attesting executive.* Subject to paragraph (a) of this section, a supervised registered entity subject to a covered order shall designate as its attesting executive for the covered order for purposes of this subpart its highest-ranking duly appointed senior executive officer (or, if the supervised registered entity does not have any duly appointed officers, the highest-ranking individual charged with managerial or oversight responsibility for the supervised registered entity) whose assigned duties include ensuring the supervised registered entity's compliance with Federal consumer financial law, who has knowledge of the entity's systems and procedures for achieving compliance with the covered order, and who has control over the entity's efforts to comply with the covered order. The supervised registered entity shall annually designate one attesting executive for each such covered order to which it is subject and for all submissions and other purposes related to that covered order under this subpart. The supervised registered entity shall authorize the attesting executive to perform the duties of an attesting executive on behalf of the supervised registered entity with respect to the covered order as required in this section, including submitting the written statement described in paragraph (d) of this section.

(c) *Requirement to provide attesting executive(s) with access to documents and information.* A supervised registered entity subject to this section shall provide its attesting executive(s) with prompt access to all documents and information related to the supervised registered entity's compliance with all applicable covered order(s) as necessary to make the written statement(s) required in paragraph (d) of this section.

(d) *Annual requirement to submit written statement to the Bureau for each covered order.* On or before March 31 of each calendar year, the supervised registered entity shall, in the form and manner specified by the Bureau, submit to the nonbank registry a written statement with respect to each covered order described in paragraph (a)(1) of this section to which it is subject. The written statement shall be signed by the attesting executive on behalf of the

supervised registered entity. In the written statement, the attesting executive shall:

(1) Generally describe the steps that the attesting executive has undertaken to review and oversee the supervised registered entity's activities subject to the applicable covered order for the preceding calendar year; and

(2) Attest whether, to the attesting executive's knowledge, the supervised registered entity during the preceding calendar year identified any violations or other instances of noncompliance with any obligations that were imposed in a public provision of the covered order by the applicable agency or court based on a violation of a covered law.

(e) *Requirement to maintain and make available related records.* A supervised registered entity shall maintain documents and other records sufficient to provide reasonable support for its written statement under paragraph (d) of this section and to otherwise demonstrate compliance with the requirements of this section with respect to any submission under this section, for five years after such submission is required. The supervised registered entity shall make such documents and other records available to the Bureau upon request.

(f) *Notification of entity's good-faith belief that requirements do not apply.* A person may submit a notice to the nonbank registry stating that it is neither designating an attesting executive nor submitting a written statement pursuant to this section because it has a good-faith basis to believe that it is not a supervised registered entity or that an order in question is not a covered order. Such person shall promptly comply with this section upon becoming aware of facts or circumstances that would not permit it to continue representing that it has a good-faith basis to believe that it is not a supervised registered entity or that an order in question is not a covered order.

§ 1092.205 Publication and correction of registration information.

(a) *Internet publication of registration information.* The Bureau may make available to the public the information submitted to the nonbank registry pursuant to §§ 1092.202 and 1092.203 by means that include publishing such information on the Bureau's publicly available internet site within a timeframe determined by the Bureau in its discretion, except that:

(1) The publication described in this paragraph (a) will not include the written statement submitted under § 1092.204, which will be treated as Bureau confidential supervisory

information subject to the provisions of 12 CFR part 1070 of this chapter; and

(2) The publication described in this paragraph (a) will not include administrative information.

(b) *Other publications of information.* In addition to the publication described in paragraph (a) of this section, the Bureau may, at its discretion, compile and aggregate information submitted by persons pursuant to this subpart and make any compilations or aggregations of such information publicly available as the Bureau deems appropriate.

(c) *Correction of submissions to the nonbank registry.* If any information submitted to the nonbank registry under this subpart was inaccurate when submitted and remains inaccurate, the covered nonbank shall file a corrected report in the form and manner specified by the Bureau within 30 days after the date on which such covered nonbank becomes aware or has reason to know of the inaccuracy. In addition, the Bureau may at any time and in its discretion direct a covered nonbank to correct errors or other non-compliant submissions to the nonbank registry made under this subpart.

§ 1092.206 Nonbank registry implementation dates.

(a) *Applicable dates.* The applicable nonbank registry implementation date for purposes of this subpart shall be as follows:

(1) For a covered nonbank that is a larger participant of a market for consumer financial products or services described under 12 U.S.C. 5514(a)(1)(B) as defined by one or more rules issued by the Bureau, 30 days after this subpart takes effect with respect to that covered nonbank;

(2) For a covered nonbank described under any other provision of 12 U.S.C. 5514(a)(1), 120 days after this subpart takes effect with respect to that covered nonbank; and

(3) For any other covered nonbank, 210 days after this subpart takes effect with respect to that covered nonbank.

(b) *Calculation of dates.* If paragraph (a) of this section would establish a nonbank registry implementation date on a date that is a Saturday, Sunday, or Federal holiday, the applicable nonbank registry implementation date will be the next day that is not a Saturday, Sunday, or Federal holiday.

Subpart C—[Reserved]

Appendix A to Part 1092—List of State Covered Laws

Alabama

- Ala. Code sec. 5–18A–13(j).
- Ala. Code sec. 8–19–5.

Alaska

- Alaska Stat. sec. 06.20.200.
- Alaska Stat. sec. 06.40.090.
- Alaska Stat. sec. 06.60.320.
- Alaska Stat. sec. 06.60.340.
- Alaska Stat. sec. 45.50.471.

Arizona

- Ariz. Rev. Stat. sec. 6–611.
- Ariz. Rev. Stat. sec. 6–710(8).
- Ariz. Rev. Stat. sec. 6–909(C).
- Ariz. Rev. Stat. sec. 6–947(D).
- Ariz. Rev. Stat. sec. 6–984(D).
- Ariz. Rev. Stat. sec. 6–1309(A).
- Ariz. Rev. Stat. sec. 44–1522(A).
- Ariz. Rev. Stat. sec. 44–1703(4).

Arkansas

- Ark. Code Ann. sec. 4–75–208(a).
- Ark. Code Ann. sec. 4–88–107.
- Ark. Code Ann. sec. 4–88–108(a)(1).
- Ark. Code Ann. sec. 4–88–304(a).
- Ark. Code Ann. sec. 4–90–705.
- Ark. Code Ann. sec. 4–107–203.
- Ark. Code Ann. sec. 4–112–101 to 4–112–114.
- Ark. Code Ann. sec. 4–115–102.
- Ark. Code Ann. sec. 23–39–405.

California

- Cal. Bus. & Prof. Code sec. 17200 to 17209.
- Cal. Bus. & Prof. Code sec. 17500.
- Cal. Civ. Code sec. 1770.
- Cal. Civ. Code sec. 1788.101(a), (b)(1), (7), (8), (9), (10).
- Cal. Fin. Code sec. 4995.3(b).
- Cal. Fin. Code sec. 22755(b), (i).
- Cal. Fin. Code sec. 90003.

Colorado

- Colo. Rev. Stat. sec. 5–3.1–121.
- Colo. Rev. Stat. sec. 5–20–109(b).
- Colo. Rev. Stat. sec. 6–1–105.

Connecticut

- Conn. Gen. Stat. sec. 36a–267.
- Conn. Gen. Stat. sec. 36a–498(g)(2).
- Conn. Gen. Stat. sec. 36a–539(d)(2), (6).
- Conn. Gen. Stat. sec. 36a–561(3), (4).
- Conn. Gen. Stat. sec. 36a–580 to 36a–589.
- Conn. Gen. Stat. sec. 36a–607(c)(2)(5).
- Conn. Gen. Stat. sec. 36a–646.
- Conn. Gen. Stat. sec. 36a–700.
- Conn. Gen. Stat. sec. 42–110b.
- Conn. Gen. Stat. sec. 42–240 to 42–253.

Delaware

- Del. Code Ann. tit. 5, sec. 2114.
- Del. Code Ann. tit. 5, sec. 2209(a)(3).
- Del. Code Ann. tit. 5, sec. 2315(a)(3).
- Del. Code Ann. tit. 5, sec. 2418(2), (9).
- Del. Code Ann. tit. 5, sec. 2904(a)(3).
- Del. Code Ann. tit. 6, sec. 2513.
- Del. Code Ann. tit. 6, sec. 2532, 2533.

District of Columbia

- D.C. Code sec. 26–1114(d)(2), (9).
- D.C. Code sec. 28–3814.
- D.C. Code sec. 28–3904.

Florida

- Fla. Stat. sec. 501.97.
- Fla. Stat. sec. 501.204.
- Fla. Stat. sec. 560.114(1)(d).
- Fla. Stat. sec. 560.309(10).

- Fla. Stat. sec. 560.406(2).
- Fla. Stat. sec. 687.141(2), (3).
- Fla. Stat. sec. 817.801 to 817.806.

Georgia

- Ga. Code Ann. sec. 7–7–2(1), (3), (4).
- Ga. Code Ann. sec. 10–1–372.
- Ga. Code Ann. sec. 10–1–393.

Hawaii

- Haw. Rev. Stat. sec. 443B–18.
- Haw. Rev. Stat. sec. 454F–17(2), (9), (14).
- Haw. Rev. Stat. sec. 477E–1 to 477E–6.
- Haw. Rev. Stat. sec. 480–2.
- Haw. Rev. Stat. sec. 480J–45(7), (10).
- Haw. Rev. Stat. sec. 481A–3.
- Haw. Rev. Stat. sec. 489D–23(2), (4).

Idaho

- Idaho Code sec. 26–31–317(2), (9).
- Idaho Code sec. 26–2505(2).
- Idaho Code sec. 28–46–413(8).
- Idaho Code sec. 48–603.
- Idaho Code sec. 48–603A.

Illinois

- 815 Ill. Comp. Stat. sec. 122/4–5(3), (8).
- 815 Ill. Comp. Stat. sec. 505/2 to 505/2AAAA.
- 815 Ill. Comp. Stat. sec. 510/2.
- 815 Ill. Comp. Stat. sec. 635/7–13(2), (9).

Indiana

- Ind. Code sec. 24–4.4–3–104.6(b), (i).
- Ind. Code sec. 24–4.5–7–410(c), (g).
- Ind. Code sec. 24–5–0.5–3.
- Ind. Code sec. 24–5–0.5–10.

Iowa

- Iowa Code sec. 535D.17(2), (9).
- Iowa Code sec. 537.3209(1).
- Iowa Code sec. 538A.3(4).
- Iowa Code sec. 714.16(2)(a).
- Iowa Code sec. 714H.3.

Kansas

- Kan. Stat. Ann. sec. 50–626.
- Kan. Stat. Ann. sec. 50–1017(2), (3).

Kentucky

- Ky. Rev. Stat. Ann. sec. 286.9–100(7).
- Ky. Rev. Stat. Ann. sec. 286.11–039(f).
- Ky. Rev. Stat. Ann. sec. 286.12–110(1)(a)(4).
- Ky. Rev. Stat. Ann. sec. 365.050.
- Ky. Rev. Stat. Ann. sec. 367.170.
- Ky. Rev. Stat. Ann. sec. 367.381(2).
- Ky. Rev. Stat. Ann. sec. 380.010 to 380.990.

Louisiana

- La. Rev. Stat. Ann. sec. 6:1055.
- La. Rev. Stat. Ann. sec. 6:1092(D)(2), (9).
- La. Rev. Stat. Ann. sec. 6:1393(A)(3)(b).
- La. Rev. Stat. Ann. sec. 6:1412(A)(2).
- La. Rev. Stat. Ann. sec. 9:3574.3(2), (3).
- La. Rev. Stat. Ann. sec. 51:1405.
- La. Rev. Stat. Ann. sec. 51:1915.

Maine

- Me. Rev. Stat. tit. 5, sec. 207.
- Me. Rev. Stat. tit. 9–A, sec. 5–118(2), (3), (4).
- Me. Rev. Stat. tit. 9–B, sec. 242.
- Me. Rev. Stat. tit. 10, sec. 1212.
- Me. Rev. Stat. tit. 32, sec. 6155(1).
- Me. Rev. Stat. tit. 32, sec. 6198(5).

Maryland

- Md. Code Ann., Com. Law sec. 12–1208(2).
- Md. Code Ann., Com. Law sec. 13–303.
- Md. Code Ann., Com. Law sec. 14–1302(b).
- Md. Code Ann., Com. Law sec. 14–1323.
- Md. Code Ann., Com. Law sec. 14–1914(a).
- Md. Code Ann., Com. Law sec. 14–3807.
- Md. Code Ann., Educ. sec. 26–601 to 26–604.
- Md. Code Ann., Fin. Inst. sec. 12–1001 to 12–1017.
- Md. Code Ann., Real Prop. sec. 7–501 to 7–511.

Massachusetts

- Mass. Gen. Laws ch. 93, sec. 105(d).
- Mass. Gen. Laws ch. 93A, sec. 2.
- Mass. Gen. Laws ch. 93L, sec. 8.

Michigan

- Mich. Comp. Laws sec. 445.903.
- Mich. Comp. Laws sec. 445.1823(e).

Minnesota

- Minn. Stat. sec. 58B.07(2).
- Minn. Stat. sec. 325D.09.
- Minn. Stat. sec. 325D.44.
- Minn. Stat. sec. 325F.67.
- Minn. Stat. sec. 325F.69.
- Minn. Stat. sec. 332A.02–332A.19.

Mississippi

- Miss. Code Ann. sec. 75–24–5.
- Miss. Code Ann. sec. 75–67–109.
- Miss. Code Ann. sec. 75–67–445.
- Miss. Code Ann. sec. 75–67–516.
- Miss. Code Ann. sec. 75–67–617.
- Miss. Code Ann. sec. 81–18–27(h).
- Miss. Code Ann. sec. 81–19–23(b)(i).

Missouri

- Mo. Rev. Stat. sec. 407.020.
- Mo. Rev. Stat. sec. 443.737(2), (9).

Montana

- Mont. Code Ann. sec. 30–14–103.
- Mont. Code Ann. sec. 30–14–2001 to 30–14–2015.
- Mont. Code Ann. sec. 30–14–2103(1)(f).
- Mont. Code Ann. sec. 31–1–723(5), (7), (18).
- Mont. Code Ann. sec. 31–1–724(2).
- Mont. Code Ann. sec. 32–5–309.

Nebraska

- Neb. Rev. Stat. sec. 45–804(5).
- Neb. Rev. Stat. sec. 45–812.
- Neb. Rev. Stat. sec. 45–919(1)(j).
- Neb. Rev. Stat. sec. 59–1602.
- Neb. Rev. Stat. sec. 87–302.

Nevada

- Nev. Rev. Stat. sec. 598.746(5).
- Nev. Rev. Stat. sec. 598.787.
- Nev. Rev. Stat. sec. 598.0915 to 598.0925.
- Nev. Rev. Stat. sec. 604A.5021(5), (6).
- Nev. Rev. Stat. sec. 604A.5049(5), (6).
- Nev. Rev. Stat. sec. 604A.5072(5), (6).
- Nev. Rev. Stat. sec. 604A.582.
- Nev. Rev. Stat. sec. 604A.592.
- Nev. Rev. Stat. sec. 675.280.

New Hampshire

- N.H. Rev. Stat. Ann. sec. 358–A:2.
- N.H. Rev. Stat. Ann. sec. 383:10–h.
- N.H. Rev. Stat. Ann. sec. 397–A:14(g), (n).
- N.H. Rev. Stat. Ann. sec. 399–A:14(I).
- N.H. Rev. Stat. Ann. sec. 399–F:4(III).

New Jersey

- N.J. Stat. Ann. sec. 17:11C–41(g).
- N.J. Stat. Ann. sec. 17:16F–39(b).
- N.J. Stat. Ann. sec. 17:16ZZ–9(b).
- N.J. Stat. Ann. sec. 56:8–2.

New Mexico

- N.M. Stat. Ann. sec. 57–12–3.
- N.M. Stat. Ann. sec. 58–7–8(C).
- N.M. Stat. Ann. sec. 58–15–3(G).
- N.M. Stat. Ann. sec. 58–21–21.
- N.M. Stat. Ann. sec. 58–21A–12.
- N.M. Stat. Ann. sec. 58–21B–13(C)(2), (9).

New York

- N.Y. Banking Law sec. 719(2), (9).
- N.Y. Exec. Law sec. 63(12).
- N.Y. Fin. Serv. sec. 702(i).
- N.Y. Gen. Bus. Law sec. 349.
- N.Y. Gen. Bus. Law sec. 458–e.
- N.Y. Gen. Bus. Law sec. 458–h.
- N.Y. Gen. Bus. Law sec. 521–d.
- N.Y. Gen. Bus. Law sec. 741.
- N.Y. Real Prop. Law sec. 280–b(2).

North Carolina

- N.C. Gen. Stat. sec. 25A–44(4).
- N.C. Gen. Stat. sec. 53–180(g).
- N.C. Gen. Stat. sec. 53–270(4).
- N.C. Gen. Stat. sec. 66–106 to 66–112.
- N.C. Gen. Stat. sec. 75–1.1.
- N.C. Gen. Stat. sec. 75–121.
- N.C. Gen. Stat. sec. 75–122.

North Dakota

- N.D. Cent. Code sec. 13–04.1–09(4), (10).
- N.D. Cent. Code sec. 13–08–12(9).
- N.D. Cent. Code sec. 13–10–17(2).
- N.D. Cent. Code sec. 13–11–23(1)(p).
- N.D. Cent. Code sec. 51–15–02.
- N.D. Cent. Code sec. 51–15–02.3.

Ohio

- Ohio Rev. Code Ann. sec. 1321.11.
- Ohio Rev. Code Ann. sec. 1321.41(N).
- Ohio Rev. Code Ann. sec. 1321.44.
- Ohio Rev. Code Ann. sec. 1321.60(A).
- Ohio Rev. Code Ann. sec. 1321.651(B).
- Ohio Rev. Code Ann. sec. 1322.40(I).
- Ohio Rev. Code Ann. sec. 1345.02.
- Ohio Rev. Code Ann. sec. 1345.21 to 1345.28.
- Ohio Rev. Code Ann. sec. 4165.02.
- Ohio Rev. Code Ann. sec. 4710.02(F)(1).
- Ohio Rev. Code Ann. sec. 4710.04.

Oklahoma

- Okla. Stat. Ann. tit. 15, sec. 753(21), (29), (9).
- Okla. Stat. Ann. tit. 59, sec. 2095.18(2), (9).
- Okla. Stat. Ann. tit. 59, sec. 3111.
- Okla. Stat. Ann. tit. 78, sec. 53.

Oregon

- Or. Rev. Stat. sec. 86A.163.
- Or. Rev. Stat. sec. 86A.236(3), (5), (13).
- Or. Rev. Stat. sec. 646.607.
- Or. Rev. Stat. sec. 646.608(1)(d), (u).

- Or. Rev. Stat. sec. 646A.720(10).
- Or. Rev. Stat. sec. 725.060.
- Or. Rev. Stat. sec. 725A.058.

Pennsylvania

- 7 PA. Cons. Stat. sec. 6123(a)(3).
- 18 PA. Cons. Stat. sec. 7311(b.1).
- 73 PA. Cons. Stat. sec. 201–3.
- 73 PA. Cons. Stat. sec. 2183(4).
- 73 PA. Cons. Stat. sec. 2188(c)(2).
- 73 PA. Cons. Stat. sec. 2270.4.
- 73 PA. Cons. Stat. sec. 2270.5.
- 73 PA. Cons. Stat. sec. 2501 to 2511.

Rhode Island

- R.I. Gen. Laws sec. 5–80–8(5).
- R.I. Gen. Laws sec. 6–13.1–2.
- R.I. Gen. Laws sec. 6–13.1–21 to 6–13.1–23.
- R.I. Gen. Laws sec. 6–13.1–25.
- R.I. Gen. Laws sec. 6–13.1–30.
- R.I. Gen. Laws sec. 19–14–21(a).
- R.I. Gen. Laws sec. 19–14.3–3.8(8), (9).
- R.I. Gen. Laws sec. 19–14.8–28(a)(16).
- R.I. Gen. Laws sec. 19–14.10–17(2), (9).
- R.I. Gen. Laws sec. 19–14.11–4(2).
- R.I. Gen. Laws sec. 19–33–12(2).

South Carolina

- S.C. Code Ann. sec. 34–29–120.
- S.C. Code Ann. sec. 34–36–10 to 34–36–80.
- S.C. Code Ann. sec. 34–39–200(3), (5).
- S.C. Code Ann. sec. 34–41–80(3), (5).
- S.C. Code Ann. sec. 37–2–304(1).
- S.C. Code Ann. sec. 37–3–304(1).
- S.C. Code Ann. sec. 37–6–118.
- S.C. Code Ann. sec. 37–7–101 to 37–7–122.
- S.C. Code Ann. sec. 39–5–20.

South Dakota

- S.D. Codified Laws sec. 37–24–6.
- S.D. Codified Laws sec. 37–25A–43.
- S.D. Codified Laws sec. 54–4–63.

Tennessee

- Tenn. Code Ann. sec. 45–13–401(8).
- Tenn. Code Ann. sec. 45–17–112(k).
- Tenn. Code Ann. sec. 45–18–121(g).
- Tenn. Code Ann. sec. 47–16–101 to 47–16–110.
- Tenn. Code Ann. sec. 47–18–104.
- Tenn. Code Ann. sec. 47–18–120.
- Tenn. Code Ann. sec. 47–18–1003(4).
- Tenn. Code Ann. sec. 47–18–5402(a)(1).

Texas

- Tex. Bus. & Com. Code Ann. sec. 17.46.
- Tex. Bus. & Com. Code Ann. sec. 17.50.
- Tex. Bus. & Com. Code Ann. sec. 17.501.
- Tex. Fin. Code Ann. sec. 180.153(2), (11).
- Tex. Fin. Code Ann. sec. 308.002.
- Tex. Fin. Code Ann. sec. 341.403.
- Tex. Fin. Code Ann. sec. 392.303 to 392.304.
- Tex. Fin. Code Ann. sec. 393.305.
- Tex. Fin. Code Ann. sec. 394.207.
- Tex. Fin. Code Ann. sec. 394.212(a)(9).

Utah

- Utah Code Ann. sec. 13–11–4.
- Utah Code Ann. sec. 13–11–4.1.
- Utah Code Ann. sec. 13–11a–4.
- Utah Code Ann. sec. 13–21–3(1)(g).

Vermont

- Vt. Stat. Ann. tit. 8, sec. 2121.

- Vt. Stat. Ann. tit. 8, sec. 2241(2), (9).
- Vt. Stat. Ann. tit. 8, sec. 2251 to 2260.
- Vt. Stat. Ann. tit. 8, sec. 2760b(b).
- Vt. Stat. Ann. tit. 8, sec. 2922.
- Vt. Stat. Ann. tit. 9, sec. 2453.
- Vt. Stat. Ann. tit. 9, sec. 2481w(b), (c), (d).

Virginia

- Va. Code. Ann. sec. 6.2–1524(B).
- Va. Code. Ann. sec. 6.2–1614(8)(a).
- Va. Code. Ann. sec. 6.2–1629(A).
- Va. Code. Ann. sec. 6.2–1715(A)(1).
- Va. Code. Ann. sec. 6.2–1816(26).
- Va. Code. Ann. sec. 6.2–1819(A).
- Va. Code. Ann. sec. 6.2–2017.
- Va. Code. Ann. sec. 6.2–2107(3), (4).
- Va. Code. Ann. sec. 6.2–2610(A)(2), (C).
- Va. Code. Ann. sec. 59.1–200(A).
- Va. Code. Ann. sec. 59.1–335.5(4).

Washington

- Wash. Rev. Code sec. 18.28.120(6).
- Wash. Rev. Code sec. 18.44.301(2), (4).
- Wash. Rev. Code sec. 19.16.110.
- Wash. Rev. Code sec. 19.16.250.
- Wash. Rev. Code sec. 19.16.260.
- Wash. Rev. Code sec. 19.16.440.
- Wash. Rev. Code sec. 19.86.020.
- Wash. Rev. Code sec. 19.134.020(1)(e).
- Wash. Rev. Code sec. 19.146.0201(2), (7).
- Wash. Rev. Code sec. 19.144.080(1)(a)(ii).
- Wash. Rev. Code sec. 19.146.100.
- Wash. Rev. Code sec. 19.230.340(2), (4).
- Wash. Rev. Code sec. 19.265.050(3).
- Wash. Rev. Code sec. 31.04.027.
- Wash. Rev. Code sec. 31.45.105(1)(a), (b).

West Virginia

- W. Va. Code sec. 31–17–10.
- W. Va. Code sec. 31–17A–16(2), (9).
- W. Va. Code sec. 32A–2–26.

- W. Va. Code sec. 46A–6–104.
- W. Va. Code sec. 46A–6C–3(4).

Wisconsin

- Wis. Stat. sec. 100.18.
- Wis. Stat. sec. 100.20.
- Wis. Stat. sec. 100.55(3).
- Wis. Stat. sec. 138.14(12)(e).
- Wis. Stat. sec. 224.77(1)(b), (c).
- Wis. Stat. sec. 422.503(c).
- Wis. Stat. sec. 423.301.
- Wis. Stat. sec. 427.104(1)(m).

Wyoming

- Wyo. Stat. Ann. sec. 40–12–105.

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Geophysical Survey of the Chain Transform Fault in the Equatorial Atlantic Ocean; Notice

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XE034]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Geophysical Survey of the Chain Transform Fault in the Equatorial Atlantic Ocean

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS received a request from the Lamont-Doherty Earth Observatory of Columbia University (L-DEO) for authorization to take marine mammals incidental to a marine geophysical survey at the Chain Transform Fault in the equatorial Atlantic Ocean. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. 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.

DATES: Comments and information must be received no later than August 7, 2024.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be submitted via email to ITP.harlacher@noaa.gov. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities>. In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or

received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jenna Harlacher, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:**Background**

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

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 prescribe requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

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 review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 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 IHA qualifies to be categorically excluded from further NEPA review.

Summary of Request

On April 15, 2024, NMFS received a request from L-DEO for an IHA to take marine mammals incidental to conducting a marine geophysical survey of the Chain Transform Fault in the equatorial Atlantic Ocean. Following NMFS review of the application and additional clarifying information from L-DEO, NMFS deemed the application adequate and complete on May 22, 2024. L-DEO's request is for take of 28 marine mammal species by Level B harassment, and for take of a subset of 5 of these species, by Level A harassment. Neither L-DEO nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity**Overview**

Researchers from the Woods Hole Oceanographic Institution, University of Delaware, University of New Hampshire, Boise State University and Boston College, with funding from the National Science Foundation, propose to conduct a high-energy seismic survey using airguns as the acoustic source from the research vessel (R/V) *Marcus G. Langseth* (Langseth), which is owned and operated by L-DEO. The proposed survey would occur at the Chain Transform Fault, off the coast of Africa, in the equatorial Atlantic Ocean during austral summer 2024 in the Southern Hemisphere (*i.e.*, between October 2024 and February 2025). The proposed survey would occur within International Waters more than 600 kilometers (km) in the Gulf of Guinea, Africa. The survey would occur in water depths ranging from approximately 2,000 to

5,500 meters (m). To complete this survey, the R/V Langseth would tow a 36-airgun array with a total discharge volume of approximately (~) 6,600 cubic inches (in³) at a depth of 9 to 12 m. The airgun array receiving system would consist of a 15 km long solid-state hydrophone streamer and 20 Ocean Bottom Seismometers (OBS). The airguns would fire at a shot interval of 37.5 m (~18 seconds (s)) during seismic acquisition. Approximately 2,058 km of total survey trackline are proposed. Airgun arrays would introduce underwater sounds that may result in take, by Level A and Level B harassment, of marine mammals.

The purpose of the proposed survey is to understand the rheologic mechanisms that lead to both seismic and aseismic behavior. Specifically, the aim of the project is to: (i) understand the tectonic variation along slow-slipping transforms; (ii) identify the influences of seawater and melt on transform fault rheology; (iii) identify the influences of seawater and melt on transform fault rheology; (iv) link slip behavior to observed variations in seismic coupling and microseismicity; and (v) apply the

results to understanding the global spectrum of oceanic transform fault behavior. The goal of this work is to understand how and why tectonic stresses in some places lead to earthquakes of varying sizes while in other places the stresses are resolved without resulting in earthquakes. The seismic survey would image the reflectivity and velocity structure of seafloor features related to the transform fault within the Chain transform valley, including the fault itself, 'flower' structures surrounding the fault, and the crustal massifs that comprise the steep walls of the transform valley.

Additional data would be collected using a multibeam echosounder (MBES), a sub-bottom profiler (SBP), and an Acoustic Doppler Current Profiler (ADCP), which would be operated from R/V Langseth continuously during the seismic surveys, including during transit. No take of marine mammals is expected to result from use of this equipment.

Dates and Duration

The proposed survey is expected to last for approximately 30 days, with

11.5 days of seismic operations, 3.5 days of OBS deployment, 2.5 days of streamer deployment and retrieval, 2.5 days of contingency, and 10 days of transit. R/V Langseth would likely leave from and return to port in Praia, Cape Verde during austral summer 2024 (between October 2024 and February 2025).

Specific Geographic Region

The proposed survey would occur within approximately 0–2° S, 13–16.5° W, within international waters more than 600 km off the coast of the Gulf of Guinea, Africa, in water depths ranging from approximately 2,000 to 5,500 m. The region where the survey is proposed to occur is depicted in figure 1, and is expected to cover approximately 2,058 km of survey trackline. Representative survey tracklines are shown; however, some deviation in actual tracklines, including the order of survey operations, could be necessary for reasons such as science drivers, poor data quality, inclement weather, or mechanical issues with the research vessel and/or equipment.

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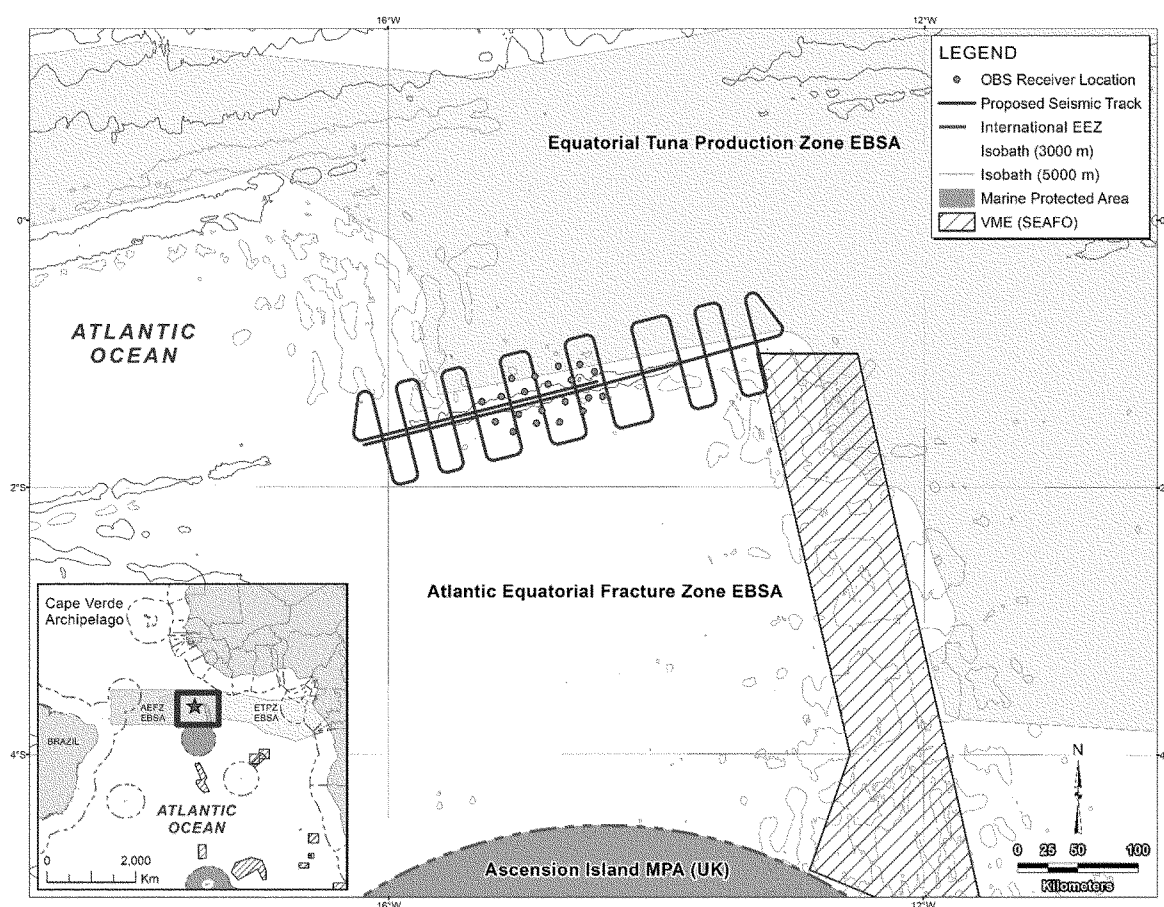


Figure 1. Location of the Proposed Chain Transform Fault Seismic Surveys in the equatorial Atlantic Ocean

Location of the proposed seismic surveys, OBS deployments, and marine conservation areas in the Equatorial Atlantic Ocean. Representative survey tracklines are included in the figure; however, the tracklines could occur anywhere within the survey area. MPA = Marine Protected Area. EBSA = Ecologically or Biologically Significant Marine Areas. VME = Vulnerable Marine Ecosystem. SEAFO = South East Atlantic Fisheries Organization.

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Detailed Description of the Specified Activity

The procedures to be used for the proposed surveys would be similar to those used during previous seismic surveys by L-DEO and would use conventional seismic methodology. The survey would involve one source vessel, R/V Langseth, which is owned and operated by L-DEO. During the high-energy survey, R/V Langseth would tow 4 strings with 36 airguns, consisting of a mixture of Bolt 1500LL and Bolt 1900LLX. During the surveys, all 4 strings, totaling 36 active airguns with a total discharge volume of 6,600 in³, would be used. The four airgun strings would be spaced 8 m apart, distributed across an area of approximately 24 m × 16 m behind the R/V Langseth, and would be towed approximately 140 m behind the vessel. The airgun array

configurations are illustrated in figure 2–11 of National Science Foundation (NSF) and the U.S. Geological Survey's (USGS) Programmatic Environmental Impact Statement (PEIS; NSF-USGS, 2011). (The PEIS is available online at: https://www.nsf.gov/geo/oce/envcomp/usgs-nsf-marine-seismic-research/nsf-usgs-final-eis-oeis_3june2011.pdf). The receiving system would consist of a 15-km long solid-state hydrophone streamer and 20 OBSs. As the airgun arrays are towed along the survey lines, the hydrophone streamer would transfer the data to the on-board processing system, and the OBSs would receive and store the returning acoustic signals internally for later analysis.

Approximately 2,058 km of seismic acquisition are proposed. The survey would take place in water depths ranging from 2,000 to 5,500 m; all effort would occur in water more than 2,000

m deep. Twenty OBSs would be deployed by R/V Langseth and left on the ocean floor for a period of 1 year to record earthquakes. To retrieve the OBSs, the instrument is released to float to the surface via an acoustic release system from the anchor, which is not retrieved. In addition to the operations of the airgun array, the ocean floor would be mapped with the Kongsberg EM 122 MBES and a Knudsen Chirp 3260 SBP. A Teledyne RDI 75 kilohertz (kHz) Ocean Surveyor ADCP would be used to measure water current velocities, and acoustic pingers would be used to retrieve OBSs. Take of marine mammals is not expected to occur incidental to the use of the MBES, SBP, and ADCP, regardless of whether the airguns are operating simultaneously with the other sources. Given their characteristics (e.g., narrow downward-directed beam), marine mammals would

experience no more than one or two brief ping exposures, if any exposure were to occur, which would not be expected to provoke a response equating to take. NMFS does not expect that the use of these sources presents any reasonable potential to cause take of marine mammals.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this Notice (please 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 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 about these species (e.g.,

physical and behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>). NMFS refers the reader to the aforementioned source for general information regarding the species listed in table 1.

The populations of marine mammals found in the survey area do not occur within the U.S. exclusive economic zone (EEZ) and therefore, are not assessed in NMFS' Stock Assessment Reports (SARs). For most species, there are no stocks defined for management purposes in the survey area, and NMFS is evaluating impacts at the species level. As such, information on potential biological removal level (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) and annual levels of serious injury and

mortality from anthropogenic sources are not available for these marine mammal populations. Abundance estimates for marine mammals in the survey location are lacking; therefore, the modeled abundances presented here are based on a variety of proxy sources, including the U.S. Navy Atlantic Fleet Training and Testing Area Marine Mammal Density (AFTT) model (Roberts *et al.*, 2023) and the International Whaling Commission (IWC) Population (Abundance) Estimates (IWC 2024). The modeled abundance is considered the best scientific information available on the abundance of marine mammal populations in the area.

Table 1 lists all species that occur in the survey area that may be taken as a result of the proposed survey and summarizes information related to the population, including regulatory status under the MMPA and Endangered Species Act (ESA).

TABLE 1—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) ¹	Modeled abundance ²
Order Artiodactyla—Cetacea—Mysticeti (baleen whales)				
<i>Family Balaenopteridae (rorquals):</i>				
Blue Whale	<i>Balaenoptera musculus</i>	NA	E, D, Y	² 191/ ⁴ 2,300
Fin Whale	<i>Balaenoptera physalus</i>	NA	E, D, Y	11,672
Humpback Whale	<i>Megaptera novaeangliae</i>	NA	-, -, N	² 4,990/ ⁵ 42,000
Common Minke Whale	<i>Balaenoptera acutorostrata</i>	NA	-, -, N	13,784
Antarctic Minke Whale	<i>Balaenoptera bonaerensis</i>	NA	-, -, N	³ 515,000
Sei Whale	<i>Balaenoptera borealis</i>	NA	E, D, Y	19,530
Bryde's Whale	<i>Balaenoptera edeni</i>	NA	-, -, N	536
Odontoceti (toothed whales, dolphins, and porpoises)				
<i>Family Physeteridae:</i>				
Sperm Whale	<i>Physeter macrocephalus</i>	NA	E, D, Y	64,015
<i>Family Kogiidae:</i>				
Pygmy Sperm Whale	<i>Kogia breviceps</i>	NA	-, -, N	⁷ 26,043
Dwarf Sperm Whale	<i>Kogia sima</i>	NA	-, -, N	
<i>Family Ziphiidae (beaked whales):</i>				
Blainville's Beaked Whale	<i>Mesoplodon densirostris</i>	NA	-, -, N	⁸ 65,069
Cuvier's Beaked Whale	<i>Ziphius cavirostris</i>	NA	-, -, N	
Gervais' Beaked Whale	<i>Mesoplodon europaeus</i>	NA	-, -, N	
<i>Family Delphinidae:</i>				
Killer Whale	<i>Orcinus orca</i>	NA	-, -, N	972
Short-Finned Pilot Whale	<i>Globicephala melas</i>	NA	-, -, N	⁶ 264,907
Rough-toothed Dolphin	<i>Steno bredanensis</i>	NA	-, -, N	32,848
Bottlenose Dolphin	<i>Tursiops truncatus</i>	NA	-, -, N	418,151
Risso's Dolphin	<i>Grampus griseus</i>	NA	-, -, N	78,205
Common Dolphin	<i>Delphinus delphis</i>	NA	-, -, N	473,260
Striped Dolphin	<i>Stenella coeruleoalba</i>	NA	-, -, N	412,729
Pantropical Spotted Dolphin	<i>Stenella attenuata</i>	NA	-, -, N	321,740
Atlantic Spotted Dolphin	<i>Stenella frontalis</i>	NA	-, -, N	259,519
Spinner Dolphin	<i>Stenella longirostris</i>	NA	-, -, N	152,511
Clymene Dolphin	<i>Stenella clymene</i>	NA	-, -, N	181,209
Fraser's Dolphin	<i>Lagenodelphis hosei</i>	NA	-, -, N	19,585
Melon-headed Whale	<i>Peponocephala electra</i>	NA	-, -, N	64,114
Pygmy Killer Whale	<i>Feresa attenuata</i>	NA	-, -, N	9,001

TABLE 1—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES—Continued

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) ¹	Modeled abundance ²
False Killer Whale	<i>Pseudorca crassidens</i>	NA	-, -, N	12,682

¹ 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 Modeled abundance value from U.S. Navy Atlantic Fleet Training and Testing Area Marine Mammal Density (AFTT) (Roberts *et al.*, 2023) unless otherwise noted.

³ Abundance of minke whales (species unspecified) for the Southern Hemisphere (IWC 2024)

⁴ Abundance of blue whales (excluding pygmy blue whales) for Southern Hemisphere (IWC 2024)

⁵ Abundance of humpback whales on Antarctic feeding grounds (IWC 2024)

⁶ Pilot whale guild.

⁷ Estimate includes dwarf and pygmy sperm whales.

⁸ Beaked whale guild.

All 28 species in table 1 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. All species that could potentially occur in the proposed survey area are listed in section 3 of the application. In addition to what is included in sections 3 and 4 of the application, and NMFS' website, further detail informing the baseline for select species of particular or unique vulnerability (*i.e.*, information regarding ESA listed species) is provided below.

Blue Whale

The blue whale has a cosmopolitan distribution and tends to be pelagic, only coming nearshore to feed and possibly to breed (Jefferson *et al.* 2015). The distribution of the species, at least during times of the year when feeding is a major activity, occurs in areas that provide large seasonal concentrations of euphausiids (Yochem and Leatherwood 1985). Blue whales are most often found in cool, productive waters where upwelling occurs (Reilly and Thayer 1990). Generally, blue whales are seasonal migrants between high latitudes in summer, where they feed, and low latitudes in winter, where they mate and give birth (Lockyer and Brown 1981). Their summer range in the North Atlantic extends from Davis Strait, Denmark Strait, and the waters north of Svalbard and the Barents Sea, south to the Gulf of St. Lawrence and the Bay of Biscay (Rice 1998). Although the winter range is mostly unknown, some occur near Cape Verde at that time of year (Rice 1998). One individual has been seen in Cape Verde in the month of June (Reiner *et al.* 1996). Blue whales have also been sighted elsewhere off northwestern Africa (Camphuysen 2015; Camphuysen *et al.* 2012, 2022; Baines and Reichelt 2014; Djiba *et al.* 2015; Correia 2020; Samba Bilal *et al.* 2023).

An extensive data review and analysis by Branch *et al.* (2007a) showed that blue whales are essentially absent from the central regions of major ocean basins, including in the equatorial Atlantic Ocean, where the proposed survey area is located. Similarly, Jefferson *et al.* (2015) indicate that the proposed survey area falls within the secondary range of the blue whale. Blue whales were captured by the thousands off Angola, Namibia, and South Africa in the 1900s, and a few catches were made near the proposed survey area (Branch *et al.* 2007a; Figueiredo and Weir 2014). However, whales were nearly extirpated in this region, and sightings of Antarctic blue whales in the region are now rare (Branch *et al.* 2007a). At least four records of blue whales exist for Angola; all sightings were made in 2012, with at least one sighting in July, two in August, and one in October (Figueiredo and Weir 2014).

Sightings were also made off Namibia in 2014 from seismic vessels (Brownell *et al.* 2016). Waters off Namibia may serve as a possible wintering and possible breeding grounds for Antarctic blue whales (Best 1998, 2007; Thomisch 2017). Offshore sightings in the southern Atlantic Ocean include one sighting at 13.4° S, 26.8° W and another at 15.9° S, 4.6° W (Branch *et al.* 2007a). Most blue whales off southeastern Africa are expected to be Antarctic blue whales; however, ~4 percent may be pygmy blue whales (Branch *et al.* 2007b, 2008). In fact, pygmy blue whale vocalizations were detected off northern Angola in October 2008; these calls were attributed to the Sri Lanka population (Cerchio *et al.* 2010). Antarctic blue whale calls were detected on acoustic recorders that were deployed northwest of Walvis Ridge from November 2011 through May 2013 during all months except during September and October, indicating that

not all whales migrate to higher latitudes during the summer (Thomisch 2017). There are no blue whale records near the proposed survey area in the Ocean Biodiversity Information System (OBIS) database (OBIS 2024).

Fin Whale

The fin whale is widely distributed in all the world's oceans (Gambell 1985), although it is most abundant in temperate and cold waters (Aguilar and García-Vernet 2018). Nonetheless, its overall range and distribution are not well known (Jefferson *et al.* 2015). Fin whales most commonly occur offshore but can also be found in coastal areas (Jefferson *et al.* 2015). Most populations migrate seasonally between temperate waters where mating and calving occur in winter, and polar waters where feeding occurs in summer (Aguilar and García-Vernet 2018).

In the Southern Hemisphere, fin whales are typically distributed south of 50° S in the austral summer, migrating northward to breed in the winter (Gambell 1985). According to Edwards *et al.* (2015), sightings have been made off northwestern Africa throughout the year and south of South Africa from December–February. Edwards did not report any sightings or acoustic detections near the proposed project area, although it is possible that fin whales could occur there. Fin whales were seen off Mauritania during April 2004 (Tulp and Leopold 2004), November 2012–January 2013 (Camphuysen *et al.* 2012; Baines and Reichelt 2014), 2015–2016 (Camphuysen *et al.* 2017; Correia 2020), and February–March 2022 (Camphuysen *et al.* 2022). Samba Bilal *et al.* (2023) reported several other records for Mauritania.

Several fin whale records exist for Angola (Weir 2011; Weir *et al.* 2012), South Africa (Shirshov Institute n.d.),

Namibia (NDP unpublished data in Pisces Environmental Services 2017), and historical whaling data showed several catches off Namibia and southern Africa (Best 2007), and Tristan da Cunha (Best *et al.* 2009). Fin whales appear to be somewhat common in the Tristan da Cunha archipelago from October–December (Bester and Ryan 2007). Fin whale calls were detected on acoustic recorders that were deployed northwest of Walvis Ridge from November 2011 through May 2013 during the months of November, January, and June through August, indicating that the waters off Namibia serve as wintering grounds (Thomisch 2017). Similarly, Best (2007) also suggested that waters off Namibia may be wintering grounds. Forty fin whales were seen during a trans-Atlantic voyage along 20° S during August 1943 between 5° and 25° W (Wheeler 1946 in Best 2007). Although Edwards *et al.* (2015) reported sightings in Cape Verde, there were no records of fin whales for the proposed survey area to the south of Cape Verde. There were no records of fin whales in the OBIS database near the proposed survey area; the closest record of fin whales in the OBIS database is off the coast of West Africa north of the proposed survey area (OBIS 2024).

Humpback Whale

For most North Atlantic humpbacks, the summer feeding grounds range from the northeast coast of the U.S. to the Barents Sea (Katona and Beard 1990; Smith *et al.* 1999). In the winter, the majority of humpback whales migrate to wintering areas in the West Indies (Smith *et al.* 1999); this is known as the West Indies distinct population segment (DPS) (Bettridge *et al.* 2015). Some individuals from the North Atlantic migrate to Cape Verde to breed (Wenzel *et al.* 2009, 2020); this is known as the Cape Verde/Northwest Africa DPS which is listed as endangered under the ESA (Wenzel *et al.* 2020). A small proportion of the Atlantic humpback whale population remains at high latitudes in the eastern North Atlantic during winter (*e.g.*, Christensen *et al.* 1992). Based on known migration routes of humpbacks from these breeding areas in the North Atlantic (see Jann *et al.* 2003; Bettridge *et al.* 2015; NMFS 2016b), it is unlikely that individuals from the aforementioned DPSs would occur in the proposed survey area, south of the Equator.

In the Southern Hemisphere, humpback whales migrate annually from summer foraging areas in the Antarctic to breeding grounds in tropical seas (Clapham 2018). It is uncertain whether humpbacks occur in

the proposed offshore survey area; Jefferson *et al.* (2015) indicated this region to be within the possible range of this species and deep offshore waters off West Africa to be the secondary range. The IWC recognizes seven breeding populations in the Southern Hemisphere that are linked to six foraging areas in the Antarctic (Clapham 2018). Two of the breeding grounds are in the South Atlantic—off Brazil and West Africa (Engel and Martin 2009). Bettridge *et al.* (2015) identified humpback whales at these breeding locations as the Brazil and Gabon/Southwest Africa DPSs. Migrations, song similarity, and genetic studies indicate some interchange between these two DPSs (Darling and Sousa-Lima 2005; Rosenbaum *et al.* 2009; Kershaw *et al.* 2017). Based on photo-identification work, one female humpback whale traveled from Brazil to Madagascar, a distance of >9,800 km (Stevick *et al.* 2011). Deoxyribonucleic acid (DNA) sampling showed evidence of a male humpback having traveled from West Africa to Madagascar (Pomilla and Rosenbaum 2005). Humpback whales likely to be encountered in the proposed survey area would be from the Gabon/Southwest Africa DPS.

There may be at least two breeding substocks in Gabon/Southwest Africa, including individuals in the main breeding area in the Gulf of Guinea and those animals that feed and migrate off Namibia and South Africa (Rosenbaum *et al.* 2009, 2014; Barendse *et al.* 2010a; Branch 2011; Carvalho *et al.* 2011). In addition, wintering humpbacks have also been reported on the continental shelf of northwestern Africa (from Senegal to Guinea) from July through November, which may represent the northernmost component of Southern Hemisphere humpback whales that are known to winter in the Gulf of Guinea (Van Waerebeek *et al.* 2013). Some humpbacks have also been reported in the northern Gulf of Guinea during December (Hazevoet *et al.* 2011). Migration rates are relatively high between populations within the southeastern Atlantic (Rosenbaum *et al.* 2009). However, Barendse *et al.* (2010a) reported no matches between individuals sighted in Namibia and South Africa based on a comparison of tail flukes. Feeding areas for Gabon/Southwest Africa DPS include Bouvet Island (Rosenbaum *et al.* 2014) and waters of the Antarctic Peninsula (Barendse *et al.* 2010b).

Humpbacks have been seen on breeding grounds around São Tomé in the Gulf of Guinea from August through November (Carvalho *et al.* 2011). They

are regularly seen in the northern Gulf of Guinea off Togo and Benin during December (Van Waerebeek *et al.* 2001; Van Waerebeek 2002). Off Gabon, humpback whales occur from late June–December (Carvalho *et al.* 2011). Weir (2011) reported year-round occurrence of humpback whales off Gabon and Angola, with the highest sighting rates from June through October. The west coast of South Africa might not be a ‘typical’ migration corridor, as humpbacks are also known to feed in the area; they are known to occur in the region during the northward migration (July–August), the southward migration (October–November), and into February (Barendse *et al.* 2010b; Carvalho *et al.* 2011; Seakamela *et al.* 2015). The highest sighting rates in the area occurred during mid-spring through summer (Barendse *et al.* 2010b).

Humpback whale calls were detected on acoustic recorders that were deployed northwest of Walvis Ridge from November 2011 through May 2013 during the months of November, December, January, and May through August, indicating that not all whales migrate to higher latitudes during the summer (Thomisch 2017). Based on whales that were satellite-tagged in Gabon in winter 2002, migration routes southward include offshore waters along Walvis Ridge (Rosenbaum *et al.* 2014). Humpback whales have also been sighted off Namibia (Elwen *et al.* 2014), South Africa (Barendse *et al.* 2010b), Tristan da Cunha (Bester and Ryan 2007; Best *et al.* 2009), St. Helena (MacLeod and Bennett 2007; Clingham *et al.* 2013), and they have been detected visually and acoustically off Angola (Best *et al.* 1999; Weir 2011; Cerchio *et al.* 2010, 2014; Weir *et al.* 2012). In the OBIS database, there are no records of humpback whales within the proposed survey area; the closest records of humpback whales are from whaling catches closer to shore in the Gulf of Guinea and farther north than the proposed survey location (OBIS 2024).

Minke Whale

In the Northern Hemisphere, minke whales are usually seen in coastal areas but may also be seen in pelagic waters during their northward migration in spring and summer and southward migration in fall (Stewart and Leatherwood, 1985). Although some populations of common minke whale have been well studied on summer feeding grounds, information on wintering areas and migration routes is lacking (Risch *et al.* 2014). Minke whales migrate north of 30° N from March–April and migrate south from Iceland from late September through

October (Risch *et al.* 2014; Vikingsson and Heide-Jorgensen 2015). Sightings have been made off northwestern Africa (Correia 2020; Samba Bilal *et al.* 2023; Shakhovskoy 2023), including off Mauritania during February 2022 (Camphuysen *et al.* 2022). The Antarctic minke whale occurs south of 60° S during austral summer and moves northwards to the coasts off western South Africa and northeast Brazil during austral winter (Perrin *et al.* 2018).

A smaller form (unnamed subspecies) of the common minke whale, known as the dwarf minke whale, occurs in the Southern Hemisphere, where its distribution overlaps with that of the Antarctic minke whale during summer (Perrin *et al.* 2018). The dwarf minke whale is generally found in shallow coastal waters and over the outer continental shelf in regions where it overlaps with the Antarctic minke whale (Perrin *et al.* 2018). The range of the dwarf minke whale is thought to extend as far south as 65° S off Antarctica in the South Atlantic Ocean (Jefferson *et al.* 2015) and as far north as 2° S in the Atlantic off South America, where dwarf minke whales can be found nearly year-round (Perrin *et al.* 2018). Dwarf minke whales are known to occur off South Africa during autumn and winter (Perrin *et al.* 2018), but have not been reported for the waters off Angola or Namibia (Best 2007).

It is unclear which species or form, if any, would occur in the proposed survey area, as this region is considered to be within the possible range of the common minke whale and just north of the primary range of the Antarctic minke whale (Jefferson *et al.* 2015). There are no records of common or Antarctic minke whales near the proposed survey area in the OBIS database (OBIS 2024).

Sei Whale

Sei whales are found in all ocean basins (Horwood 2018) but appear to prefer mid-latitude temperate waters (Jefferson *et al.* 2015). Habitat suitability models indicate that sei whale distribution is related to cool water with high chlorophyll levels (Palka *et al.*, 2017; Chavez-Rosales *et al.* 2019). They occur in deeper waters characteristic of the continental shelf edge region (Hain *et al.* 1985) and in other regions of steep bathymetric relief such as seamounts and canyons (Kenney and Winn 1987; Gregor and Trites 2001).

Sei whales undertake seasonal migrations to feed in subpolar latitudes during summer and return to lower latitudes during winter to calve

(Gambell 1985; Horwood 2018). On summer feeding grounds, sei whales associate with oceanic frontal systems (Horwood 1987). Sei whales that have been tagged in the Azores have traveled to the Labrador Sea, where they spend extended periods of time presumably feeding (Olsen *et al.* 2009; Prieto *et al.* 2010, 2014). Sei whales were the most commonly sighted species during a summer survey along the Mid-Atlantic Ridge from Iceland to north of the Azores (Waring *et al.* 2008). One sighting was made on the shelf break off Mauritania during March 2003 (Burton and Camphuysen 2003), at least seven sightings were made off Mauritania during November 2012–January 2013 (Baines and Reichelt 2014), and six sightings were made off Mauritania during February–March 2022 (Camphuysen *et al.* 2022). Correia (2020) and Samba Bilal *et al.* (2023) reported additional records for the waters off northwestern Africa.

In the South Atlantic, waters off northern Namibia may serve as wintering grounds (Best 2007). Summer concentrations are found between the subtropical and Antarctic convergences (Horwood 2018). A sighting of a mother and calf were made off Namibia in March 2012, and one stranding was reported in July 2013 (NDP unpublished data in Pisces Environmental Services 2017). One sighting was made during seismic surveys off the coast of northern Angola between 2004 and 2009 (Weir 2011; Weir *et al.* 2012). A group of two to four sei whales was seen near St. Helena during April 2011 (Clingham *et al.* 2013). Sei whales were also taken by whaling vessels off southern Africa during the 1960s (Best and Lockyer 2002). There are no records of sei whales near the proposed survey in the OBIS database (OBIS 2024). However, one sighting was made just northeast of the proposed survey area during March 2014 (Jungblut *et al.* 2017).

Sperm Whale

The sperm whale is widely distributed, occurring from the edge of the polar pack ice to the Equator in both hemispheres, with the sexes occupying different distributions (Whitehead 2018). Their distribution and relative abundance can vary in response to prey availability, most notably squid (Jaquet and Gendron 2002). Females generally inhabit waters >1,000 m deep at latitudes <40° where sea surface temperatures are <15° C; adult males move to higher latitudes as they grow older and larger in size, returning to warm-water breeding grounds (Whitehead 2018).

The primary range of sperm whales includes the waters off West Africa (Jefferson *et al.* 2015), including Cape Verde (Reiner *et al.* 1996; Hazevoet *et al.* 2010). Sperm whales have also been reported off Mauritania (Camphuysen 2015; Camphuysen *et al.* 2017). Sperm whales were the most frequently sighted cetacean during seismic surveys off the coast of northern Angola between 2004 and 2009; hundreds of sightings were made off Angola and a few sightings were reported off Gabon (Weir 2011). They occur there throughout the year, although sighting rates were highest from April through June (Weir 2011). de Boer (2010) also reported sightings off Gabon in 2009, and Weir *et al.* (2012) reported numerous sightings of sperm whales off Angola, the Republic of the Congo, and the Democratic Republic of the Congo during 2004–2009. Van Waerebeek *et al.* (2010) reported sightings off South Africa, and one group was seen at St. Helena during July 2009 (Clingham *et al.* 2013). Bester and Ryan (2007) noted that sperm whales might be common in the Tristan da Cunha archipelago, and catches of sperm whales were made there in the 19th and 20th centuries (Best *et al.* 2009). The waters of northern Angola, Namibia, and South Africa were historical whaling grounds (Best 2007; Weir 2019). There are thousands of sperm whale records for the South Atlantic in the OBIS database, but most of these are historical catches (OBIS 2024). Although none of the records occur within the proposed survey area, there are several records to the north and southwest of the proposed survey area (OBIS 2024).

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 decibel (dB) threshold from the normalized

composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from

Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS
[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>)	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

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

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.

Description of Active Acoustic 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 (for underwater sound, this is 1 micropascal (μPa)) 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 (referenced to 1 μPa) while the received level is the SPL at the listener's position (referenced to 1 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 (Urlick, 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 $\text{dB re } 1 \mu\text{Pa}^2 - \text{s}$) 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).

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is the case for pulses produced by the airgun array considered here. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.*, 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.*, wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.*, vessels, dredging,

construction) sound. A number of sources contribute to ambient sound, including the following (Richardson *et al.*, 1995):

Wind and waves: The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient sound for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf sound becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions;

Precipitation: Sound from rain and hail impacting the water surface can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times;

Biological: Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz; and

Anthropogenic: Sources of anthropogenic sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly. Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.*, a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

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 this 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. 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.*, NMFS, 2018; 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, 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.

Airgun arrays produce pulsed signals with energy in a frequency range from about 10–2,000 Hz, with most energy radiated at frequencies below 200 Hz. The amplitude of the acoustic wave emitted from the source is equal in all directions (*i.e.*, omnidirectional), but airgun arrays do possess some directionality due to different phase delays between guns in different

directions. Airgun arrays are typically tuned to maximize functionality for data acquisition purposes, meaning that sound transmitted in horizontal directions and at higher frequencies is minimized to the extent possible.

Acoustic Effects

Here, we discuss the effects of active acoustic sources on marine mammals.

*Potential Effects of Underwater Sound*¹—Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: Temporary or permanent hearing impairment; non-auditory physical or physiological effects; behavioral disturbance; stress; and masking (Richardson *et al.*, 1995; Gordon *et al.*, 2004; Nowacek *et al.*, 2007; Southall *et al.*, 2007; Götz *et al.*, 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing, if it occurs at all, will occur almost exclusively in cases where a noise is within an animal's hearing frequency range. We first describe specific manifestations of acoustic effects before providing discussion specific to the use of airgun arrays.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological response. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the

¹ Please refer to the information given previously (“Description of Active Acoustic Sound Sources”) regarding sound, characteristics of sound types, and metrics used in this document.

area within which masking (*i.e.*, when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects of certain non-auditory physical or physiological effects only briefly as we do not expect that use of airgun arrays are reasonably likely to result in such effects (see below for further discussion). 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). Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.*, change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007; Zimmer and Tyack, 2007; Tal *et al.*, 2015). The survey activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

Threshold Shift—Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). Threshold shift can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.*, 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.*, tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.*, 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.*, Ward, 1997). Therefore, NMFS does not typically consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals. There is no PTS data for cetaceans, but such relationships are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several dBs above (a 40-dB threshold shift approximates PTS onset; *e.g.*, Kryter *et al.*, 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift approximates TTS onset; *e.g.*, Southall *et al.* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulsive sounds (such as airgun pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.*, 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Finneran *et al.* (2015) measured hearing thresholds in 3 captive bottlenose dolphins before and after exposure to 10 pulses produced by a

seismic airgun in order to study TTS induced after exposure to multiple pulses. Exposures began at relatively low levels and gradually increased over a period of several months, with the highest exposures at peak SPLs from 196 to 210 dB and cumulative (unweighted) SELs from 193–195 dB. No substantial TTS was observed. In addition, behavioral reactions were observed that indicated that animals can learn behaviors that effectively mitigate noise exposures (although exposure patterns must be learned, which is less likely in wild animals than for the captive animals considered in this study). The authors note that the failure to induce more significant auditory effects was likely due to the intermittent nature of exposure, the relatively low peak pressure produced by the acoustic source, and the low-frequency energy in airgun pulses as compared with the frequency range of best sensitivity for dolphins and other mid-frequency cetaceans.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise (*Phocoena phocoena*), and Yangtze finless porpoise (*Neophocaena asiaeorientalis*)) exposed to a limited number of sound sources (*i.e.*, mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). In general, harbor porpoises have a lower TTS onset than other measured cetacean species (Finneran, 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There is no direct data available on noise-induced hearing loss for mysticetes.

Critical questions remain regarding the rate of TTS growth and recovery after exposure to intermittent noise and the effects of single and multiple pulses. Data at present are also insufficient to construct generalized models for recovery and determine the time necessary to treat subsequent exposures as independent events. More information is needed on the relationship between auditory evoked potential and behavioral measures of TTS for various stimuli. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007, 2019), Finneran and Jenkins (2012), Finneran (2015), and NMFS (2018).

Behavioral Effects—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.*, minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar

behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific, and any reactions depend on numerous intrinsic and extrinsic factors (e.g., species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (e.g., Richardson *et al.*, 1995; Wartzok *et al.*, 2003; Southall *et al.*, 2007, 2019; Weilgart, 2007; Archer *et al.*, 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.*, 2012), and can vary depending on characteristics associated with the sound source (e.g., whether it is moving or stationary, number of sources, distance from the source). Please see appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

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. It is important to note that habituation is appropriately considered as a “progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,” rather than as, more generally, moderation in response to human disturbance (Bejder *et al.*, 2009). 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. As noted, behavioral state may affect the type of response. 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 sound sources (Ridgway *et al.*, 1997). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) vary but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson

et al., 1995; Nowacek *et al.*, 2007). However, many delphinids approach acoustic source vessels with no apparent discomfort or obvious behavioral change (e.g., Barkaszi *et al.*, 2012).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal reacts briefly to underwater sound by changing its behavior or moving a small distance, the impacts of the behavioral change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). There are broad categories of potential response, which we describe in greater detail here, that include changes in dive behavior, disruption of foraging (feeding) behavior, changes in respiration (breathing), interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (e.g., Frankel and Clark, 2000; Ng and Leung, 2003; Nowacek *et al.*, 2004; Goldbogen *et al.*, 2013a, b). Variations in dive behavior may reflect disruptions in biologically significant activities (e.g., foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of foraging (feeding) behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (e.g., bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (e.g., Croll *et al.*, 2001; Nowacek *et al.*, 2004; Madsen *et al.*, 2006; Yazvenko *et al.*, 2007). A determination of whether foraging disruptions adversely affect fitness

would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Visual tracking, passive acoustic monitoring (PAM), and movement recording tags were used to quantify sperm whale behavior prior to, during, and following exposure to airgun arrays at received levels in the range of 140–160 dB and distances of 7–13 km, following a phase-in of sound intensity and full array exposures at 1–13 km (Madsen *et al.*, 2006; Miller *et al.*, 2009). Sperm whales did not exhibit horizontal avoidance behavior at the surface. However, foraging behavior may have been affected. The sperm whales exhibited 19 percent less vocal, or buzz, rate during full exposure relative to post exposure, and the whale that was approached most closely had an extended resting period and did not resume foraging until the airguns ceased firing. The remaining whales continued to execute foraging dives throughout exposure; however, swimming movements during foraging dives were 6 percent lower during exposure than they were during control periods (Miller *et al.*, 2009). These data raise concerns that seismic surveys may impact foraging behavior in sperm whales, although more data is required to understand whether the differences were due to exposure or natural variation in sperm whale behavior (Miller *et al.*, 2009).

Changes in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (e.g., Kastelein *et al.*, 2001, 2005, 2006; Gailey *et al.*, 2007, 2016).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may

reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs or amplitude of calls (Miller *et al.*, 2000; Fristrup *et al.*, 2003; Foote *et al.*, 2004; Holt *et al.*, 2012), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.*, 2007). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.*, 1994).

Cerchio *et al.* (2014) used PAM to document the presence of singing humpback whales off the coast of northern Angola and to opportunistically test for the effect of seismic survey activity on the number of singing whales. Two recording units were deployed between March and December 2008 in the offshore environment; numbers of singers were counted every hour. Generalized Additive Mixed Models were used to assess the effect of survey day (seasonality), hour (diel variation), moon phase, and received levels of noise (measured from a single pulse during each 10 minutes sampled period) on singer number. The number of singers significantly decreased with increasing received level of noise, suggesting that humpback whale communication was disrupted to some extent by the survey activity.

Castellote *et al.* (2012) reported acoustic and behavioral changes by fin whales in response to shipping and airgun noise. Acoustic features of fin whale song notes recorded in the Mediterranean Sea and northeast Atlantic Ocean were compared for areas with different shipping noise levels and traffic intensities and during a seismic airgun survey. During the first 72 hours of the survey, a steady decrease in song received levels and bearings to singers indicated that whales moved away from the acoustic source and out of the study area. This displacement persisted for a time period well beyond the 10-day duration of seismic airgun activity, providing evidence that fin whales may avoid an area for an extended period in the presence of increased noise. The authors hypothesize that fin whale acoustic communication is modified to compensate for increased background noise and that a sensitization process may play a role in the observed temporary displacement.

Seismic pulses at average received levels of 131 dB re 1 $\mu\text{Pa}^2\text{-s}$ caused blue whales to increase call production (Diorio and Clark, 2010). In contrast,

McDonald *et al.* (1995) tracked a blue whale with seafloor seismometers and reported that it stopped vocalizing and changed its travel direction at a range of 10 km from the acoustic source vessel (estimated received level 143 dB pk-pk). Blackwell *et al.* (2013) found that bowhead whale call rates dropped significantly at onset of airgun use at sites with a median distance of 41–45 km from the survey. Blackwell *et al.* (2015) expanded this analysis to show that whales actually increased calling rates as soon as airgun signals were detectable before ultimately decreasing calling rates at higher received levels (*i.e.*, 10-minute cumulative sound exposure level (SEL_{cum}) of ~127 dB). Overall, these results suggest that bowhead whales may adjust their vocal output in an effort to compensate for noise before ceasing vocalization effort and ultimately deflecting from the acoustic source (Blackwell *et al.*, 2013, 2015). These studies demonstrate that even low levels of noise received far from the source can induce changes in vocalization and/or behavior for mysticetes.

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.*, 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.*, 1984). Humpback whales show avoidance behavior in the presence of an active seismic array during observational studies and controlled exposure experiments in western Australia (McCauley *et al.*, 2000). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.*, Bowles *et al.*, 1994; Goold, 1996; Stone *et al.*, 2000; Morton and Symonds, 2002; Gailey *et al.*, 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.*, Bejder *et al.*, 2006; Teilmann *et al.*, 2006).

Forney *et al.* (2017) detail the potential effects of noise on marine mammal populations with high site fidelity, including displacement and auditory masking, noting that a lack of observed response does not imply absence of fitness costs and that apparent tolerance of disturbance may have population-level impacts that are less obvious and difficult to document. Avoidance of spatiotemporal overlap

between disturbing noise and areas and/or times of particular importance for sensitive species may be critical to avoiding population-level impacts because (particularly for animals with high site fidelity) there may be a strong motivation to remain in the area despite negative impacts. Forney *et al.* (2017) state that, for these animals, remaining in a disturbed area may reflect a lack of alternatives rather than a lack of effects.

Forney *et al.* (2017) specifically discuss beaked whales, stating that until recently most knowledge of beaked whales was derived from strandings, as they have been involved in atypical mass stranding events associated with mid-frequency active sonar (MFAS) training operations. Given these observations and recent research, beaked whales appear to be particularly sensitive and vulnerable to certain types of acoustic disturbance relative to most other marine mammal species. Individual beaked whales reacted strongly to experiments using simulated MFAS at low received levels, by moving away from the sound source and stopping foraging for extended periods. These responses, if on a frequent basis, could result in significant fitness costs to individuals (Forney *et al.*, 2017). Additionally, difficulty in detection of beaked whales due to their cryptic surfacing behavior and silence when near the surface pose problems for mitigation measures employed to protect beaked whales. Forney *et al.* (2017) specifically states that failure to consider both displacement of beaked whales from their habitat and noise exposure could lead to more severe biological consequences.

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.*, directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are alone or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.*, when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.*, Beauchamp and Livoreil, 1997; Fritz *et al.*, 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.*, decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.*, Harrington and Veitch, 1992; Daan *et al.*, 1996; Bradshaw *et al.*, 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a 5-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors, such as sound exposure, are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007). Consequently, a behavioral response lasting less than 1 day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.*, 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stone (2015) reported data from at-sea observations during 1,196 seismic surveys from 1994 to 2010. When large arrays of airguns (considered to be 500 in³ or more in that study) were firing, lateral displacement, more localized avoidance, or other changes in behavior were evident for most odontocetes. However, significant responses to large arrays were found only for the minke whale and fin whale. Behavioral responses observed included changes in swimming or surfacing behavior, with indications that cetaceans remained near the water surface at these times. Cetaceans were recorded as feeding less

often when large arrays were active. Behavioral observations of gray whales during a seismic survey monitored whale movements and respirations pre-, during, and post-seismic survey (Gailey *et al.*, 2016). Behavioral state and water depth were the best “natural” predictors of whale movements and respiration and, after considering natural variation, none of the response variables were significantly associated with seismic survey or vessel sounds.

Stress Responses—An animal’s perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.*, Seyle, 1950; Moberg, 2000). In many cases, an animal’s first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal’s fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.*, Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.*, 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and distress is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficiently to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through

controlled experiments and for both laboratory and free-ranging animals (*e.g.*, Holberton *et al.*, 1996; Hood *et al.*, 1998; Jessop *et al.*, 2003; Krausman *et al.*, 2004; Lankford *et al.*, 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.*, 2002b) and, more rarely, studied in wild populations (*e.g.*, Romano *et al.*, 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as “distress.” In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Auditory Masking—Sound can disrupt behavior through masking, or interfering with, an animal’s ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.*, those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.*, 1995; Erbe *et al.*, 2016). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.*, snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.*, shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.*, signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal’s hearing abilities (*e.g.*, sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, significant masking could disrupt behavioral patterns, which in turn could affect fitness for survival and reproduction. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is

not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in predicting any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (e.g., Clark *et al.*, 2009) and may result in energetic or other costs as animals change their vocalization behavior (e.g., Miller *et al.*, 2000; Foote *et al.*, 2004; Parks *et al.*, 2007; Di Iorio and Clark, 2009; Holt *et al.*, 2009). Masking may be less in situations where the signal and noise come from different directions (Richardson *et al.*, 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (e.g., Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (e.g., Branstetter *et al.*, 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (e.g., from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited, although there is little specific data on this. Because of the intermittent nature and low duty cycle of seismic pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in exceptional situations, reverberation occurs for much or all of the interval between pulses (e.g., Simard *et al.* 2005; Clark

and Gagnon 2006), which could mask calls. Situations with prolonged strong reverberation are infrequent. However, it is common for reverberation to cause some lesser degree of elevation of the background level between airgun pulses (e.g., Gedamke 2011; Guerra *et al.* 2011, 2016; Klinck *et al.* 2012; Guan *et al.* 2015), and this weaker reverberation presumably reduces the detection range of calls and other natural sounds to some degree. Guerra *et al.* (2016) reported that ambient noise levels between seismic pulses were elevated as a result of reverberation at ranges of 50 km from the seismic source. Based on measurements in deep water of the Southern Ocean, Gedamke (2011) estimated that the slight elevation of background noise levels during intervals between seismic pulses reduced blue and fin whale communication space by as much as 36–51 percent when a seismic survey was operating 450–2,800 km away. Based on preliminary modeling, Wittekind *et al.* (2016) reported that airgun sounds could reduce the communication range of blue and fin whales 2,000 km from the seismic source. Nieukirk *et al.* (2012) and Blackwell *et al.* (2013) noted the potential for masking effects from seismic surveys on large whales.

Some baleen and toothed whales are known to continue calling in the presence of seismic pulses, and their calls usually can be heard between the pulses (e.g., Nieukirk *et al.* 2012; Thode *et al.* 2012; Bröker *et al.* 2013; Sciacca *et al.* 2016). Cerchio *et al.* (2014) suggested that the breeding display of humpback whales off Angola could be disrupted by seismic sounds, as singing activity declined with increasing received levels. In addition, some cetaceans are known to change their calling rates, shift their peak frequencies, or otherwise modify their vocal behavior in response to airgun sounds (e.g., Di Iorio and Clark 2010; Castellote *et al.* 2012; Blackwell *et al.* 2013, 2015). The hearing systems of baleen whales are more sensitive to low-frequency sounds than are the ears of the small odontocetes that have been studied directly (e.g., MacGillivray *et al.*, 2014). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking. In general, masking effects of seismic pulses are expected to be minor, given the normally intermittent nature of seismic pulses.

Vessel Noise

Vessel noise from the R/V Langseth could affect marine animals in the

proposed survey areas. Houghton *et al.* (2015) proposed that vessel speed is the most important predictor of received noise levels, and Putland *et al.* (2017) also reported reduced sound levels with decreased vessel speed. However, some energy is also produced at higher frequencies (Hermannsen *et al.*, 2014); low levels of high-frequency sound from vessels has been shown to elicit responses in harbor porpoise (Dyndo *et al.*, 2015).

Vessel noise, through masking, can reduce the effective communication distance of a marine mammal if the frequency of the sound source is close to that used by the animal, and if the sound is present for a significant fraction of time (e.g., Richardson *et al.* 1995; Clark *et al.*, 2009; Jensen *et al.*, 2009; Gervaise *et al.*, 2012; Hatch *et al.*, 2012; Rice *et al.*, 2014; Dunlop 2015; Erbe *et al.*, 2015; Jones *et al.*, 2017; Putland *et al.*, 2017). In addition to the frequency and duration of the masking sound, the strength, temporal pattern, and location of the introduced sound also play a role in the extent of the masking (Branstetter *et al.*, 2013, 2016; Finneran and Branstetter 2013; Sills *et al.*, 2017). Branstetter *et al.* (2013) reported that time-domain metrics are also important in describing and predicting masking.

Baleen whales are thought to be more sensitive to sound at these low frequencies than are toothed whales (e.g., MacGillivray *et al.* 2014), possibly causing localized avoidance of the proposed survey area during seismic operations. Many odontocetes show considerable tolerance of vessel traffic, although they sometimes react at long distances if confined by ice or shallow water, if previously harassed by vessels, or have had little or no recent exposure to vessels (Richardson *et al.* 1995). Pirota *et al.* (2015) noted that the physical presence of vessels, not just ship noise, disturbed the foraging activity of bottlenose dolphins. There is little data on the behavioral reactions of beaked whales to vessel noise, though they seem to avoid approaching vessels (e.g., Würsig *et al.*, 1998) or dive for an extended period when approached by a vessel (e.g., Kasuya 1986).

In summary, project vessel sounds would not be at levels expected to cause anything more than possible localized and temporary behavioral changes in marine mammals, and would not be expected to result in significant negative effects on individuals or at the population level. In addition, in all oceans of the world, large vessel traffic is currently so prevalent that it is commonly considered a usual source of ambient sound (NSF-USGS 2011).

Vessel Strike

Vessel collisions with marine mammals, or vessel strikes, can result in death or serious injury of the animal. Wounds resulting from vessel strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus, 2001). An animal at the surface may be struck directly by a vessel, a surfacing animal may hit the bottom of a vessel, or an animal just below the surface may be cut by a vessel's propeller. Superficial strikes may not kill or result in the death of the animal. These interactions are typically associated with large whales (*e.g.*, fin whales), which are occasionally found draped across the bulbous bow of large commercial vessels upon arrival in port. Although smaller cetaceans are more maneuverable in relation to large vessels than are large whales, they may also be susceptible to vessel strikes. The severity of injuries typically depends on the size and speed of the vessel, with the probability of death or serious injury increasing as vessel speed increases (Knowlton and Kraus, 2001; Laist *et al.*, 2001; Vanderlaan and Taggart, 2007; Conn and Silber, 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.*, 2010; Gende *et al.*, 2011).

Pace and Silber (2005) also found that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 to 75 percent as vessel speed increased from 10 to 14 knots (kn (26 kilometer per hour (kph))), and exceeded 90 percent at 17 kn (31 kph). Higher speeds during collisions result in greater force of impact, but higher speeds also appear to increase the chance of severe injuries or death through increased likelihood of collision by pulling whales toward the vessel (Clyne, 1999; Knowlton *et al.*, 1995). In a separate study, Vanderlaan and Taggart (2007) analyzed the probability of lethal mortality of large whales at a given speed, showing that the greatest rate of change in the probability of a lethal injury to a large whale as a function of vessel speed occurs between 8.6 and 15 kn (28 kph). The chances of a lethal injury decline from approximately 80 percent at 15 kn (28 kph) to approximately 20 percent at 8.6 kn (16 kph). At speeds below 11.8 kn (22 kph), the chances of lethal injury drop below 50 percent, while the probability asymptotically increases toward 100 percent above 15 kn (28 kph).

The R/V Langseth will travel at a speed of 5 kn (9 kph) while towing seismic survey gear. At this speed, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are discountable. At average transit speed, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again discountable. Vessel strikes, as analyzed in the studies cited above, generally involve commercial shipping, which is much more common in both space and time than is geophysical survey activity. Jensen and Silber (2004) summarized vessel strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.*, commercial shipping). No such incidents were reported for geophysical survey vessels during that time period.

It is possible for vessel strikes to occur while traveling at slow speeds. For example, a hydrographic survey vessel traveling at low speed (5.5 kn (10 kph)) while conducting mapping surveys off the central California coast struck and killed a blue whale in 2009. The State of California determined that the whale had suddenly and unexpectedly surfaced beneath the hull, with the result that the propeller severed the whale's vertebrae, and that this was an unavoidable event. This strike represents the only such incident in approximately 540,000 hours of similar coastal mapping activity ($p = 1.9 \times 10^{-6}$; 95 percent confidence interval = 0–5.5 $\times 10^{-6}$; NMFS, 2013). In addition, a research vessel reported a fatal strike in 2011 of a dolphin in the Atlantic, demonstrating that it is possible for strikes involving smaller cetaceans to occur. In that case, the incident report indicated that an animal apparently was struck by the vessel's propeller as the animal was intentionally swimming near the vessel. While indicative of the type of unusual events that cannot be ruled out, neither of these instances represents a circumstance that would be considered reasonably foreseeable or that would be considered preventable.

Although the likelihood of the vessel striking a marine mammal is low, we propose a robust vessel strike avoidance protocol (see Proposed Mitigation), which we believe eliminates any foreseeable risk of vessel strike during transit. We anticipate that vessel collisions involving a seismic data acquisition vessel towing gear, while not impossible, represent unlikely, unpredictable events for which there are no preventive measures. Given the

proposed mitigation measures, the relatively slow speed of the vessel towing gear, the presence of bridge crew watching for obstacles at all times (including marine mammals), and the presence of marine mammal observers, the possibility of vessel strike is discountable and, further, were a strike of a large whale to occur, it would be unlikely to result in serious injury or mortality. No incidental take resulting from vessel strike is anticipated, and this potential effect of the specified activity will not be discussed further in the following analysis.

Stranding—When a living or dead marine mammal swims or floats onto shore and becomes “beached” or incapable of returning to sea, the event is a “stranding” (Geraci *et al.*, 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding under the MMPA is that a marine mammal is dead and is on a beach or shore of the United States; or in waters under the jurisdiction of the United States (including any navigable waters); or a marine mammal is alive and is on a beach or shore of the United States and is unable to return to the water; on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.

Marine mammals strand for a variety of reasons, such as infectious agents, biotoxins, starvation, fishery interaction, vessel strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.*, 1976; Eaton, 1979; Odell *et al.*, 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might predispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.*, 2003; Fair and Becker, 2000; Foley *et al.*, 2001; Moberg, 2000; Relyea, 2005a; 2005b; Romero, 2004; Sih *et al.*, 2004).

There is no conclusive evidence that exposure to airgun noise results in behaviorally-mediated forms of injury. Behaviorally-mediated injury (*i.e.*, mass stranding events) has been primarily associated with beaked whales exposed to mid-frequency active (MFA) naval sonar. MFA sonar and the alerting stimulus used in Nowacek *et al.* (2004) are very different from the noise produced by airguns. As explained below, military MFA sonar is very different from airguns, and one should not assume that airguns will cause the same effects as MFA sonar (including strandings).

To understand why military MFA sonar affects beaked whales differently than airguns do, it is important to note the distinction between behavioral sensitivity and susceptibility to auditory injury. To understand the potential for auditory injury in a particular marine mammal species in relation to a given acoustic signal, the frequency range the species is able to hear is critical, as well as the species' auditory sensitivity to frequencies within that range. Current data indicate that not all marine mammal species have equal hearing capabilities across all frequencies and, therefore, species are grouped into hearing groups with generalized hearing ranges assigned on the basis of available data (Southall *et al.*, 2007, 2019). Hearing ranges as well as auditory sensitivity/susceptibility to frequencies within those ranges vary across the different groups. For example, in terms of hearing range, the high-frequency cetaceans (*e.g.*, *Kogia* spp.) have a generalized hearing range of frequencies between 275 Hz and 160 kHz, while mid-frequency cetaceans—such as dolphins and beaked whales—have a generalized hearing range between 150 Hz to 160 kHz. Regarding auditory susceptibility within the hearing range, while mid-frequency cetaceans and high-frequency cetaceans have roughly similar hearing ranges, the high-frequency group is much more susceptible to noise-induced hearing loss during sound exposure, *i.e.*, these species have lower thresholds for these effects than other hearing groups (NMFS, 2018). Referring to a species as behaviorally sensitive to noise simply means that an animal of that species is more likely to respond to lower received levels of sound than an animal of another species that is considered less behaviorally sensitive. So, while dolphin species and beaked whale species—both in the mid-frequency cetacean hearing group—are assumed to generally hear the same sounds equally well and be equally susceptible to noise-

induced hearing loss (auditory injury), the best available information indicates that a beaked whale is more likely to behaviorally respond to that sound at a lower received level compared to an animal from other mid-frequency cetacean species that are less behaviorally sensitive. This distinction is important because, while beaked whales are more likely to respond behaviorally to sounds than are many other species (even at lower levels), they cannot hear the predominant, lower frequency sounds from seismic airguns as well as sounds that have more energy at frequencies that beaked whales can hear better (such as military MFA sonar).

Military MFA sonar affects beaked whales differently than airguns do because it produces energy at different frequencies than airguns. Mid-frequency cetacean hearing is generically thought to be best between 8.8 to 110 kHz, *i.e.*, these cutoff values define the range above and below which a species in the group is assumed to have declining auditory sensitivity, until reaching frequencies that cannot be heard (NMFS, 2018). However, beaked whale hearing is likely best within a higher, narrower range (20–80 kHz, with best sensitivity around 40 kHz), based on a few measurements of hearing in stranded beaked whales (Cook *et al.*, 2006; Finneran *et al.*, 2009; Pacini *et al.*, 2011) and several studies of acoustic signals produced by beaked whales (*e.g.*, Frantzis *et al.*, 2002; Johnson *et al.*, 2004, 2006; Zimmer *et al.*, 2005). While precaution requires that the full range of audibility be considered when assessing risks associated with noise exposure (Southall *et al.*, 2007, 2019), animals typically produce sound at frequencies where they hear best. More recently, Southall *et al.* (2019) suggested that certain species in the historical mid-frequency hearing group (beaked whales, sperm whales, and killer whales) are likely more sensitive to lower frequencies within the group's generalized hearing range than are other species within the group, and state that the data for beaked whales suggest sensitivity to approximately 5 kHz. However, this information is consistent with the general conclusion that beaked whales (and other mid-frequency cetaceans) are relatively insensitive to the frequencies where most energy of an airgun signal is found. Military MFA sonar is typically considered to operate in the frequency range of approximately 3–14 kHz (D'Amico *et al.*, 2009), *i.e.*, outside the range of likely best hearing for beaked whales but within or close to the lower bounds, whereas most energy

in an airgun signal is radiated at much lower frequencies, below 500 Hz (Dragoset, 1990).

It is important to distinguish between energy (loudness, measured in dB) and frequency (pitch, measured in Hz). In considering the potential impacts of mid-frequency components of airgun noise (1–10 kHz, where beaked whales can be expected to hear) on marine mammal hearing, one needs to account for the energy associated with these higher frequencies and determine what energy is truly “significant.” Although there is mid-frequency energy associated with airgun noise (as expected from a broadband source), airgun sound is predominantly below 1 kHz (Breitzke *et al.*, 2008; Tashmukhambetov *et al.*, 2008; Tolstoy *et al.*, 2009). As stated by Richardson *et al.* (1995), “[. . .] most emitted [seismic airgun] energy is at 10–120 Hz, but the pulses contain some energy up to 500–1,000 Hz.” Tolstoy *et al.* (2009) conducted empirical measurements, demonstrating that sound energy levels associated with airguns were at least 20 dB lower at 1 kHz (considered “mid-frequency”) compared to higher energy levels associated with lower frequencies (below 300 Hz) (“all but a small fraction of the total energy being concentrated in the 10–300 Hz range” [Tolstoy *et al.*, 2009]), and at higher frequencies (*e.g.*, 2.6–4 kHz), power might be less than 10 percent of the peak power at 10 Hz (Yoder, 2002). Energy levels measured by Tolstoy *et al.* (2009) were even lower at frequencies above 1 kHz. In addition, as sound propagates away from the source, it tends to lose higher-frequency components faster than low-frequency components (*i.e.*, low-frequency sounds typically propagate longer distances than high-frequency sounds) (Diebold *et al.*, 2010). Although higher-frequency components of airgun signals have been recorded, it is typically in surface-ducting conditions (*e.g.*, DeRuiter *et al.*, 2006; Madsen *et al.*, 2006) or in shallow water, where there are advantageous propagation conditions for the higher frequency (but low-energy) components of the airgun signal (Hermannsen *et al.*, 2015). This should not be of concern because the likely behavioral reactions of beaked whales that can result in acute physical injury would result from noise exposure at depth (because of the potentially greater consequences of severe behavioral reactions). In summary, the frequency content of airgun signals is such that beaked whales will not be able to hear the signals well (compared to MFA sonar), especially at depth where we expect the

consequences of noise exposure could be more severe.

Aside from frequency content, there are other significant differences between MFA sonar signals and the sounds produced by airguns that minimize the risk of severe behavioral reactions that could lead to strandings or deaths at sea, *e.g.*, significantly longer signal duration, horizontal sound direction, typical fast and unpredictable source movement. All of these characteristics of MFA sonar tend towards greater potential to cause severe behavioral or physiological reactions in exposed beaked whales that may contribute to stranding. Although both sources are powerful, MFA sonar contains significantly greater energy in the mid-frequency range, where beaked whales hear better. Short-duration, high energy pulses—such as those produced by airguns—have greater potential to cause damage to auditory structures (though this is unlikely for mid-frequency cetaceans, as explained later in this document), but it is longer duration signals that have been implicated in the vast majority of beaked whale strandings. Faster, less predictable movements in combination with multiple source vessels are more likely to elicit a severe, potentially anti-predator response. Of additional interest in assessing the divergent characteristics of MFA sonar and airgun signals and their relative potential to cause stranding events or deaths at sea is the similarity between the MFA sonar signals and stereotyped calls of beaked whales' primary predator: the killer whale (Zimmer and Tyack, 2007). Although generic disturbance stimuli—as airgun noise may be considered in this case for beaked whales—may also trigger antipredator responses, stronger responses should generally be expected when perceived risk is greater, as when the stimulus is confused for a known predator (Frid and Dill, 2002). In addition, because the source of the perceived predator (*i.e.*, MFA sonar) will likely be closer to the whales (because attenuation limits the range of detection of mid-frequencies) and moving faster (because it will be on faster-moving vessels), any antipredator response would be more likely to be severe (with greater perceived predation risk, an animal is more likely to disregard the cost of the response; Frid and Dill, 2002). Indeed, when analyzing movements of a beaked whale exposed to playback of killer whale predation calls, Allen *et al.* (2014) found that the whale engaged in a prolonged, directed avoidance response, suggesting a behavioral reaction that could pose a risk factor for stranding. Overall, these

significant differences between sound from MFA sonar and the mid-frequency sound component from airguns and the likelihood that MFA sonar signals will be interpreted in error as a predator are critical to understanding the likely risk of behaviorally-mediated injury due to seismic surveys.

The available scientific literature also provides a useful contrast between airgun noise and MFA sonar regarding the likely risk of behaviorally-mediated injury. There is strong evidence for the association of beaked whale stranding events with MFA sonar use, and particularly detailed accounting of several events is available (*e.g.*, a 2000 Bahamas stranding event for which investigators concluded that MFA sonar use was responsible; Evans and England, 2001). D'Amico *et al.*, (2009) reviewed 126 beaked whale mass stranding events over the period from 1950 (*i.e.*, from the development of modern MFA sonar systems) through 2004. Of these, there were two events where detailed information was available on both the timing and location of the stranding and the concurrent nearby naval activity, including verification of active MFA sonar usage, with no evidence for an alternative cause of stranding. An additional 10 events were at minimum spatially and temporally coincident with naval activity likely to have included MFA sonar use and, despite incomplete knowledge of timing and location of the stranding or the naval activity in some cases, there was no evidence for an alternative cause of stranding. The U.S. Navy has publicly stated agreement that five such events since 1996 were associated in time and space with MFA sonar use, either by the U.S. Navy alone or in joint training exercises with the North Atlantic Treaty Organization. The U.S. Navy additionally noted that, as of 2017, a 2014 beaked whale stranding event in Crete coincident with naval exercises was under review and had not yet been determined to be linked to sonar activities (U.S. Navy, 2017). Separately, the International Council for the Exploration of the Sea reported in 2005 that, worldwide, there have been about 50 known strandings, consisting mostly of beaked whales, with a potential causal link to MFA sonar (ICES, 2005). In contrast, very few such associations have been made to seismic surveys, despite widespread use of airguns as a geophysical sound source in numerous locations around the world.

A review of possible stranding associations with seismic surveys (Castellote and Llorens, 2016) states that, “[s]peculation concerning possible

links between seismic survey noise and cetacean strandings is available for a dozen events but without convincing causal evidence.” The authors' search of available information found 10 events worth further investigation via a ranking system representing a rough metric of the relative level of confidence offered by the data for inferences about the possible role of the seismic survey in a given stranding event. Only three of these events involved beaked whales. Whereas D'Amico *et al.*, (2009) used a 1–5 ranking system, in which “1” represented the most robust evidence connecting the event to MFA sonar use, Castellote and Llorens (2016) used a 1–6 ranking system, in which “6” represented the most robust evidence connecting the event to the seismic survey. As described above, D'Amico *et al.* (2009) found that two events were ranked “1” and 10 events were ranked “2” (*i.e.*, 12 beaked whale stranding events were found to be associated with MFA sonar use). In contrast, Castellote and Llorens (2016) found that none of the three beaked whale stranding events achieved their highest ranks of 5 or 6. Of the 10 total events, none achieved the highest rank of 6. Two events were ranked as 5: one stranding in Peru involving dolphins and porpoises and a 2008 stranding in Madagascar. This latter ranking can only be broadly associated with the survey itself, as opposed to use of seismic airguns. An investigation of this stranding event, which did not involve beaked whales, concluded that use of a high-frequency mapping system (12-kHz multibeam echosounder) was the most plausible and likely initial behavioral trigger of the event, which was likely exacerbated by several site- and situation-specific secondary factors. The review panel found that seismic airguns were used after the initial strandings and animals entering a lagoon system, that airgun use clearly had no role as an initial trigger, and that there was no evidence that airgun use dissuaded animals from leaving (Southall *et al.*, 2013).

However, one of these stranding events, involving two Cuvier's beaked whales, was contemporaneous with and reasonably associated spatially with a 2002 seismic survey in the Gulf of California conducted by L-DEO, as was the case for the 2007 Gulf of Cadiz seismic survey discussed by Castellote and Llorens (also involving two Cuvier's beaked whales). Neither event was considered a “true atypical mass stranding” (according to Frantzis (1998)) as used in the analysis of Castellote and Llorens (2016). While we agree with the authors that this lack of evidence should

not be considered conclusive, it is clear that there is very little evidence that seismic surveys should be considered as posing a significant risk of acute harm to beaked whales or other mid-frequency cetaceans. We have considered the potential for the proposed surveys to result in marine mammal stranding and, based on the best available information, do not expect a stranding to occur.

Entanglement—Entanglements occur when marine mammals become wrapped around cables, lines, nets, or other objects suspended in the water column. During seismic operations, numerous cables, lines, and other objects primarily associated with the airgun array and hydrophone streamers will be towed behind the R/V Langseth near the water's surface. However, we are not aware of any cases of entanglement of marine mammals in seismic survey equipment. No incidents of entanglement of marine mammals with seismic survey gear have been documented in over 54,000 nautical miles (100,000 km) of previous NSF-funded seismic surveys when observers were aboard (e.g., Smultea and Holst 2003; Haley and Koski 2004; Holst 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a; Haley and Ireland 2006; SIO and NSF 2006b; Hauser *et al.*, 2008; Holst and Smultea 2008). Although entanglement with the streamer is theoretically possible, it has not been documented during tens of thousands of miles of NSF-sponsored seismic cruises or, to our knowledge, during hundreds of thousands of miles of industrial seismic cruises. There are relatively few deployed devices, and no interaction between marine mammals and any such device has been recorded during prior NSF surveys using the devices. There are no meaningful entanglement risks posed by the proposed survey, and entanglement risks are not discussed further in this document.

Anticipated Effects on Marine Mammal Habitat

Physical Disturbance—Sources of seafloor disturbance related to geophysical surveys that may impact marine mammal habitat include placement of anchors, nodes, cables, sensors, or other equipment on or in the seafloor for various activities. Equipment deployed on the seafloor has the potential to cause direct physical damage and could affect bottom-associated fish resources. During this survey, OBSs would be deployed on the seafloor, secured with anchors that would eventually disintegrate on the seafloor.

Placement of equipment could damage areas of hard bottom where direct contact with the seafloor occurs and could crush epifauna (organisms that live on the seafloor or surface of other organisms). Damage to unknown or unseen hard bottom could occur, but because of the small area covered by most bottom-founded equipment and the patchy distribution of hard bottom habitat, contact with unknown hard bottom is expected to be rare and impacts minor. Seafloor disturbance in areas of soft bottom can cause loss of small patches of epifauna and infauna due to burial or crushing, and bottom-feeding fishes could be temporarily displaced from feeding areas. Overall, any effects of physical damage to habitat are expected to be minor and temporary.

Effects to Prey—Marine mammal prey varies by species, season, and location and, for some, is not well documented. Fish react to sounds which are especially strong and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. However, the reaction of fish to airguns depends on the physiological state of the fish, past exposures, motivation (e.g., feeding, spawning, migration), and other environmental factors. Several studies have demonstrated that airgun sounds might affect the distribution and behavior of some fishes, potentially impacting marine mammal foraging opportunities or increasing energetic costs (e.g., Fewtrell and McCauley, 2012; Pearson *et al.*, 1992; Skalski *et al.*, 1992; Santulli *et al.*, 1999; Paxton *et al.*, 2017), though the bulk of studies indicate no or slight reaction to noise (e.g., Miller and Cripps, 2013; Dalen and Knutsen, 1987; Pena *et al.*, 2013; Chapman and Hawkins, 1969; Wardle *et al.*, 2001; Sara *et al.*, 2007; Jorgenson and Gyselman, 2009; Blaxter *et al.*, 1981; Cott *et al.*, 2012; Boeger *et al.*, 2006), and that, most commonly, while there are likely to be impacts to fish as a result of noise from nearby airguns, such effects will be temporary. For example, investigators reported significant, short-term declines in commercial fishing catch rate of gadid fishes during and for up to 5 days after seismic survey operations, but the catch rate subsequently returned to normal (Engas *et al.*, 1996; Engas and Lokkeborg, 2002). Other studies have reported similar findings (Hassel *et al.*, 2004).

Skalski *et al.*, (1992) also found a reduction in catch rates—for rockfish (*Sebastes* spp.) in response to controlled airgun exposure—but suggested that the mechanism underlying the decline was not dispersal but rather decreased

responsiveness to baited hooks associated with an alarm behavioral response. A companion study showed that alarm and startle responses were not sustained following the removal of the sound source (Pearson *et al.*, 1992). Therefore, Skalski *et al.* (1992) suggested that the effects on fish abundance may be transitory, primarily occurring during the sound exposure itself. In some cases, effects on catch rates are variable within a study, which may be more broadly representative of temporary displacement of fish in response to airgun noise (*i.e.*, catch rates may increase in some locations and decrease in others) than any long-term damage to the fish themselves (Streever *et al.*, 2016).

Sound pressure levels of sufficient strength have been known to cause injury to fish and fish mortality and, in some studies, fish auditory systems have been damaged by airgun noise (McCauley *et al.*, 2003; Popper *et al.*, 2005; Song *et al.*, 2008). However, in most fish species, hair cells in the ear continuously regenerate and loss of auditory function likely is restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012) showed that a TTS of 4–6 dB was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long; both of which are conditions unlikely to occur for this survey that is necessarily transient in any given location and likely result in brief, infrequent noise exposure to prey species in any given area. For this survey, the sound source is constantly moving, and most fish would likely avoid the sound source prior to receiving sound of sufficient intensity to cause physiological or anatomical damage. In addition, ramp-up may allow certain fish species the opportunity to move further away from the sound source.

A comprehensive review (Carroll *et al.*, 2017) found that results are mixed as to the effects of airgun noise on the prey of marine mammals. While some studies suggest a change in prey distribution and/or a reduction in prey abundance following the use of seismic airguns, others suggest no effects or even positive effects in prey abundance. As one specific example, Paxton *et al.* (2017), which describes findings related to the effects of a 2014 seismic survey on a reef off of North Carolina, showed a 78 percent decrease in observed nighttime abundance for certain species. It is important to note that the evening hours during which the decline in fish habitat use was recorded (via video

recording) occurred on the same day that the seismic survey passed, and no subsequent data is presented to support an inference that the response was long-lasting. Additionally, given that the finding is based on video images, the lack of recorded fish presence does not support a conclusion that the fish actually moved away from the site or suffered any serious impairment. In summary, this particular study corroborates prior studies indicating that a startle response or short-term displacement should be expected.

Available data suggest that cephalopods are capable of sensing the particle motion of sounds and detect low frequencies up to 1–1.5 kHz, depending on the species, and so are likely to detect airgun noise (Kaifu *et al.*, 2008; Hu *et al.*, 2009; Mooney *et al.*, 2010; Samson *et al.*, 2014). Auditory injuries (lesions occurring on the statocyst sensory hair cells) have been reported upon controlled exposure to low-frequency sounds, suggesting that cephalopods are particularly sensitive to low-frequency sound (Andre *et al.*, 2011; Sole *et al.*, 2013). Behavioral responses, such as inking and jetting, have also been reported upon exposure to low-frequency sound (McCauley *et al.*, 2000b; Samson *et al.*, 2014). Similar to fish, however, the transient nature of the survey leads to an expectation that effects will be largely limited to behavioral reactions and would occur as a result of brief, infrequent exposures.

With regard to potential impacts on zooplankton, McCauley *et al.* (2017) found that exposure to airgun noise resulted in significant depletion for more than half the taxa present and that there were two to three times more dead zooplankton after airgun exposure compared with controls for all taxa, within 1 km of the airguns. However, the authors also stated that in order to have significant impacts on r-selected species (*i.e.*, those with high growth rates and that produce many offspring) such as plankton, the spatial or temporal scale of impact must be large in comparison with the ecosystem concerned, and it is possible that the findings reflect avoidance by zooplankton rather than mortality (McCauley *et al.*, 2017). In addition, the results of this study are inconsistent with a large body of research that generally finds limited spatial and temporal impacts to zooplankton as a result of exposure to airgun noise (*e.g.*, Dalen and Knutsen, 1987; Payne, 2004; Stanley *et al.*, 2011). Most prior research on this topic, which has focused on relatively small spatial scales, has showed minimal effects (*e.g.*, Kostyuchenko, 1973; Booman *et al.*,

1996; Sætre and Ona, 1996; Pearson *et al.*, 1994; Bolle *et al.*, 2012).

A modeling exercise was conducted as a follow-up to the McCauley *et al.* (2017) study (as recommended by McCauley *et al.*), in order to assess the potential for impacts on ocean ecosystem dynamics and zooplankton population dynamics (Richardson *et al.*, 2017). Richardson *et al.* (2017) found that for copepods with a short life cycle in a high-energy environment, a full-scale airgun survey would impact copepod abundance up to 3 days following the end of the survey, suggesting that effects such as those found by McCauley *et al.* (2017) would not be expected to be detectable downstream of the survey areas, either spatially or temporally.

Notably, a more recently described study produced results inconsistent with those of McCauley *et al.* (2017). Researchers conducted a field and laboratory study to assess if exposure to airgun noise affects mortality, predator escape response, or gene expression of the copepod *Calanus finmarchicus* (Fields *et al.*, 2019). Immediate mortality of copepods was significantly higher, relative to controls, at distances of 5 m or less from the airguns. Mortality 1 week after the airgun blast was significantly higher in the copepods placed 10 m from the airgun but was not significantly different from the controls at a distance of 20 m from the airgun. The increase in mortality, relative to controls, did not exceed 30 percent at any distance from the airgun. Moreover, the authors caution that even this higher mortality in the immediate vicinity of the airguns may be more pronounced than what would be observed in free-swimming animals due to increased flow speed of fluid inside bags containing the experimental animals. There were no sublethal effects on the escape performance or the sensory threshold needed to initiate an escape response at any of the distances from the airgun that were tested. Whereas McCauley *et al.* (2017) reported an SEL of 156 dB at a range of 509–658 m, with zooplankton mortality observed at that range, Fields *et al.* (2019) reported an SEL of 186 dB at a range of 25 m, with no reported mortality at that distance. Regardless, if we assume a worst-case likelihood of severe impacts to zooplankton within approximately 1 km of the acoustic source, the brief time to regeneration of the potentially affected zooplankton populations does not lead us to expect any meaningful follow-on effects to the prey base for marine mammals.

A review article concluded that, while laboratory results provide scientific

evidence for high-intensity and low-frequency sound-induced physical trauma and other negative effects on some fish and invertebrates, the sound exposure scenarios in some cases are not realistic to those encountered by marine organisms during routine seismic operations (Carroll *et al.*, 2017). The review finds that there has been no evidence of reduced catch or abundance following seismic activities for invertebrates, and that there is conflicting evidence for fish with catch observed to increase, decrease, or remain the same. Further, where there is evidence for decreased catch rates in response to airgun noise, these findings provide no information about the underlying biological cause of catch rate reduction (Carroll *et al.*, 2017).

In summary, impacts of the specified activity on marine mammal prey species will likely be limited to behavioral responses, the majority of prey species will be capable of moving out of the area during the survey, a rapid return to normal recruitment, distribution, and behavior for prey species is anticipated, and, overall, impacts to prey species will be minor and temporary. Prey species exposed to sound might move away from the sound source, experience TTS, experience masking of biologically relevant sounds, or show no obvious direct effects. Mortality from decompression injuries is possible in close proximity to a sound, but only limited data on mortality in response to airgun noise exposure are available (Hawkins *et al.*, 2014). The most likely impacts for most prey species in the survey area would be temporary avoidance of the area. The proposed survey would move through an area relatively quickly, limiting exposure to multiple impulsive sounds. In all cases, sound levels would return to ambient once the survey moves out of the area or ends and the noise source is shut down and, when exposure to sound ends, behavioral and/or physiological responses are expected to end relatively quickly (McCauley *et al.*, 2000b). The duration of fish avoidance of a given area after survey effort stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated. While the potential for disruption of spawning aggregations or schools of important prey species can be meaningful on a local scale, the mobile and temporary nature of this survey and the likelihood of temporary avoidance behavior suggest that impacts would be minor.

Acoustic Habitat—Acoustic habitat is the soundscape—which encompasses all of the sound present in a particular location and time, as a whole—when

considered from the perspective of the animals experiencing it. Animals produce sound for, or listen for sounds produced by, conspecifics (communication during feeding, mating, and other social activities), other animals (finding prey or avoiding predators), and the physical environment (finding suitable habitats, navigating). Together, sounds made by animals and the geophysical environment (e.g., produced by earthquakes, lightning, wind, rain, waves) make up the natural contributions to the total acoustics of a place. These acoustic conditions, termed acoustic habitat, are one attribute of an animal's total habitat.

Soundscapes are also defined by, and acoustic habitat influenced by, the total contribution of anthropogenic sound. This may include incidental emissions from sources such as vessel traffic, or may be intentionally introduced to the marine environment for data acquisition purposes (as in the use of airgun arrays). Anthropogenic noise varies widely in its frequency content, duration, and loudness and these characteristics greatly influence the potential habitat-mediated effects to marine mammals (please see also the previous discussion on masking under *Acoustic Effects*), which may range from local effects for brief periods of time to chronic effects over large areas and for long durations. Depending on the extent of effects to habitat, animals may alter their communications signals (thereby potentially expending additional energy) or miss acoustic cues (either conspecific or adventitious). For more detail on these concepts see, e.g., Barber *et al.*, 2010; Pijanowski *et al.*, 2011; Francis and Barber, 2013; Lillis *et al.*, 2014.

Problems arising from a failure to detect cues are more likely to occur when noise stimuli are chronic and overlap with biologically relevant cues used for communication, orientation, and predator/prey detection (Francis and Barber, 2013). Although the signals emitted by seismic airgun arrays are generally low frequency, they would also likely be of short duration and transient in any given area due to the nature of these surveys. As described previously, exploratory surveys such as these cover a large area but would be transient rather than focused in a given location over time and therefore would not be considered chronic in any given location.

Based on the information discussed herein, we conclude that impacts of the specified activity are not likely to have more than short-term adverse effects on any prey habitat or populations of prey

species. Further, any impacts to marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization through the IHA, 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).

Anticipated takes would primarily be by Level B harassment, the noise from use of the airgun array 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 for species of certain hearing groups (LF and HF) due to the size of the predicted auditory injury zones for those groups. Auditory injury is less likely to occur for mid-frequency species due to their relative lack of sensitivity to the frequencies at which the primary energy of an airgun signal is found as well as such species' general lower sensitivity to auditory injury as compared to high-frequency cetaceans. As discussed in further detail below, we do not expect auditory injury for mid-frequency cetaceans. No mortality or serious injury is anticipated as a result of these activities. 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 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 proposed take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (e.g., frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (e.g., bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (e.g., Southall *et al.*, 2007, 2021, Ellison *et al.*, 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (re 1 μ Pa) for continuous (e.g., vibratory pile driving, drilling) and above RMS SPL 160 dB (re 1 μ Pa) for non-explosive impulsive (e.g., seismic airguns) or intermittent (e.g., scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by TTS as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may

result in changes in behavior patterns that would not otherwise occur.

L-DEO's proposed survey includes the use of impulsive seismic sources (*i.e.*, airguns), and therefore the 160 dB re 1 μ Pa is applicable for analysis of Level B harassment.

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). L-DEO's proposed survey includes the use of impulsive seismic sources (*i.e.*, airguns).

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{pk,flat}$: 219 dB; $L_E,LF,24h$: 183 dB	Cell 2: $L_E,LF,24h$: 199 dB.
Mid-Frequency (MF) Cetaceans	Cell 3: $L_{pk,flat}$: 230 dB; $L_E,MF,24h$: 185 dB	Cell 4: $L_E,MF,24h$: 198 dB.
High-Frequency (HF) Cetaceans	Cell 5: $L_{pk,flat}$: 202 dB; $L_E,HF,24h$: 155 dB	Cell 6: $L_E,HF,24h$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{pk,flat}$: 218 dB; $L_E,PW,24h$: 185 dB	Cell 8: $L_E,PW,24h$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{pk,flat}$: 232 dB; $L_E,OW,24h$: 203 dB	Cell 10: $L_E,OW,24h$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μ Pa, and cumulative sound exposure level (L_E) has a reference value of 1 μ Pa²s. In this table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

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

When the Technical Guidance was published (NMFS, 2016), in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a user spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools and will qualitatively address the output where appropriate.

The proposed survey would entail the use of a 36-airgun array with a total discharge volume of 6,600 in³ at a tow depth of 9 m to 12 m. L-DEO's model results are used to determine the 160

dB_{rms} radius for the airgun source down to a maximum depth of 2,000 m. Received sound levels have been predicted by L-DEO's model (Diebold *et al.* 2010) as a function of distance from the 36-airgun array. This modeling approach uses ray tracing for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogeneous ocean layer, unbounded by a seafloor). In addition, propagation measurements of pulses from the 36-airgun array at a tow depth of 6 m have been reported in deep water (~1,600 m), intermediate water depth on the slope (~600–1,100 m), and shallow water (~50 m) in the Gulf of Mexico (Tolstoy *et al.* 2009; Diebold *et al.* 2010).

For deep and intermediate water cases, the field measurements cannot be used readily to derive the harassment isopleths, as at those sites the calibration hydrophone was located at a roughly constant depth of 350–550 m, which may not intersect all the SPL isopleths at their widest point from the sea surface down to the assumed maximum relevant water depth (~2,000 m) for marine mammals. At short ranges, where the direct arrivals dominate and the effects of seafloor interactions are minimal, the data at the deep sites are suitable for comparison with modeled levels at the depth of the calibration hydrophone. At longer ranges, the comparison with the

model—constructed from the maximum SPL through the entire water column at varying distances from the airgun array—is the most relevant.

In deep and intermediate water depths at short ranges, sound levels for direct arrivals recorded by the calibration hydrophone and L-DEO model results for the same array tow depth are in good alignment (see figures 12 and 14 in Diebold *et al.* 2010). Consequently, isopleths falling within this domain can be predicted reliably by the L-DEO model, although they may be imperfectly sampled by measurements recorded at a single depth. At greater distances, the calibration data show that seafloor-reflected and sub-seafloor-refracted arrivals dominate, whereas the direct arrivals become weak and/or incoherent (see figures 11, 12, and 16 in Diebold *et al.* 2010). Aside from local topography effects, the region around the critical distance is where the observed levels rise closest to the model curve. However, the observed sound levels are found to fall almost entirely below the model curve. Thus, analysis of the Gulf of Mexico calibration measurements demonstrates that although simple, the L-DEO model is a robust tool for conservatively estimating isopleths.

The proposed high-energy survey would acquire data with the 36-airgun array at a tow depth of 9 to 12 m. For this survey, which occurs only in deep water (>1,000 m), we use the deep-water radii obtained from L-DEO model

results down to a maximum water depth of 2,000 m for the 36-airgun array.

L-DEO's modeling methodology is described in greater detail in L-DEO's application. The estimated distances to

the Level B harassment isopleth for the proposed airgun configuration are shown in table 4.

TABLE 4—PREDICTED RADIAL DISTANCES FROM THE R/V LANGSETH SEISMIC SOURCE TO ISOPLETH CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

Airgun configuration	Tow depth (m) ¹	Water depth (m)	Predicted distances (in m) to the Level B harassment threshold
4 strings, 36 airguns, 6,600 in ³	12	>1,000	² 6,733

¹ Maximum tow depth was used for conservative distances.

² Distance is based on L-DEO model results.

TABLE 5—MODELED RADIAL DISTANCE TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

	Low frequency cetaceans	Mid frequency cetaceans	High frequency cetaceans
PTS SEL _{cum}	426.9	0	1.3
PTS Peak	38.9	13.6	268.3

The largest distance (in bold) of the dual criteria (SEL_{cum} or Peak) was used to estimate threshold distances and potential takes by Level A harassment.

Table 5 presents the modeled PTS isopleths for each cetacean hearing group based on L-DEO modeling incorporated in the companion user spreadsheet, for the high-energy surveys with the shortest shot interval (*i.e.*, greatest potential to cause PTS based on accumulated sound energy) (NMFS 2018).

Predicted distances to Level A harassment isopleths, which vary based on marine mammal hearing groups, were calculated based on modeling performed by L-DEO using the Nucleus software program and the NMFS user spreadsheet, described below. The acoustic thresholds for impulsive sounds contained in the NMFS Technical Guidance were presented as dual metric acoustic thresholds using both SEL_{cum} and peak sound pressure metrics (NMFS 2016). As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.*, metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group.

The SEL_{cum} for the 36-airgun array is derived from calculating the modified farfield signature. The farfield signature is often used as a theoretical representation of the source level. To compute the farfield signature, the source level is estimated at a large distance (right) below the array (*e.g.*, 9 km), and this level is back projected mathematically to a notional distance of

1 m from the array's geometrical center. However, it has been recognized that the source level from the theoretical farfield signature is never physically achieved at the source when the source is an array of multiple airguns separated in space (Tolstoy *et al.*, 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.*, 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the far-field signature. Because the far-field signature does not take into account the large array effect near the source and is calculated as a point source, the far-field signature is not an appropriate measure of the sound source level for large arrays. See L-DEO's application for further detail on acoustic modeling.

Auditory injury is unlikely to occur for mid-frequency cetaceans, given the very small modeled zones of injury for those species (all estimated zones are less than 15 m for mid-frequency cetaceans), in the context of distributed source dynamics.

In consideration of the received sound levels in the near-field as described

above, we expect the potential for Level A harassment of mid-frequency cetaceans to be de minimis, even before the likely moderating effects of aversion and/or other compensatory behaviors (*e.g.*, Nachtigall *et al.*, 2018) are considered. We do not anticipate that Level A harassment is a likely outcome for any mid-frequency cetacean and do not propose to authorize any take by Level A harassment for these species.

The Level A and Level B harassment estimates are based on a consideration of the number of marine mammals that could be within the area around the operating airgun array where received levels of sound ≥ 160 dB re 1 μ Pa rms are predicted to occur. The estimated numbers are based on the densities (numbers per unit area) of marine mammals expected to occur in the area in the absence of seismic surveys. To the extent that marine mammals tend to move away from seismic sources before the sound level reaches the criterion level and tend not to approach an operating airgun array, these estimates likely overestimate the numbers actually exposed to the specified level of sound.

Marine Mammal Occurrence

In this section, we provide information about the occurrence of marine mammals, including density or other relevant information, which will inform the take calculations.

Habitat-based stratified marine mammal densities for the North Atlantic are taken from the US Navy Atlantic Fleet Training and Testing Area Marine Mammal Density (Roberts *et al.*, 2023;

Mannocci *et al.*, 2017), which represent the best available information regarding marine mammal densities in the region. This density information incorporates visual line-transect surveys of marine mammals for over 35 years, resulting in various studies that estimated the abundance, density, and distributions of marine mammal populations. The habitat-based density models consisted of 5 km x 5 km grid cells. As the AFTT model does not overlap the proposed survey area, the average densities in the grid cells for the AFTT area that encompassed a similar-sized area as the proposed survey area in the southeastern-most part of the AFTT area were used (between ~21.1° N–22.5° N and ~45.1° W–49.5° W). Even though these densities are for the western Atlantic Ocean, they are for an area of the Mid-Atlantic Ridge, which would be most representative of densities occurring at the Mid-Atlantic Ridge in the proposed survey area. More information is available online at <https://seamap.env.duke.edu/models/Duke/AFTT/>.

Since there was no density data available for the actual proposed survey area, L-DEO used OBIS sightings, available literature, and regional distribution maps of the actual survey area (or greater region) to determine which species would be expected to be encountered in the proposed survey area. From the AFTT models, L-DEO excluded the following species, as they were not expected to occur in the survey area: seals, northern bottlenose whales,

North Atlantic right whale (these had densities of zero) and harbor porpoise, white-beaked dolphin, and Atlantic white-sided dolphin (these species had non-zero densities). There were no additional species that might occur in the survey area that were not available in the AFTT model.

For most species, only annual densities were available. For some baleen whale species (fin, sei and humpback whale), monthly densities were available. For these species, the highest monthly densities were used. Densities for fin whales were near zero and the calculations did not result in any estimated takes. However, because this species could be encountered in the proposed survey area, we propose to authorize take of one individual.

Take Estimate

Here, we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and proposed for authorization. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in Level A or Level B harassment, radial distances from the airgun array to the predicted isopleth corresponding to the Level A harassment and Level B harassment thresholds are calculated, as described above. Those radial distances were then used to calculate the area(s) around the airgun array predicted to be ensonified to sound levels that exceed the

harassment thresholds. The distance for the 160-dB Level B harassment threshold and PTS (Level A harassment) thresholds (based on L-DEO model results) was used to draw a buffer around the area expected to be ensonified (*i.e.*, the survey area). The ensonified areas were then increased by 25 percent to account for potential delays, which is equivalent to adding 25 percent to the proposed line km to be surveyed. The density for each species was then multiplied by the daily ensonified areas (increased as described above) and then multiplied by the number of survey days (11.5) to estimate potential takes (see appendix B of L-DEO's application for more information).

L-DEO assumed that their estimates of marine mammal exposures above harassment thresholds equate to take and requested authorization of those takes. Those estimates in turn form the basis for our proposed take authorization numbers. For the species for which NMFS does not expect there to be a reasonable potential for take by Level A harassment to occur (*i.e.*, mid-frequency cetaceans), we have added L-DEO's estimated exposures above Level A harassment thresholds to their estimated exposures above the Level B harassment threshold to produce a total number of incidents of take by Level B harassment that is proposed for authorization. Estimated exposures and proposed take numbers for authorization are shown in table 6.

TABLE 6—ESTIMATED TAKE PROPOSED FOR AUTHORIZATION

Species	Estimated take		Proposed authorized take		Modeled abundance ¹	Percent of abundance ²
	Level B	Level A	Level B	Level A		
Humpback whale	39	2	39	2	4,990	0.82
Bryde's whale	4	0	4	0	536	0.75
Minke whale ³	23	1	23	1	13,784	0.17
Fin whale	0	0	1	0	11,672	0.01
Sei whale	11	1	11	1	19,530	0.06
Blue whale	1	0	1	0	191	0.52
Sperm whale	110	0	110	0	64,015	0.17
Beaked whales ⁴	106	0	106	0	65,069	0.16
Risso's dolphin	88	0	88	0	78,205	0.11
Rough-toothed dolphin	166	0	166	0	32,848	0.51
Bottlenose dolphin	1229	2	1231	0	418,151	0.30
Pantropical spotted dolphin	46	0	⁷ 76	0	321,740	0.02
Atlantic spotted dolphin	435	1	436	0	259,519	0.17
Spinner dolphin	898	2	900	0	152,511	0.59
Striped dolphin	55	0	⁷ 73	0	412,729	0.02
Clymene dolphin	1038	2	1040	0	181,209	0.57
Fraser's dolphin	110	0	110	0	19,585	0.56
Common dolphin	27	0	⁷ 92	0	473,206	0.02
Short-finned pilot whale ⁵	1301	2	1303	0	264,907	0.49
Melon-headed whale	502	1	503	0	64,114	0.78
False killer whale	99	0	99	0	12,682	0.78
Pygmy killer whale	71	0	71	0	9,001	0.79
Killer whale	1	0	⁷ 5	0	972	0.51
Kogia spp ⁶	122	5	122	5	26,043	0.49

¹ Modeled abundance (Roberts *et al.* 2023) or North Atlantic abundance (NAMMCO 2023), where applicable.

² Requested take authorization is expressed as percent of population for the AFTT Area only (Roberts *et al.* 2023).

³ Takes assigned equally between Common minke whales (11 Level B takes and 1 Level A take) and Antarctic minke whales (12 Level B takes).

⁴ Beaked whale guild. Includes Cuvier's beaked whale, Blaineville's beaked whale, and Gervais' beaked whale.

⁵ Takes based on density for *Globicephala* sp. All takes are assumed to be for short-finned pilot whales

⁶ *Kogia* spp. Includes Pygmy sperm whale and Dwarf sperm whale.

⁷ Takes rounded to a mean group size (Weir 2011)

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (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 SZ 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.

Vessel-Based Visual Mitigation Monitoring

Visual monitoring requires the use of trained observers (herein referred to as visual protected species observers (PSOs)) to scan the ocean surface for the presence of marine mammals. The area to be scanned visually includes primarily the shutdown zone (SZ), within which observation of certain marine mammals requires shutdown of

the acoustic source, a buffer zone, and to the extent possible depending on conditions, the surrounding waters. The buffer zone means an area beyond the SZ to be monitored for the presence of marine mammals that may enter the SZ. During pre-start clearance monitoring (*i.e.*, before ramp-up begins), the buffer zone also acts as an extension of the SZ in that observations of marine mammals within the buffer zone would also prevent airgun operations from beginning (*i.e.*, ramp-up). The buffer zone encompasses the area at and below the sea surface from the edge of the 0–500 m SZ, out to a radius of 1,000 m from the edges of the airgun array (500–1,000 m). This 1,000-m zone (SZ plus buffer) represents the pre-start clearance zone. Visual monitoring of the SZ and adjacent waters (buffer plus surrounding waters) is intended to establish and, when visual conditions allow, maintain zones around the sound source that are clear of marine mammals, thereby reducing or eliminating the potential for injury and minimizing the potential for more severe behavioral reactions for animals occurring closer to the vessel. Visual monitoring of the buffer zone is intended to (1) provide additional protection to marine mammals that may be in the vicinity of the vessel during pre-start clearance, and (2) during airgun use, aid in establishing and maintaining the SZ by alerting the visual observer and crew of marine mammals that are outside of, but may approach and enter, the SZ.

During survey operations (*e.g.*, any day on which use of the airgun array is planned to occur and whenever the airgun array is in the water, whether activated or not), a minimum of two visual PSOs must be on duty and conducting visual observations at all times during daylight hours (*i.e.*, from 30 minutes prior to sunrise through 30 minutes following sunset). Visual monitoring of the pre-start clearance zone must begin no less than 30 minutes prior to ramp-up and monitoring must continue until 1 hour after use of the airgun array ceases or until 30 minutes past sunset. Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

PSOs shall establish and monitor the SZ and buffer zone. These zones shall be based upon the radial distance from the edges of the airgun array (rather than being based on the center of the array or around the vessel itself). During use of the airgun array (*i.e.*, anytime airguns are active, including ramp-up), detections of marine mammals within the buffer zone (but outside the SZ) shall be communicated to the operator to prepare for the potential shutdown of the airgun array. Visual PSOs will immediately communicate all observations to the on duty acoustic PSO(s), including any determination by the visual PSO regarding species identification, distance, and bearing and the degree of confidence in the determination. Any observations of marine mammals by crew members shall be relayed to the PSO team. During good conditions (*e.g.*, daylight hours; Beaufort sea state (BSS) 3 or less), visual PSOs shall conduct observations when the airgun array is not operating for comparison of sighting rates and behavior with and without use of the airgun array and between acquisition periods, to the maximum extent practicable.

Visual PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 1 hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (visual and acoustic but not at same time) may not exceed 12 hours per 24-hour period for any individual PSO.

Passive Acoustic Monitoring

Passive acoustic monitoring means the use of trained personnel (sometimes referred to as PAM operators, herein referred to as acoustic PSOs) to operate PAM equipment to acoustically detect the presence of marine mammals. Acoustic monitoring involves acoustically detecting marine mammals regardless of distance from the source, as localization of animals may not always be possible. Acoustic monitoring is intended to further support visual monitoring (during daylight hours) in maintaining a SZ around the sound source that is clear of marine mammals. In cases where visual monitoring is not effective (*e.g.*, due to weather, nighttime), acoustic monitoring may be used to allow certain activities to occur, as further detailed below.

PAM would take place in addition to the visual monitoring program. Visual monitoring typically is not effective during periods of poor visibility or at night and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustic monitoring can be used in addition to visual observations to improve detection, identification, and localization of cetaceans. The acoustic monitoring would serve to alert visual PSOs (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals vocalize, but it can be effective either by day or by night and does not depend on good visibility. It would be monitored in real time so that the visual observers can be advised when cetaceans are detected.

The R/V Langseth will use a towed PAM system, which must be monitored by at a minimum one on duty acoustic PSO beginning at least 30 minutes prior to ramp-up and at all times during use of the airgun array. Acoustic PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 1 hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (acoustic and visual but not at same time) may not exceed 12 hours per 24-hour period for any individual PSO.

Survey activity may continue for 30 minutes when the PAM system malfunctions or is damaged, while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional 10 hours without acoustic monitoring during daylight hours only under the following conditions:

- Sea state is less than or equal to BSS 4;
- No marine mammals (excluding delphinids) detected solely by PAM in the SZ in the previous 2 hours;
- NMFS is notified via email as soon as practicable with the time and location in which operations began occurring without an active PAM system; and
- Operations with an active airgun array, but without an operating PAM system, do not exceed a cumulative total of 10 hours in any 24-hour period.

Establishment of Shutdown and Pre-Start Clearance Zones

A SZ is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes (e.g., auditory injury, disruption of critical behaviors). The PSOs would establish a

minimum SZ with a 500-m radius. The 500-m SZ would be based on radial distance from the edge of the airgun array (rather than being based on the center of the array or around the vessel itself). With certain exceptions (described below), if a marine mammal appears within or enters this zone, the airgun array would be shut down.

The pre-start clearance zone is defined as the area that must be clear of marine mammals prior to beginning ramp-up of the airgun array and includes the SZ plus the buffer zone. Detections of marine mammals within the pre-start clearance zone would prevent airgun operations from beginning (i.e., ramp-up).

The 500-m SZ is intended to be precautionary in the sense that it would be expected to contain sound exceeding the injury criteria for all cetacean hearing groups, (based on the dual criteria of SEL_{cum} and peak SPL), while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. Additionally, a 500-m SZ is expected to minimize the likelihood that marine mammals will be exposed to levels likely to result in more severe behavioral responses. Although significantly greater distances may be observed from an elevated platform under good conditions, we expect that 500 m is likely regularly attainable for PSOs using the naked eye during typical conditions. The pre-start clearance zone simply represents the addition of a buffer to the SZ, doubling the SZ size during pre-clearance.

An extended SZ of 1,500 m must be enforced for all beaked whales, *Kogia* spp, a large whale with a calf, and groups of six or more large whales. No buffer of this extended SZ is required, as NMFS concludes that this extended SZ is sufficiently protective to mitigate harassment to these groups.

Pre-Start Clearance and Ramp-up

Ramp-up (sometimes referred to as “soft start”) means the gradual and systematic increase of emitted sound levels from an airgun array. Ramp-up begins by first activating a single airgun of the smallest volume, followed by doubling the number of active elements in stages until the full complement of an array’s airguns are active. Each stage should be approximately the same duration, and the total duration should not be less than approximately 20 minutes. The intent of pre-start clearance observation (30 minutes) is to ensure no marine mammals are observed within the pre-start clearance zone (or extended SZ, for beaked

whales, *Kogia* spp, a large whale with a calf, and groups of six or more large whales) prior to the beginning of ramp-up. During the pre-start clearance period is the only time observations of marine mammals in the buffer zone would prevent operations (i.e., the beginning of ramp-up). The intent of the ramp-up is to warn marine mammals of pending seismic survey operations and to allow sufficient time for those animals to leave the immediate vicinity prior to the sound source reaching full intensity. A ramp-up procedure, involving a stepwise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved, is required at all times as part of the activation of the airgun array. All operators must adhere to the following pre-start clearance and ramp-up requirements:

- The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up in order to allow the PSOs time to monitor the pre-start clearance zone (and extended SZ) for 30 minutes prior to the initiation of ramp-up (pre-start clearance);
- Ramp-ups shall be scheduled so as to minimize the time spent with the source activated prior to reaching the designated run-in;
- One of the PSOs conducting pre-start clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed;
- Ramp-up may not be initiated if any marine mammal is within the applicable shutdown or buffer zone. If a marine mammal is observed within the pre-start clearance zone (or extended SZ, for beaked whales, a large whale with a calf, and groups of six or more large whales) during the 30 minute pre-start clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (15 minutes for small odontocetes, and 30 minutes for all mysticetes and all other odontocetes, including sperm whales, beaked whales, and large delphinids, such as pilot whales);
- Ramp-up shall begin by activating a single airgun of the smallest volume in the array and shall continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration. Duration shall not be less than 20 minutes. The operator must

provide information to the PSO documenting that appropriate procedures were followed;

- PSOs must monitor the pre-start clearance zone and extended SZ during ramp-up, and ramp-up must cease and the source must be shut down upon detection of a marine mammal within the applicable zone. Once ramp-up has begun, detections of marine mammals within the buffer zone do not require shutdown, but such observation shall be communicated to the operator to prepare for the potential shutdown;

- Ramp-up may occur at times of poor visibility, including nighttime, if appropriate acoustic monitoring has occurred with no detections in the 30 minutes prior to beginning ramp-up. Airgun array activation may only occur at times of poor visibility where operational planning cannot reasonably avoid such circumstances;

- If the airgun array is shut down for brief periods (*i.e.*, less than 30 minutes) for reasons other than implementation of prescribed mitigation (*e.g.*, mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual and/or acoustic observation and no visual or acoustic detections of marine mammals have occurred within the pre-start clearance zone (or extended SZ, where applicable). For any longer shutdown, pre-start clearance observation and ramp-up are required; and

- Testing of the airgun array involving all elements requires ramp-up. Testing limited to individual source elements or strings does not require ramp-up but does require pre-start clearance watch of 30 minutes.

Shutdown

The shutdown of an airgun array requires the immediate de-activation of all individual airgun elements of the array. Any PSO on duty will have the authority to call for shutdown of the airgun array if a marine mammal is detected within the applicable SZ. The operator must also establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the airgun array to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. When both visual and acoustic PSOs are on duty, all detections will be immediately communicated to the remainder of the on-duty PSO team for potential verification of visual observations by the acoustic PSO or of acoustic detections by visual PSOs. When the airgun array is active (*i.e.*, anytime one or more airguns is active, including during ramp-up) and (1) a marine mammal

appears within or enters the applicable SZ and/or (2) a marine mammal (other than delphinids, see below) is detected acoustically and localized within the applicable SZ, the airgun array will be shut down. When shutdown is called for by a PSO, the airgun array will be immediately deactivated and any dispute resolved only following deactivation. Additionally, shutdown will occur whenever PAM alone (without visual sighting), confirms the presence of marine mammal(s) in the SZ. If the acoustic PSO cannot confirm presence within the SZ, visual PSOs will be notified but shutdown is not required.

Following a shutdown, airgun activity would not resume until the marine mammal has cleared the SZ. The animal would be considered to have cleared the SZ if it is visually observed to have departed the SZ (*i.e.*, animal is not required to fully exit the buffer zone where applicable), or it has not been seen within the SZ for 15 minutes for small odontocetes or 30 minutes for all mysticetes and all other odontocetes, including sperm whales, beaked whales, and large delphinids, such as pilot whales.

The shutdown requirement is waived for specific genera of small dolphins if an individual is detected within the SZ. The small dolphin group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.*, bow riding). This exception to the shutdown requirement applies solely to the specific genera of small dolphins (*Delphinus*, *Lagenodelphis*, *Stenella*, *Steno* and *Tursiops*).

We include this small dolphin exception because shutdown requirements for these species under all circumstances represent practicability concerns without likely commensurate benefits for the animals in question. Small dolphins are generally the most commonly observed marine mammals in the specific geographic region and would typically be the only marine mammals likely to intentionally approach the vessel. As described above, auditory injury is extremely unlikely to occur for mid-frequency cetaceans (*e.g.*, delphinids), as this group is relatively insensitive to sound produced at the predominant frequencies in an airgun pulse while also having a relatively high threshold for the onset of auditory injury (*i.e.*, permanent threshold shift).

A large body of anecdotal evidence indicates that small dolphins commonly approach vessels and/or towed arrays

during active sound production for purposes of bow riding with no apparent effect observed (*e.g.*, Barkaszi *et al.*, 2012, Barkaszi and Kelly, 2018). The potential for increased shutdowns resulting from such a measure would require the R/V Langseth to revisit the missed track line to reacquire data, resulting in an overall increase in the total sound energy input to the marine environment and an increase in the total duration over which the survey is active in a given area. Although other mid-frequency hearing specialists (*e.g.*, large delphinids) are no more likely to incur auditory injury than are small dolphins, they are much less likely to approach vessels. Therefore, retaining a shutdown requirement for large delphinids would not have similar impacts in terms of either practicability for the applicant or corollary increase in sound energy output and time on the water. We do anticipate some benefit for a shutdown requirement for large delphinids in that it simplifies somewhat the total range of decision-making for PSOs and may preclude any potential for physiological effects other than to the auditory system as well as some more severe behavioral reactions for any such animals in close proximity to the R/V Langseth.

Visual PSOs shall use best professional judgment in making the decision to call for a shutdown if there is uncertainty regarding identification (*i.e.*, whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger SZ).

L-DEO must implement shutdown if a marine mammal species for which take was not authorized or a species for which authorization was granted but the authorized takes have been met approaches the Level A or Level B harassment zones. L-DEO must also implement an extended shutdown of 1,500 m if any large whale (defined as a sperm whale or any mysticete species) with a calf (defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult) and/or an aggregation of six or more large whales.

Vessel Strike Avoidance Mitigation Measures

Vessel personnel should use an appropriate reference guide that includes identifying information on all marine mammals that may be encountered. Vessel operators must comply with the below measures except under extraordinary circumstances when the safety of the vessel or crew is in doubt or the safety of life at sea is in question. These requirements do not

apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

Vessel operators and crews must maintain a vigilant watch for all marine mammals and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. A single marine mammal at the surface may indicate the presence of submerged animals in the vicinity of the vessel; therefore, precautionary measures should always be exercised. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (separation distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.*, PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to 1) distinguish marine mammals from other phenomena and 2) broadly to identify a marine mammal as a large whale (defined in this context as sperm whales or baleen whales), or other marine mammals.

Vessel speeds must be reduced to 10 kn (18.5 kph) or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel. All vessels must maintain a minimum separation distance of 100 m from sperm whales and all other baleen whales. All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.*, for animals that approach the vessel).

When marine mammals are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance (*e.g.*, attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear or any vessel that is navigationally constrained.

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

L-DEO must use dedicated, trained, and NMFS-approved PSOs. The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for advance approval (prior to embarking on the vessel).

At least one of the visual and two of the acoustic PSOs (discussed below) aboard the vessel must have a minimum of 90 days at-sea experience working in those roles, respectively, with no more than 18 months elapsed since the conclusion of the at-sea experience. One visual PSO with such experience shall be designated as the lead for the entire protected species observation team. The lead PSO shall serve as primary point of contact for the vessel operator and ensure all PSO requirements per the IHA are met. To the maximum extent practicable, the experienced PSOs should be scheduled to be on duty with those PSOs with appropriate training but who have not yet gained relevant experience.

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.

Vessel-Based Visual Monitoring

As described above, PSO observations would take place during daytime airgun operations. During seismic survey operations, at least five visual PSOs would be based aboard the R/V Langseth. Two visual PSOs would be on duty at all times during daytime hours. Monitoring shall be conducted in accordance with the following requirements:

- The operator shall provide PSOs with bigeye reticle binoculars (*e.g.*, 25 x 150; 2.7 view angle; individual ocular focus; height control) of appropriate quality solely for PSO use. These binoculars shall be pedestal-mounted on the deck at the most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel; and

- The operator will work with the selected third-party observer provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals.

PSOs must have the following requirements and qualifications:

- PSOs shall be independent, dedicated, trained visual and acoustic PSOs and must be employed by a third-party observer provider;
- PSOs shall have no tasks other than to conduct observational effort (visual or acoustic), collect data, and communicate with and instruct relevant vessel crew with regard to the presence of protected species and mitigation

requirements (including brief alerts regarding maritime hazards);

- PSOs shall have successfully completed an approved PSO training course appropriate for their designated task (visual or acoustic). Acoustic PSOs are required to complete specialized training for operating PAM systems and are encouraged to have familiarity with the vessel with which they will be working;

- PSOs can act as acoustic or visual observers (but not at the same time) as long as they demonstrate that their training and experience are sufficient to perform the task at hand;

- NMFS must review and approve PSO resumes accompanied by a relevant training course information packet that includes the name and qualifications (*i.e.*, experience, training completed, or educational background) of the instructor(s), the course outline or syllabus, and course reference material as well as a document stating successful completion of the course;

- PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program;

- PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics; and

- The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Requests shall be granted or denied (with justification) by NMFS within 1 week of receipt of submitted information. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored protected species surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

- For data collection purposes, PSOs shall use standardized electronic data collection forms. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of animals to the airgun array and description of specific actions that

ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the airgun array. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

- Vessel name, vessel size and type, maximum speed capability of vessel;
- Dates (MM/DD/YYYY) of departures and returns to port with port name;

- PSO names and affiliations, PSO ID (initials or other identifier);

- Date (MM/DD/YYYY) and participants of PSO briefings;

- Visual monitoring equipment used (description);

- PSO location on vessel and height (meters) of observation location above water surface;

- Watch status (description);

- Dates (MM/DD/YYYY) and times (Greenwich Mean Time/UTC) of survey on/off effort and times (GMC/UTC) corresponding with PSO on/off effort;

- Vessel location (decimal degrees) when survey effort began and ended and vessel location at beginning and end of visual PSO duty shifts;

- Vessel location (decimal degrees) at 30-second intervals if obtainable from data collection software, otherwise at practical regular interval;

- Vessel heading (compass heading) and speed (knots) at beginning and end of visual PSO duty shifts and upon any change;

- Water depth (meters) (if obtainable from data collection software);

- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions changed significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;

- Factors that may have contributed to impaired observations during each PSO shift change or as needed as environmental conditions changed (description) (*e.g.*, vessel traffic, equipment malfunctions); and

- Vessel/Survey activity information (and changes thereof) (description), such as airgun power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.*, pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, *etc.*).

- Upon visual observation of any marine mammals, the following information must be recorded:

- Sighting ID (numeric);

- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

- Location of PSO/observer (description);

- Vessel activity at the time of the sighting (*e.g.*, deploying, recovering, testing, shooting, data acquisition, other);

- PSO who sighted the animal/ID;

- Time/date of sighting (GMT/UTC, MM/DD/YYYY);

- Initial detection method (description);

- Sighting cue (description);

- Vessel location at time of sighting (decimal degrees);

- Water depth (meters);

- Direction of vessel's travel (compass direction);

- Speed (knots) of the vessel from which the observation was made;

- Direction of animal's travel relative to the vessel (description, compass heading);

- Bearing to sighting (degrees);

- Identification of the animal (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified) and the composition of the group if there is a mix of species;

- Species reliability (an indicator of confidence in identification) (1 = unsure/possible, 2 = probable, 3 = definite/sure, 9 = unknown/not recorded);

- Estimated distance to the animal (meters) and method of estimating distance;

- Estimated number of animals (high/low/best) (numeric);

- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, *etc.*);

- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);

- Detailed behavior observations (*e.g.*, number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);

- Animal's closest point of approach (meters) and/or closest distance from any element of the airgun array;

- Description of any actions implemented in response to the sighting (*e.g.*, delays, shutdown, ramp-up) and time and location of the action.

- Photos (Yes/No);

- Photo Frame Numbers (List of numbers); and

- Conditions at time of sighting (Visibility; Beaufort Sea State).

If a marine mammal is detected while using the PAM system, the following information should be recorded:

- An acoustic encounter identification number, and whether the detection was linked with a visual sighting;
- Date and time when first and last heard;
- Types and nature of sounds heard (e.g., clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal); and
- Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), spectrogram screenshot, and any other notable information.

Reporting

L-DEO shall submit a draft comprehensive report on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The report must describe all activities conducted and sightings of marine mammals, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities). The draft report shall also include geo-referenced time-stamped vessel tracklines for all time periods during which airgun arrays were operating. Tracklines should include points recording any change in airgun array status (e.g., when the sources began operating, when they were turned off, or when they changed operational status such as from full array to single gun or vice versa). Geographic Information System files shall be provided in Environmental Systems Research Institute shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available. The report must summarize data collected as described above. A final report must be submitted within 30 days following resolution of any comments on the draft report.

The report must include a validation document concerning the use of PAM, which should include necessary noise validation diagrams and demonstrate whether background noise levels on the PAM deployment limited achievement of the planned detection goals. Copies of

any vessel self-noise assessment reports must be included with the report.

Reporting Injured or Dead Marine Mammals

Discovery of injured or dead marine mammals—In the event that personnel involved in the survey activities discover an injured or dead marine mammal, the L-DEO shall report the incident to the Office of Protected Resources (OPR) as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Vessel strike—In the event of a strike of a marine mammal by any vessel involved in the activities covered by the authorization, L-DEO shall report the incident to OPR as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measure were taken, if any, to avoid strike;
- Environmental conditions (e.g., wind speed and direction, BSS, cloud cover, visibility) immediately preceding the strike;
- Species identification (if known) or description of the animal(s) involved;
- Estimated size and length of the animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals present immediately preceding the strike;
- Estimated fate of the animal (e.g., dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and

- To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

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

To avoid repetition, the discussion of our analysis applies to all the species listed in table 1, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. Where there are meaningful differences between species or stocks they are included as separate subsections below. NMFS does not anticipate that serious injury or mortality would occur as a result of L-DEO's planned survey, even in the absence of mitigation, and no serious injury or mortality is proposed to be authorized. As discussed in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section above, non-auditory physical effects and vessel strike are not expected to occur. NMFS expects that the majority of potential takes would be in the form of short-term Level B

harassment, resulting from temporary avoidance of the area or decreased foraging (if such activity was occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.*, Southall *et al.*, 2007).

We are proposing to authorize a limited number of Level A harassment events of five species in the form of PTS (humpback whale, minke whale, sei whale, and *Kogia* spp (*i.e.*, pygmy and dwarf sperm whales)) and Level B harassment of all 28 marine mammal species (table 6). If any PTS is incurred in marine mammals as a result of the specified activity, we expect only a small degree of PTS that would not result in severe hearing impairment because of the constant movement of both the R/V Langseth and of the marine mammals in the project areas, as well as the fact that the vessel is not expected to remain in any one area in which individual marine mammals would be expected to concentrate for an extended period of time. Additionally, L-DEO would shut down the airgun array if marine mammals approach within 500 m (with the exception of specific genera of dolphins, see Proposed Mitigation), further reducing the expected duration and intensity of sound and therefore, the likelihood of marine mammals incurring PTS. Since the duration of exposure to loud sounds will be relatively short, it would be unlikely to affect the fitness of any individuals. Also, as described above, we expect that marine mammals would likely move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the R/V Langseth's approach due to the vessel's relatively low speed when conducting seismic surveys.

In addition, the maximum expected Level B harassment zone around the survey vessel is 6,733 m. Therefore, the ensonified area surrounding the vessel is relatively small compared to the overall distribution of animals in the area and their use of the habitat. Feeding behavior is not likely to be significantly impacted as prey species are mobile and are broadly distributed throughout the survey area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the short duration (11.5 days) and temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the

impacts to marine mammals and marine mammal prey species are not expected to cause significant or long-term fitness consequences for individual marine mammals or their populations.

Additionally, the acoustic "footprint" of the proposed survey would be very small relative to the ranges of all marine mammals that would potentially be affected. Sound levels would increase in the marine environment in a relatively small area surrounding the vessel compared to the range of the marine mammals within the proposed survey area. The seismic array would be active 24 hours per day throughout the duration of the proposed survey. However, the very brief overall duration of the proposed survey (30 survey days) would further limit potential impacts that may occur as a result of the proposed activity.

Of the marine mammal species that are likely to occur in the project area, the following species are listed as endangered under the ESA: blue whales, fin whales, sei whales, and sperm whales. The take numbers proposed for authorization for these species (table 6) are minimal relative to their modeled population sizes; therefore, we do not expect population-level impacts to any of these species. Moreover, the actual range of the populations extends past the area covered by the model, so modeled population sizes are likely smaller than their actual population size. The other marine mammal species that may be taken by harassment during L-DEO's seismic survey are not listed as threatened or endangered under the ESA. There is no designated critical habitat for any ESA-listed marine mammals within the project area.

There are no rookeries, mating, or calving grounds known to be biologically important to marine mammals within the survey area, and there are no feeding areas known to be biologically important to marine mammals within the survey area.

The proposed mitigation measures are expected to reduce, to the extent practicable, the intensity and/or duration of takes for all species listed in table 1. In particular, they would provide animals the opportunity to move away from the sound source throughout the survey area before seismic survey equipment reaches full energy, thus, preventing them from being exposed to sound levels that have the potential to cause injury (Level A harassment) or more severe Level B harassment.

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 any of the species or populations through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or proposed to be authorized;
 - We are proposing to authorize a limited number of Level A harassment events of five species in the form of PTS; if any PTS is incurred as a result of the specified activity, we expect only a small degree of PTS that would not result in severe hearing impairment because of the constant movement of both the vessel and of the marine mammals in the project areas, as well as the fact that the vessel is not expected to remain in any one area in which individual marine mammals would be expected to concentrate for an extended period of time.
 - The proposed activity is temporary and of relatively short duration (11.5 days of planned survey activity);
 - The vast majority of anticipated impacts of the proposed activity on marine mammals would be temporary behavioral changes due to avoidance of the ensonified area, which is relatively small (see table 4);
 - The availability of alternative areas of similar habitat value for marine mammals to temporarily vacate the survey area during the proposed survey to avoid exposure to sounds from the activity is readily abundant;
 - The potential adverse effects on fish or invertebrate species that serve as prey species for marine mammals from the proposed survey would be temporary and spatially limited and impacts to marine mammal foraging would be minimal;
 - The proposed mitigation measures are expected to reduce the number and severity of takes, to the extent practicable, by visually and/or acoustically detecting marine mammals within the established zones and implementing corresponding mitigation measures (*e.g.*, delay; shutdown).
- 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 marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or populations.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for

specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or population 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 population 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.

The number of takes NMFS proposes to authorize is below one-third of the most appropriate abundance estimate for all relevant populations (specifically, take of individuals is less than 1 percent of the modeled abundance of each affected population, see table 6). This is conservative because the modeled abundance represents a population of the species and we assume all takes are of different individual animals, which is likely not the case. Some individuals may be encountered multiple times in a day, but PSOs would count them as separate individuals if they cannot be identified.

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

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 Endangered Species Act 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 IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of blue whales, fin whales, sei whales, and sperm whales, which are listed under the ESA. The NMFS OPR Permits and Conservation Division has requested initiation of section 7 consultation with the OPR ESA Interagency Cooperation Division for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to L-DEO for conducting a marine geophysical survey at the Chain Transform Fault in the equatorial Atlantic Ocean during austral summer 2024, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities>.

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed marine geophysical survey. We also request comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, 1 year renewal IHA

following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: July 1, 2024.

Kimberly Damon-Randall,

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

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Reader Aids

Federal Register

Vol. 89, No. 130

Monday, July 8, 2024

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000****Laws** **741-6000**

Presidential Documents

Executive orders and proclamations **741-6000****The United States Government Manual** **741-6000**

Other Services

Electronic and on-line services (voice) **741-6020**Privacy Act Compilation **741-6050**

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FEDERAL REGISTER PAGES AND DATE, JULY

54329-54718.....	1
54719-55016.....	2
55017-55494.....	3
55495-55882.....	5
55883-56188.....	8

CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

Proposed Rules:

Ch. IV 54372, 55114
602.....54369

3 CFR

Proclamations:

10780.....54329
10781.....55883

Administrative Orders:

Memorandums:
Memorandum of June
28, 2024 55017

7 CFR

966.....55021
1416.....54331

9 CFR

500.....55023

10 CFR

Ch. I 55885
612.....54336

Proposed Rules:

51.....54727

12 CFR

1002.....55024
1092.....56028

Proposed Rules:

30.....55114

14 CFR

71 54339, 55495, 55497
91.....55500
97.....54340, 54342

Proposed Rules:

39 54393, 54737, 55120,
55123, 55126, 55128, 55525
71.....54739, 54741

15 CFR

744.....55033, 55036

17 CFR

Proposed Rules:

40.....55528

18 CFR

Proposed Rules:

39.....55529

21 CFR

180.....55039

26 CFR

40.....55507
47.....55507
58.....55044

Proposed Rules:

31.....54742

301.....54746

28 CFR

15.....55511
20.....54344

29 CFR

1630.....55520

29 CFR

4044.....54347

31 CFR

1010.....55050

Proposed Rules:

850.....55846
1010.....55428
1020.....55428
1021.....55428
1022.....55428
1023.....55428
1024.....55428
1025.....55428
1026.....55428
1027.....55428
1028.....55428
1029.....55428
1030.....55428

33 CFR

100.....55885
117.....54719
165 54348, 54350, 54351,
54353, 54355, 54356, 54720,
55058, 55886

Proposed Rules:

100.....55131, 55133

36 CFR

13.....55059

40 CFR

52 54358, 54362, 55888,
55891
60.....55521, 55522
63.....55522, 55684
180.....54721

Proposed Rules:

52 54396, 54748, 54753,
55136, 55140, 55896, 55901
180.....54398

41 CFR

102-76.....55071

42 CFR

414.....54662
425.....54662
495.....54662

Proposed Rules:

410.....55760
413.....55760

ii

Federal Register / Vol. 89, No. 130 / Monday, July 8, 2024 / Reader Aids

424.....55312	45 CFR	48 CFR	49 CFR
425.....55168	171.....54662	502.....55523	23.....55087
483.....55312		512.....55084	26.....55087
484.....55312	47 CFR	527.....55084	
494.....55760	73.....55078	532.....55084, 55086	50 CFR
512.....55760	Proposed Rules:	536.....55084	17.....55090
43 CFR	2.....54402, 55530	541.....55084	229.....55523
3830.....54364	4.....55180	552.....55084, 55086	300.....54724
44 CFR	54.....55542	Proposed Rules:	Proposed Rules:
Proposed Rules:	73.....55911	604.....54369	17.....54758
206.....54966		652.....54369	217.....55180

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion

in today's **List of Public Laws**.

Last List July 5, 2024

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