



FEDERAL REGISTER

Vol. 89

Wednesday,

No. 162

August 21, 2024

Pages 67517–67820

OFFICE OF THE FEDERAL REGISTER



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

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Proclamation 10791 of August 16, 2024

The President

National Employer Support of the Guard and Reserve Week, 2024

By the President of the United States of America**A Proclamation**

Every member of the National Guard and Reserve forms a link in the chain of honor that stretches back far before our Nation's founding. Throughout the centuries, these extraordinary citizens have committed themselves to a life of service and sacrifice for the United States. During National Employer Support of the Guard and Reserve Week, we show gratitude for the members of our National Guard and Reserve, who protect, defend, and serve our Nation. And we thank their patriotic civilian employers, who go above and beyond to support their mission.

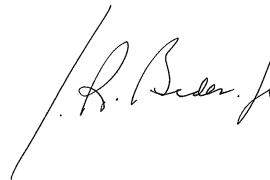
The First Lady and I have a special place in our hearts for the National Guard and Reserve because our son Major Beau Biden served in the Delaware Army National Guard. We know firsthand the sacrifices these brave women and men make. The members of our National Guard and Reserve must be ready to answer the call of duty at a moment's notice—leaving their civilian jobs behind to serve on missions across the country and around the world. It is a sacrifice that requires agility to adapt to an often unpredictable schedule that affects not only their lives and their families, but their employers as well.

That is why, this week, we thank all the outstanding employers who go above and beyond to ensure the members of our National Guard and Reserve receive the critical support they need. Employers have stepped up when they are away for military training or deployed—from offering flexible leave policies to ensuring their families continue to have access to health care and benefits. Our National Guard and Reserve members' civilian employers empower them to take on critical missions that support national security efforts and keep all of us safe.

Our National Guard and Reserve service members serve to preserve our freedom because they know that freedom is never guaranteed. Every generation has to earn it, fight for it, and defend it. Our service members' sacrifices ensure that America continues to have the greatest fighting force in the history of the world, and we are grateful to all the employers across the country who help make it possible. These employers are a reminder that there is truly nothing we cannot accomplish as a Nation if we work together. This week, may we show our gratitude for our troops and all the employers who support their mission.

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 August 18 through August 24, 2024, as National Employer Support of the Guard and Reserve Week. I call upon all Americans to observe this week by honoring our National Guard and Reserve service members, who sacrifice so much to keep our country and communities safe and secure, and to commend the employers who empower these service members to thrive.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of August, 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-ninth.

A handwritten signature in black ink, appearing to read "Joe Biden", is written over a diagonal line that serves as a signature line.

Rules and Regulations

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

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

OFFICE OF PERSONNEL
MANAGEMENT

5 CFR Part 532

[Docket ID: OPM–2024–0010]

RIN 3206–AO67

Prevailing Rate Systems; Redefinition
of the Arapahoe-Denver, Colorado,
Nonappropriated Fund Federal Wage
System Wage Area

AGENCY: Office of Personnel
Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to remove Denver County, CO, from the Arapahoe-Denver, CO, nonappropriated fund (NAF) Federal Wage System (FWS) wage area. In addition, OPM is changing the name of the Arapahoe-Denver NAF FWS wage area to Arapahoe. These changes are necessary because no NAF FWS employment has been reported in Denver County since 2018.

DATES:

Effective date: This regulation is effective September 20, 2024.

Applicability date: This change applies on the first day of the first applicable pay period beginning on or after September 20, 2024.

FOR FURTHER INFORMATION CONTACT: Ana Paunoiu, by telephone at (202) 606–2858 or by email at paypolicy@opm.gov.

SUPPLEMENTARY INFORMATION: On May 3, 2024, OPM issued a proposed rule (89 FR 36720) to remove Denver County, CO, from the Arapahoe-Denver, CO, NAF FWS wage area, and change the name of the Arapahoe-Denver NAF FWS wage area to Arapahoe. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and

recommended these changes by consensus.

The proposed rule had a 30-day comment period, during which OPM received no comments. Therefore, this final rule adopts the proposed rule at 89 FR 36720 without change.

Expected Impact of This Rule

Section 5343 of title 5, U.S. Code, provides OPM with the authority and responsibility to define the boundaries of NAF FWS wage areas. Any changes in wage area definitions can have the long-term effect of increasing pay for Federal employees in affected locations. OPM expects this final rule to impact approximately 69 NAF FWS employees. Considering the small number of employees affected, OPM does not anticipate this rule will substantially impact local economies or have a large impact in local labor markets. As this and future wage area changes may impact higher volumes of employees in geographical areas and could rise to the level of impacting local labor markets, OPM will continue to study the implications of such impacts in this or future rules as needed.

Regulatory Review

Executive Orders 13563, 12866, and 14094 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). This rule is not a “significant regulatory action” under the provisions of Executive Order 14094 and, therefore, was not reviewed by OMB.

Regulatory Flexibility Act

The Director of OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

OPM has examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Act of 1995

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

Congressional Review Act

OMB’s Office of Information and Regulatory Affairs has determined this rule does not satisfy the criteria listed in 5 U.S.C. 804(2). OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this rule before its effective date.

Paperwork Reduction Act

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

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Kayyonne Marston,
Federal Register Liaison.

Accordingly, OPM amends 5 CFR part 532 as follows:

PART 532—PREVAILING RATE
SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

■ 2. In appendix D to subpart B, amend the table by revising the wage area listing for the State of Colorado to read as follows:

Appendix D to Subpart B of Part 532—
Nonappropriated Fund Wage and
Survey Areas

* * * * *

DEFINITIONS OF WAGE AREAS AND
WAGE AREA SURVEY AREAS

	*	*	*	*	*
	COLORADO				
	Arapahoe				
	<i>Survey Area</i>				
Colorado:					
Arapahoe					
Area of Application. Survey area plus:					
Colorado:					
Mesa					
	El Paso				
	<i>Survey Area</i>				
Colorado:					
El Paso					
Area of Application. Survey area plus:					
Colorado:					
Bent					
Otero					
Pueblo					
	*	*	*	*	*

[FR Doc. 2024–18739 Filed 8–20–24; 8:45 am]
BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Doc. No. AMS–SC–23–0086]

Onions Grown in South Texas;
Increased Assessment Rate

AGENCY: Agricultural Marketing Service,
USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a recommendation from the South Texas Onion Committee (Committee) to increase the assessment rate established for the 2023–2024 and subsequent fiscal periods from \$0.05 to \$0.08 per 50-pound container or equivalent for South Texas onions. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective September 20, 2024.

FOR FURTHER INFORMATION CONTACT:
Delaney Fuhrmeister, Marketing Specialist, or Christian Nissen, Chief, Southeast Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375 or Email: Delaney.Fuhrmeister@usda.gov or Christian.Nissen@usda.gov.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237;

Telephone: (202) 720–8085, or Email: Richard.Lower@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 959, as amended (7 CFR part 959), regulating the handling of onions grown in South Texas. Part 959 (referred to as the “Order”) is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.” The Committee locally administers the Order and is comprised of producers and handlers of onions operating within the area of production.

The Agricultural Marketing Service (AMS) is issuing this final rule in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This final rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires Federal agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This final rule has been reviewed under Executive Order 12988—Civil Justice Reform. Under the Order now in effect, South Texas onion handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate will be applicable to all

assessable onions for the 2023–2024 fiscal period, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with the U.S. Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA’s ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule increases the assessment rate for South Texas onions handled under the Order from \$0.05 per 50-pound container or equivalent, the rate that was established for the 2020–2021 and subsequent fiscal periods, to \$0.08 per 50-pound container or equivalent for the 2023–2024 and subsequent fiscal periods.

Sections 959.41 and 959.42 authorize the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are familiar with the Committee’s needs and with the costs of goods and services in their local area and are able to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2020–2021 and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of \$0.05 per 50-pound container or equivalent of South Texas onions within the production area. That rate continues in effect from fiscal period to fiscal period until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on November 1, 2023, and unanimously recommended 2023–2024 fiscal period expenditures of \$280,657 and an assessment rate of \$0.08 per 50-pound container or equivalent of South Texas onions

handled for the 2023–2024 and subsequent fiscal periods. In comparison, last fiscal period's budgeted expenditures were \$177,657. The assessment rate of \$0.08 per 50-pound container or equivalent is \$0.03 higher than the rate currently in effect. The Committee recommended increasing the assessment rate to better align assessment revenue with budgeted expenses and to replenish reserves which were depleted between March 2021 and December 2022 when the Committee ceased collecting assessments during a temporary suspension under the Order. The Committee estimates shipments for the 2023–2024 season to be around 3,600,000 50-pound containers or equivalents, an increase from the 3,020,000 50-pound containers or equivalents handled for the 2022–2023 fiscal period.

The major expenditures recommended by the Committee for the 2023–2024 fiscal period include \$92,000 for research and marketing; \$80,000 for the compliance program; and \$37,050 for administrative expenses. By comparison, budgeted expenses for these items during the 2022–2023 fiscal period were \$20,000; \$50,000; and \$37,050, respectively.

At the current assessment rate of \$0.05, the expected 3,600,000 50-pound containers or equivalents would generate \$180,000 in assessment revenue (3,600,000 50-pound containers or equivalents multiplied by \$0.05 assessment rate), which would not cover budgeted expenses. The Committee recommended increasing the assessment rate to meet necessary expenses, fund marketing research, and restore reserves. By increasing the assessment rate by \$0.03 to \$0.08, assessment income will generate \$288,000 in assessment revenue (3,600,000 50-pound containers or equivalents multiplied by \$0.08 assessment rate). This amount should be appropriate to ensure the Committee has sufficient revenue to fully fund its recommended 2023–2024 fiscal period budgeted expenditures and to begin replenishing the Committee's reserve funds.

The Committee derived the recommended assessment rate by considering anticipated fiscal period expenses, expected shipments of onions, and the amount of funds available in the financial reserve. Income derived from handler assessments (\$288,000), and other sources including interest income, would be adequate to cover budgeted expenses (\$280,657). Funds available in the financial reserve (currently about \$78,000) will be kept within the

maximum permitted by the Order (approximately two fiscal periods' expenses as authorized in § 959.43).

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2023–2024 fiscal period budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by AMS.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this final rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are 23 handlers of South Texas onions subject to regulation under the Order and approximately 55 producers of South Texas onions in the production area. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural service firms as those having annual receipts of less than \$34,000,000 (North American Industry Classification System (NAICS) code 115114, Postharvest Crop Activities), and small agricultural producers of onions as those having annual receipts of less than \$3,750,000 (NAICS code 11219, Other Vegetable Farming) (13 CFR 121.201).

According to data from Market News and production records from the Committee, the average price for South Texas onions handled during the 2022–2023 season was approximately \$23.25 per 50-pound container or equivalent, with total shipments of around 3,020,000 50-pound containers or equivalents shipped. Based on the average terminal market price and shipment information, the number of handlers, and assuming a normal distribution, the majority of South Texas onion handlers have estimated average annual receipts of significantly less than \$34,000,000 (\$23.25 multiplied by 3,020,000 50-pound containers or equivalents equals \$70,215,000, divided by 23 handlers equals \$3,052,826 per handler).

In addition, based on data from the National Agricultural Statistics Service and the Committee, the average price producers received for South Texas onions during the 2022–2023 season was approximately \$17 per 50-pound container or equivalent, with total shipments of around 3,020,000 million 50-pound containers or equivalents. Using the average price producers received and shipment information, the number of producers, and assuming a normal distribution, the majority of producers have estimated average annual receipts of significantly less than \$3,750,000 (\$17 multiplied by 3,020,000 50-pound containers or equivalents equals \$51,340,000, divided by 55 producers equals \$933,455 per producer). Thus, the majority of handlers and producers of South Texas onions may be classified as small entities.

This final rule increases the assessment rate collected from handlers for the 2023–2024 and subsequent fiscal periods from \$0.05 to \$0.08 per 50-pound container or equivalent of South Texas onions. The Committee unanimously recommended 2023–2024 fiscal period expenditures of \$280,657 and an assessment rate of \$0.08 per 50-pound container or equivalent of South Texas onions. The assessment rate of \$0.08 is \$0.03 higher than the current rate. The Committee expects the industry to handle 3,600,000 50-pound container or equivalent of South Texas onions during the 2023–2024 fiscal period. Thus, the \$0.08 per 50-pound container or equivalent rate should provide \$288,000 in assessment income (3,600,000 50-pound containers or equivalents multiplied by \$0.08 assessment rate). Income derived from handler assessments and other sources including interest income, should be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2023–2024 fiscal period include \$92,000 for research and marketing; \$80,000 for the compliance program; and \$37,050 for administrative expenses. By comparison, budgeted expenses for these items during the 2022–2023 fiscal period were \$20,000; \$50,000; and \$37,050, respectively.

The Committee recommended increasing the assessment rate to meet necessary expenses, fund marketing research, and restore reserves, which were depleted between March 2021 and December 2022 when the Committee ceased collecting assessments during a temporary suspension under the marketing order. The Committee estimates shipments for the 2023–2024 season to be around 3,600,000 50-pound containers or equivalents. Given the estimated number of shipments, the current assessment rate of \$0.05 would generate \$180,000 in assessment income (3,600,000 50-pound containers or equivalents multiplied by \$0.05 assessment rate), which would not cover budgeted expenses. By increasing the assessment rate by \$0.03 to \$0.08, assessment income would be \$288,000 (3,600,000 50-pound containers or equivalents multiplied by \$0.08 assessment rate). This amount should provide sufficient funds to meet anticipated 2023–2024 expenses, while adding money to the financial reserve.

Prior to arriving at this budget and assessment rate, the Committee discussed various alternatives, including maintaining the current assessment rate of \$0.05 per 50-pound container or equivalent or increasing the assessment rate to \$0.06. However, neither of these assessment rates would provide enough income to cover budgeted expenses. Consequently, these alternative assessment rates were rejected.

A review of historical and preliminary information pertaining to the upcoming fiscal period indicates the average grower price for the 2023–2024 season should be approximately \$16.00 per 50-pound container or equivalent of South Texas onions. Therefore, the estimated assessment revenue for the 2023–2024 crop year as a percentage of total grower revenue would be about 0.5 percent (\$0.08 assessment rate divided by \$16.00 multiplied by 100).

This action increases the assessment obligation imposed on South Texas onion handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, these costs are expected to be offset by the benefits derived by the operation of the Order.

The Committee's meetings are widely publicized throughout the South Texas onion industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the November 1, 2023, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit comments on this rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements would be necessary as a result of this final rule. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule will not impose any additional reporting or recordkeeping requirements on either small or large South Texas onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rulemaking concerning this action was published in the **Federal Register** on April 24, 2024 (89 FR 31093). Copies of the proposed rulemaking were provided to all South Texas onion handlers. The proposal was also made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending May 24, 2024, was provided for interested persons to respond to the proposal. AMS received one comment during the comment period. The comment opposed the revised assessment rate but provided no substantive data or justification for AMS to evaluate. After reviewing the comment, AMS made no changes to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <https://>

www.ams.usda.gov/rules-regulations/moa/small-businesses. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, USDA has determined that this final rule is consistent with and effectuates the purposes of the Act.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 959 as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

- 1. The authority citation for part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

- 2. Section 959.237 is revised to read as follows:

§ 959.237 Assessment rate.

On and after August 1, 2023, an assessment rate of \$0.08 per 50-pound container or equivalent is established for South Texas onions.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–18709 Filed 8–20–24; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[NRC–2018–0296]

RIN 3150–AK32

Renewing Nuclear Power Plant Operating Licenses—Environmental Review

Correction

In rule document 2024–16643 beginning on page 64166 in the issue of Tuesday, August 6, 2024, make the following correction:

Appendix B to Subpart A of 10 CFR Part 51 [Corrected]

- On page 64197, in appendix B to subpart A of 10 CFR part 51, in the

table, in the footnotes, in the third line, “1” should read “2”.

[FR Doc. C1–2024–16643 Filed 8–20–24; 8:45 am]

BILLING CODE 0099–10–D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2024–0096]

RIN 3150–AL17

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM FW System Certificate of Compliance No. 1032, Amendment No. 7

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of September 25, 2024, for the direct final rule that was published in the **Federal Register** on July 12, 2024. The direct final rule amended the Holtec International HI–STORM Flood/Wind Multi-purpose Canister Storage System listing within the “List of approved spent fuel storage casks” to include Amendment No. 7 to Certificate of Compliance No. 1032.

DATES: Effective date: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of September 25, 2024, for the direct final rule that was published in the **Federal Register** on July 12, 2024.

ADDRESSES: Please refer to Docket ID NRC–2024–0096 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–2024–0096. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: Helen.Chang@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION**

CONTACT section of this document.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–

415–4737, or by email to PDR.Resource@nrc.gov. The Amendment No. 7 of Certificate of Compliance No. 1032 and associated changes to the technical specifications, and safety evaluation report can also be viewed in ADAMS under Package Accession No. ML24199A236.

- **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, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Caylee Kenny, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–7150, email: Caylee.Kenny@nrc.gov; and Yen-Ju Chen, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–1018, email: Yen-Ju.Chen@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: On July 12, 2024 (89 FR 57064), the NRC published a direct final rule amending its regulations in part 72 of title 10 of the *Code of Federal Regulations* to revise the Holtec International HI–STORM Flood/Wind Multi-purpose Canister Storage System (HI–STORM FW System) listing in the “List of approved spent fuel storage casks” to include Amendment No. 7 to Certificate of Compliance No. 1032. In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on September 25, 2024. The NRC did not receive any comments on the direct final rule. Therefore, this direct final rule will become effective as scheduled.

Dated: August 16, 2024.

For the Nuclear Regulatory Commission.

Helen Chang,

Acting Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2024–18752 Filed 8–20–24; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–1009; Project Identifier MCAI–2023–01221–T; Amendment 39–22782; AD 2024–14–01]

RIN 2120–AA64

Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain MHI RJ Aviation ULC Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes. This AD was prompted by a report that torque wrenches used during production installation of bulkhead fittings on the oxygen lines of the flightcrew oxygen mask stowage boxes and adapter fitting on the oxygen pressure gauge were out of calibration, which resulted in a higher torque level setting than required. This AD requires replacement of the affected oxygen line fittings, as specified in a Transport Canada AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 25, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 25, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–1009; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Transport Canada material, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email TC.AirworthinessDirectives-

Consignesdenavigabilite.TC@tc.gc.ca. You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation*. It is also available at *regulations.gov* under Docket No. FAA–2024–1009.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT:
Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *Fatin.R.Saumik@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain MHI RJ Aviation ULC Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes. The NPRM published in the **Federal Register** on April 29, 2024 (89 FR 33297). The NPRM was prompted by AD CF–2023–75, dated November 28, 2023, issued by Transport Canada, which is the aviation authority for Canada (Transport Canada AD CF–2023–75) (also referred to as the MCAI). The MCAI states MHI RJ

Aviation ULC received a quality escape notice from a supplier, reporting that torque wrenches used during production installation of bulkhead fittings on the oxygen lines of the flightcrew oxygen mask stowage boxes and adapter fitting on the oxygen pressure gauge were out of calibration, which resulted in a higher torque level setting than required by drawing. This over-torque could cause damage to the oxygen line fittings which, if not corrected, could cause oxygen leakage before being annunciated and result in lack of oxygen to the flightcrew when needed.

In the NPRM, the FAA proposed to require replacement of the affected oxygen line fittings, as specified in Transport Canada AD CF–2023–75. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–1009.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA), who supported the NPRM without change.

Conclusion

This product has been approved by the aviation authority of another

country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Material Under 1 CFR Part 51

Transport Canada AD CF–2023–75 specifies procedures for replacement of the bulkhead fittings on the oxygen lines of the mask stowage boxes and replacement of the fitting adapter on the oxygen pressure gauge. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 24 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × \$85 per hour = \$510	\$350	\$860	\$20,640

Authority for This Rulemaking

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

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

develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2024–14–01 MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–22782; Docket No. FAA–2024–1009; Project Identifier MCAI–2023–01221–T.

(a) Effective Date

This airworthiness directive (AD) is effective September 24, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to MHI RJ Aviation ULC (Type Certificate previously held by Bombardier, Inc.) Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes, certificated in any category, as identified in Transport Canada AD CF–2023–75, dated November 28, 2023 (Transport Canada AD CF–2023–75).

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by a report that torque wrenches used during production installation of bulkhead fittings on the oxygen lines of the flightcrew oxygen mask stowage boxes and adapter fitting on the oxygen pressure gauge were out of calibration, which resulted in a higher torque level setting than required. The FAA is issuing this AD to address this over-torque, which could cause damage to the oxygen line fittings. The unsafe condition, if not addressed, could result in oxygen leakage before being annunciated and result in lack of oxygen to the flightcrew when needed.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2023–75.

(h) Exception to Transport Canada AD CF–2023–75

(1) Where Transport Canada AD CF–2023–75 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2023–75 refers to hours air time, this AD requires using flight hours.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested

using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j) of this AD. Information may be emailed to: 9-AVS-NYACO-COS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; Transport Canada; or MHI RJ Aviation ULC's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Additional Information

For more information about this AD, contact Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email Fatin.R.Saumik@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Transport Canada AD CF–2023–75, dated November 28, 2023.

(ii) [Reserved]

(3) For Transport Canada AD CF–2023–75, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca. You may find this Transport Canada AD on the Transport Canada website at tc.canada.ca/en/aviation.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations, or email fr.inspection@nara.gov.

Issued on July 10, 2024.

James D. Foltz,

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

[FR Doc. 2024–18629 Filed 8–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2024–1006; Project Identifier MCAI–2023–01222–T; Amendment 39–22781; AD 2024–13–07]

RIN 2120–AA64

Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain MHI RJ Aviation ULC Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes. This AD was prompted by a notice from a supplier reporting that torque wrenches used to install the air driven generator (ADG) downlock cam nut were out of calibration, which resulted in a higher torque level setting than required during the initial production installation of the affected cam nut. This AD requires replacement of the affected ADG locking cam screw and cam nut, as specified in a Transport Canada AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 25, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 25, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2024–1006; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Transport Canada material, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email TC.AirworthinessDirectives-

Consignesdenavigabilite.TC@tc.gc.ca. You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation*. It is also available at *regulations.gov* under Docket No. FAA–2024–1006.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT:
Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *Fatin.R.Saumik@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain MHI RJ Aviation ULC Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes. The NPRM published in the **Federal Register** on April 23, 2024 (89 FR 30286). The NPRM was prompted by AD CF–2023–76, dated November 28, 2023, issued by Transport Canada, which is the aviation authority for Canada (Transport Canada AD CF–2023–76) (also referred to as the MCAI). The MCAI states MHI RJ Aviation received a supplier quality escape notice, reporting that torque

wrenches used to install the ADG downlock cam nut were out of calibration, which resulted in a higher torque level setting than required during the initial production installation of the affected cam nut. This over-torque condition could cause the screw and cam to fail, which, if not corrected, could result in the loss of the ADG downlock mechanism functionality upon airplane touchdown which eliminates a critical power source for the aircraft, leaving the flightcrew with minimum flightdeck displays and difficulty controlling the aircraft.

In the NPRM, the FAA proposed to require replacement of the affected ADG locking cam screw and cam nut, as specified in Transport Canada AD CF–2023–76. The FAA is issuing this AD to address this over-torque condition that could cause the screw and cam to fail. The unsafe condition, if not addressed, could result in the loss of the ADG downlock mechanism functionality upon airplane touchdown which eliminates a critical power source for the aircraft, leaving the flightcrew with minimum flightdeck displays and difficulty controlling the aircraft.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–1006.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Air Line Pilots Association, International

(ALPA) who supported the NPRM without change.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Material Under 1 CFR Part 51

Transport Canada AD CF–2023–76 specifies procedures for replacing the affected ADG locking cam screw and cam nut. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 24 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 2 work-hours × \$85 per hour = \$170	\$285	Up to \$455	Up to \$10,920.

Authority for This Rulemaking

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

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

unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2024–13–07 MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–22781; Docket No. FAA–2024–1006; Project Identifier MCAI–2023–01222–T.

(a) Effective Date

This airworthiness directive (AD) is effective September 25, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to MHI RJ Aviation ULC (Type Certificate previously held by Bombardier, Inc.) Model CL–600–2D15 (Regional Jet Series 705) and Model CL–600–2D24 (Regional Jet Series 900) airplanes, certificated in any category, as identified in Transport Canada AD CF–2023–76, dated November 28, 2023 (Transport Canada AD CF–2023–76).

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical power.

(e) Unsafe Condition

This AD was prompted by a notice from a supplier reporting that torque wrenches used to install the air driven generator (ADG) downlock cam nut were out of calibration, which resulted in a higher torque level setting than required during the initial production installation of the affected cam nut. The FAA is issuing this AD to address this over-torque condition that could cause the screw and cam to fail. The unsafe condition, if not addressed, could result in the loss of the ADG downlock mechanism functionality on aircraft touchdown which eliminates a critical power source for the aircraft, leaving the flightcrew with the minimum flightdeck displays and difficulty controlling the aircraft.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2023–76.

(h) Exceptions to Transport Canada AD CF–2023–76

(1) Where Transport Canada AD CF–2023–76 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2023–76 refers to hours air time, this AD requires using flight hours.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International

Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j) of this AD. Information may be emailed to: 9-AVS-NYACO-COS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; Transport Canada; or MHI RJ Aviation ULC's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Additional Information

For more information about this AD, contact Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email Fatin.R.Saumik@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Transport Canada AD CF–2023–76, dated November 28, 2023.

(ii) [Reserved]

(3) For Transport Canada AD CF–2023–76, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca. You may find this Transport Canada AD on the Transport Canada website at tc.canada.ca/en/aviation.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations, or email fr.inspection@nara.gov.

Issued on July 1, 2024.

Caitlin Locke,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2024–18627 Filed 8–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2024–0772; Project Identifier MCAI–2023–01203–T; Amendment 39–22789; AD 2024–14–08]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborá Indústria Aeronáutica S.A.; Embraer S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Embraer S.A. Model ERJ 170 airplanes. This AD was prompted by a manufacturing quality escape concerning some overheat detection system (ODS) sensing elements. This AD requires inspecting the ODS sensing elements and performing applicable corrective actions, and prohibits the installation of affected parts, as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 25, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 25, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2024–0772; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For ANAC material, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; phone 55 (12) 3203–6600; email pac@anac.gov.br; website anac.gov.br/en/. You may find

this material on the ANAC website sistemas.anac.gov.br/certificacao/DA/DAE.asp.

• You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-0772.

FOR FURTHER INFORMATION CONTACT: Joshua Bragg, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: 817-222-5366; email: joshua.k.bragg@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Embraer S.A. Model ERJ 170-100 LR, -100 SE, -100 STD, and -100 SU airplanes; and Model ERJ 170-200 LL, -200 LR, -200 STD, and -200 SU airplanes. The NPRM published in the **Federal Register** on April 2, 2024 (89 FR 22640). The NPRM was prompted by AD 2023-11-01, effective November 21, 2023, issued by ANAC, which is the aviation authority for Brazil (ANAC AD 2023-11-01) (also referred to as the MCAI). The MCAI states a quality escape occurred during manufacturing concerning some ODS sensing elements produced before January 31, 2021. A defective sensing element may not be able to detect a thermal bleed leak, which is a latent failure, and depending on the affected area, may start an ignition source in the fuel tank, which could damage some electronic boxes and expose the wing structure to high temperature gradients and unexpected thermal loads, which could result in reduced structural integrity of the airplane.

In the NPRM, the FAA proposed to require inspecting the ODS sensing elements and performing applicable corrective actions, and would prohibit the installation of affected parts, as specified in ANAC AD 2023-11-01. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-0772.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

The FAA received additional comments from two commenters, including Horizon Air and Skywest. The following presents the comments received on the NPRM and the FAA’s response to each comment.

Request for ATA Code Correction

Horizon Air requested a change to paragraph (d) of the proposed AD, which identifies the subject as ATA 75, Bleed Air. Horizon Air requested that the final rule identify the subject as ATA 36, Pneumatic System.

The FAA agrees and has corrected the subject matter ATA code in this AD.

Request for Clarification on Approved Service Bulletin

Skywest requested a clarification on paragraph (h)(2) of the proposed AD that requires adding “in accordance with Embraer Service Bulletin 170-36-0027, revision 04, dated September 5, 2023; or later revisions approved by ANAC.” The commenter stated that this statement appears misleading because the approval paragraph in that service bulletin does not state it is ANAC approved, but merely states it does not affect the type design previously approved by ANAC. It appears, for this service bulletin, ANAC issues their approval in a separate document that may not be readily available. The commenter also stated that with the AD as proposed, and without an explicit statement in the service bulletin stating it is ANAC approved, it seems an alternative method of compliance (AMOC) would be required to use any later revision. This service bulletin has also been revised to Revision 05 on April 1, 2024.

The FAA provides the following clarification for paragraph (h)(2) of this

AD. If the approval statement in the service bulletin does not state it is ANAC approved, the operator can contact Embraer, ANAC, or the FAA to determine if the service bulletin is approved by ANAC. If the approval of the service bulletin can be verified, approval of an AMOC would not be required to use a future revision of the service bulletin. No changes were made to this AD.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Material Under 1 CFR Part 51

ANAC AD 2023-11-01 specifies a detailed inspection of the ODS sensing elements of the airplane bleed lines and replacement, if applicable. In addition, ANAC AD 2023-11-01 specifies re-activating ODS sensing elements that were deactivated. Also, ANAC AD 2023-11-01 prohibits installing an affected ODS sensing element, unless it is inspected and one face of the connector hex nut is marked.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 70 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
5 work-hours × \$85 per hour = \$425	\$0	\$425	\$29,750

The FAA estimates the following costs to do any on-condition action that would be required based on the results

of any required actions. The FAA has no way of determining the number of

aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
2 work-hours × \$85 per hour = \$170	\$500	\$670

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2024-14-08 Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.): Amendment 39-22789; Docket No. FAA-2024-0772; Project Identifier MCAI-2023-01203-T.

(a) Effective Date

This airworthiness directive (AD) is effective September 25, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. (Type Certificate previously held by Yaborã Indústria Aeronáutica S.A.) Model ERJ 170-100 LR, -100 SE, -100 STD, and -100 SU airplanes, and Model ERJ 170-200 LL, -200 LR, -200 STD, and -200 SU airplanes, certificated in any category, as identified in Agência Nacional de Aviação Civil (ANAC) AD 2023-11-01, effective November 21, 2023 (ANAC AD 2023-11-01).

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic System.

(e) Unsafe Condition

This AD was prompted by a manufacturing quality escape concerning some overheat detection system (ODS) sensing elements. The FAA is issuing this AD to address defective sensing elements. The unsafe condition, if not addressed, could result in a sensing element not being able to detect a thermal bleed leak, which is a latent failure, and depending on the affected area, may start an ignition source in the fuel tank, which could damage some electronic boxes and expose the wing structure to high temperature gradients and unexpected thermal loads, which could result in reduced structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, ANAC AD 2023-11-01.

(h) Exceptions to ANAC AD 2023-11-01

(1) Where ANAC AD 2023-11-01 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraphs (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), and (g)(1), of ANAC AD 2023-11-01 specify to inspect ODS sensing elements at various locations, this AD requires adding "in accordance with Embraer Service Bulletin 170-36-0027, revision 04, dated September 5, 2023; or later revisions approved by ANAC."

(3) Where paragraphs (b) through (h) of ANAC AD 2023-11-01 specify on-condition actions based on the results of the ODS sensing element inspections required by paragraphs (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), and (g)(1) of ANAC AD 2023-11-01, this AD requires performing all applicable on-condition actions before further flight after each inspection.

(4) This AD does not adopt paragraph (k) of ANAC AD 2023-11-01.

(i) Parts Returned to Supplier

Where the service information referenced in ANAC AD 2023-11-01 specifies to send removed sensing elements to the supplier, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (k) of this AD or email to: 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov. If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or ANAC; or ANAC's

authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(3) *Required for Compliance (RC)*: Except as required by paragraph (j)(2) of this AD, if any service information referenced in ANAC AD 2023-11-01 contains steps in the Accomplishment Instructions or figures that are labeled as RC, the instructions in RC steps, including subparagraphs under an RC step and any figures identified in an RC step, must be done to comply with this AD; any steps including substeps under those steps, that are not identified as RC are recommended. The instructions in steps, including substeps under those steps, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC. If a step or substep is labeled "RC Exempt," then the RC requirement is removed from that step or substep.

(k) Additional Information

For more information about this AD, contact Joshua Bragg, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: 817-222-5366; email: joshua.k.bragg@faa.gov.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Agência Nacional de Aviação Civil (ANAC) AD 2023-11-01, effective November 21, 2023.

(ii) [Reserved]

(3) For ANAC AD 2023-11-01, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246-190—São José dos Campos—SP, Brazil; phone 55 (12) 3203-6600; email pac@anac.gov.br; website anac.gov.br/en/. You may find this ANAC AD on the ANAC website sistemas.anac.gov.br/certificacao/DA/DAE.asp.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations, or email fr.inspection@nara.gov.

Issued on July 12, 2024.

Suzanne Masterson,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024-18634 Filed 8-20-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-1286; Project Identifier MCAI-2024-00017-T; Amendment 39-22788; AD 2024-14-07]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A300 B4-600, B4-600R, and F4-600R series airplanes, and Model A300 C4-605R Variant F airplanes (collectively called Model A300-600 series airplanes). This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 25, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 25, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2024-1286; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at regulations.gov under Docket No. FAA-2024-1286.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206-231-3225; email: dan.rodina@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A300 600 series airplanes. The NPRM published in the **Federal Register** on May 1, 2024 (89 FR 35015). The NPRM was prompted by AD 2024-0003, dated January 5, 2024, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2024-0003) (also referred to as the MCAI). The MCAI states that new or more restrictive airworthiness limitations have been developed.

EASA AD 2024-0003 specifies that it requires a task (limitation) already in Airbus A300-600 ALS Part 4 Revision 03 that is required by EASA AD 2017-0202 (which corresponds to FAA AD 2018-18-21, Amendment 39-19400 (83 FR 47054, September 18, 2018) (AD 2018-18-21)), and that incorporation of EASA AD 2024-0003 invalidates (terminates) prior instructions for that task. For Model A300 B4-601, B4-603, B4-620, B4-622, B4-605R, B4-622R, 300 F4-605R, F4-622R, and A300 C4-605R Variant F airplanes only, this AD therefore terminates the limitations required by paragraph (g) of AD 2018-18-21 for the tasks identified in the service information referenced in EASA AD 2017-0202 only.

In the NPRM, the FAA proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2024-0003. The FAA is issuing this AD to address the risks associated with the effects of aging on airplane systems. The unsafe

condition, if not addressed, could result in an increased potential for failure of certain life-limited parts, and reduced structural integrity or controllability of the airplane.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-1286.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA), who supported the NPRM without change.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Material Under 1 CFR Part 51

The FAA reviewed EASA AD 2024-0003, which specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 120 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be \$7,650 (90 work-hours × \$85 per work-hour).

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2024-14-07 Airbus SAS: Amendment 39-22788; Docket No. FAA-2024-1286; Project Identifier MCAI-2024-00017-T.

(a) Effective Date

This airworthiness directive (AD) is effective September 25, 2024.

(b) Affected ADs

This AD affects AD 2018-18-21, Amendment 39-19400 (83 FR 47054, September 18, 2018) (AD 2018-18-21).

(c) Applicability

This AD applies to all Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category.

(1) Model A300 B4-601, B4-603, B4-620, and B4-622 airplanes.

(2) Model A300 B4-605R and B4-622R airplanes.

(3) Model A300 F4-605R and F4-622R airplanes.

(4) Model A300 C4-605R Variant F airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the risks associated with the effects of aging on airplane systems. The unsafe condition, if not addressed, could result in an increased potential for failure of certain life-limited parts, and reduced structural integrity or controllability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2024-0003, dated January 5, 2024 (EASA AD 2024-0003).

(h) Exceptions to EASA AD EASA AD 2024-0003

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2024-0003.

(2) Paragraph (3) of EASA AD 2024-0003 specifies revising "the approved AMP," within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2024-0003 is at the applicable "limitations" and "associated thresholds" as incorporated by the requirements of paragraph (3) of EASA AD 2024-0003, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraph (4) of EASA AD 2024–0003.

(5) This AD does not adopt the “Remarks” section of EASA AD 2024–0003.

(i) Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2024–0003.

(j) Terminating Action for Certain Tasks Required by AD 2018–18–21

For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, 300 F4–605R, F4–622R, and A300 C4–605R Variant F airplanes only: Accomplishing the actions required by this AD terminates the corresponding requirements of AD 2018–18–21 for the tasks identified in the service information referenced in EASA AD 2017–0202 only.

(k) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (l) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Additional Information

For more information about this AD, contact Dan Rodina, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3225; email: dan.rodina@faa.gov.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2024–0003, dated January 5, 2024.

(ii) [Reserved]

(3) For EASA AD 2024–0003, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADS@easa.europa.eu; website easa.europa.eu. You may find this EASA AD on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations, or email fr.inspection@nara.gov.

Issued on July 12, 2024.

Suzanne Masterson,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–18633 Filed 8–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2017; Project Identifier AD–2024–00204–T; Amendment 39–22820; AD 2024–16–14]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. This AD was prompted by a report of uncommanded movement of the Captain’s seat in the forward direction that caused a rapid descent. This AD requires inspections of affected Captain’s and First Officer’s seats for missing or cracked rocker switch caps and for cracked or nonfunctional switch cover assemblies, a rocker switch cap pull test, marking of the seats, and applicable on-condition actions. This AD also limits the installation of affected seats. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 21, 2024.

The Director of the Federal Register approved the incorporation by reference

of a certain publications listed in this AD as of August 21, 2024.

The FAA must receive comments on this AD by October 7, 2024.

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

- *Federal eRulemaking Portal:* Go to regulations.gov. Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov by searching for and locating Docket No. FAA–2024–2017; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Ipeco material identified in this AD, contact Ipeco Holdings Limited, Aviation Way, Southend on Sea, SS2 6UN, United Kingdom; phone: +44 1702 545118; email: technicalsupport@ipeco.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at regulations.gov under Docket No. FAA–2024–2017.

FOR FURTHER INFORMATION CONTACT: Brandon Lucero, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3569; email: Brandon.Lucero@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include Docket No. FAA–2024–2017 and Project Identifier AD–2024–00204–T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may

amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Brandon Lucero, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3569; email: Brandon.Lucero@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA has received reports of uncommanded horizontal movement of the Captain’s and First Officer’s seats installed in Boeing Model 787 airplanes. The FAA received the first report in March 2024 indicating that uncommanded movement of the Captain’s seat caused the control column input to disconnect the autopilot, resulting in a rapid descent until the First Officer took control of the flight. This incident further resulted in multiple passenger injuries, some of which were serious. Following that incident, the FAA received four additional reports from Boeing of uncommanded horizontal movement of the Captain’s and First Officer’s seats; the most recent occurred in June 2024. Three of the incidents were due to loose forward/aft rocker switch caps located under the spring-loaded rocker switch cover guard on the back of the Captain’s and First Officer’s seats; the loose

forward/aft rocker switch caps were the result of cracking or un-bonded or debonded caps. The other two incidents are under investigation. A rocker switch with a dislodged rocker switch cap, if depressed by the rocker switch cover guard, can cause unintended and sustained movement of the seat. Uncommanded horizontal movement of an occupied seat can cause in-flight upset from unintended and abrupt flight control inputs, which could result in a rapid descent of the airplane and serious injury to passengers and crew. The FAA is issuing this AD to address the unsafe condition on these products.

FAA’s Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024. This material specifies the following procedures:

- A general visual inspection for cracked or missing rocker switch caps of the Captain’s and First Officer’s seats, and replacement and bonding of any switch that has a cracked or missing switch cap.
- A general visual inspection for cracks of the switch cover assemblies and local areas, a functional test of the switch cover, and replacement of cracked or nonfunctional parts.
- A rocker switch cap pull test for the switch caps (except those that have been replaced).
- Bonding of any unbonded or debonded switch caps (that fail the pull test) or any replaced rocker switches, including making sure cracked rocker switches are replaced with switches having bonded caps.
- Marking of the seats.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

AD Requirements

This AD requires accomplishing the actions specified in the material already described, except for any differences identified as exceptions in the regulatory text of this AD. This AD also limits the installation of affected seats.

Clarification of Required Actions

Where Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024, specifies bonding the rocker switch cap

for an un-bonded cap, this AD also allows replacing the switch and bonding the switch cap.

Where paragraph 3. of Part A of Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024, specifies a rocker switch cap pull test of all switch caps, this AD does not require the pull test for any switch that was replaced with a switch having a bonded cap.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because the FAA has received, with increasing frequency since March 2024, reports of uncommanded horizontal movement of the Captain’s or First Officer’s seat, when occupied. Uncommanded horizontal seat movement can cause in-flight upset from unintended and abrupt flight control inputs, which could result in a rapid descent of the airplane and serious injury to passengers and crew. Furthermore, the compliance time in this AD is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice

and comment, RFA analysis is not required.

Costs of Compliance
The FAA estimates that this AD affects 158 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections, cap pull test, part marking	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$13,430

The FAA estimates the following costs to do any on-condition actions that would be required based on the results

of an inspection or cap pull test. The FAA has no way of determining the

number of aircraft that might need these on-condition actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per seat
Replacement	Up to 3 work-hours × \$85 per hour = \$255	Up to \$4,600	Up to \$4,855.
Cap bonding	Up to 3 work-hours × \$85 per hour = \$255	\$37	Up to \$292.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2024–16–14 The Boeing Company:
Amendment 39–22820; Docket No. FAA–2024–2017; Project Identifier AD–2024–00204–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 21, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category, identified in paragraphs (c)(1) and (2) of this AD.

- (1) Airplanes with a Captain’s seat having Ipeco part number P/N 3A380–0007–XX–X or First Officer’s seat having Ipeco P/N 3A380–0008–XX–X.
- (2) Airplanes that do not have a seat identified in paragraph (c)(1) of this AD.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by reports of uncommanded horizontal movement of the Captain’s and First Officer’s seats. The FAA is issuing this AD to address a dislodged rocker switch cap under the spring-loaded rocker switch cover guard, which can cause unintended and sustained movement of the seat. Uncommanded horizontal movement of a Captain’s or First Officer’s seat, when occupied, can cause in-flight upset from unintended and abrupt flight control inputs, which could result in a rapid descent of the airplane and serious injury to passengers and crew.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Switch Cap Inspection

For airplanes identified in paragraph (c)(1) of this AD: Within 30 days after the effective date of this AD, do a general visual inspection for cracked or missing rocker switch caps of the Captain’s and First Officer’s seats, in accordance with the Accomplishment Instructions of Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024. For any switch that has a cracked or missing switch cap, replace the switch and bond the switch cap within 30 days after the effective date of this AD, in accordance with the Accomplishment Instructions of Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024. Replacement may be delayed provided the airplane is operated under the provisions of Master Minimum Equipment List item 25–11–01–0, but no later than 120 days after the effective date of this AD.

(h) Switch Cover Assembly Inspection

For airplanes identified in paragraph (c)(1) of this AD: Within 30 days after the effective

date of this AD, perform a general visual inspection for cracks of the switch cover assemblies and local areas and a functional test of the switch cover, in accordance with the Accomplishment Instructions of Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024. Replace any cracked or nonfunctional parts within 30 days after the effective date of this AD, in accordance with the Accomplishment Instructions of Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024. Replacement may be delayed provided the airplane is operated under the provisions of Master Minimum Equipment List item 25–11–01–0, but no later than 120 days after the effective date of this AD.

(i) Rocker Switch Cap Pull Test

For airplanes identified in paragraph (c)(1) of this AD: Within 30 days after the effective date of this AD, except as specified in paragraph (k) of this AD, perform a rocker switch cap pull test of all switch caps, in accordance with the Accomplishment Instructions of Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024. For any rocker switch cap that is un-bonded or debonded (*i.e.*, fails the test), bond the rocker switch cap, or replace the switch and bond the switch cap, within 30 days after the effective date of this AD, in accordance with the Accomplishment Instructions of Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024. The bonding may be delayed provided the airplane is operated under the provisions of Master Minimum Equipment List item 25–11–01–0, but no later than 120 days after the effective date of this AD.

(j) Seat Marking

For airplanes identified in paragraph (c)(1) of this AD: Before further flight after accomplishment of the applicable actions required by paragraphs (g) through (i) of this AD, mark the seat in accordance with the Accomplishment Instructions of Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024.

(k) Exceptions to Service Bulletin

(1) Where a note in paragraph 3.a. of Part A of the Accomplishment Instructions of Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024, specifies to visually inspect the switch guard (3–270 or 3–270A) for cracks or modifications and “replace in accordance with the CMM,” this AD requires replacing that text with “replace the switch guard before further flight in accordance with the CMM if any crack or modification is found.”

(2) For any switch that has been replaced with a switch having a bonded cap as required by paragraph (g) of this AD, the actions required by paragraph (i) of this AD are not required.

(l) Parts Installation Limitation

At the applicable time specified in paragraph (l)(1) or (2) of this AD, no person may install, on any airplane, a seat identified in paragraph (c)(1) of this AD, unless the seat is marked as specified in paragraph (j) of this AD.

(1) For airplanes in paragraph (c)(1) of this AD: After accomplishment of all applicable actions required by this AD.

(2) For airplanes identified in paragraph (c)(2) of this AD: As of the effective date of this AD.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (n) of this AD. Information may be emailed to: AMOC@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(n) Related Information

For more information about this AD, contact Brandon Lucero, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3569; email: Brandon.Lucero@faa.gov.

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Ipeco Service Bulletin 380–25–06, Issue 03, dated July 17, 2024.

(ii) [Reserved]

(3) For Ipeco material identified in this AD, contact Ipeco Holdings Limited, Aviation Way, Southend on Sea, SS2 6UN, United Kingdom; phone: +44 1702 545118; fax: +44 1702 540782; email: technicalsupport@ipeco.com.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on August 2, 2024.

John P. Piccola, Jr.,

Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–18843 Filed 8–19–24; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. **FAA–2024–1001**; Project Identifier **MCAI–2023–01129–T**; Amendment **39–22787**; AD **2024–14–06**]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by reports that certain engine bleed air system (EBAS) T-Ducts may not conform to the type design due to a quality escape not detected during the manufacturing process on Rolls-Royce Trent XWB–75, Trent XWB–84, and Trent XWB–97 engines. This AD requires replacement of affected EBAS T-Ducts and limits the installation of affected parts under certain conditions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference (IBR). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 25, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 25, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. **FAA–2024–1001**; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at regulations.gov under Docket No. FAA-2024-1001.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at regulations.gov under Docket No. FAA-2024-1001.

FOR FURTHER INFORMATION CONTACT: Dat Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516-228-7300; email: 9-avs-nyaco-cos@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A350-941 and -1041 airplanes. The NPRM published in the **Federal Register** on April 10, 2024 (89 FR 25191). The NPRM was prompted by EASA AD 2023-0189, dated October 31, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (referred to after this as the MCAI). The MCAI states a sub-supplier to Rolls-Royce for bleed ducts on Trent XWB-75, Trent XWB-84, and Trent XWB-97 engines reported that certain EBAS T-Ducts may not conform to the type design due to a quality escape not detected during the manufacturing process. Affected EBAS T-Ducts have Part Number RR03-11011-001 and serial number listed in the Appendix 1 of Rolls-Royce Alert Non-Modification Service Bulletin (NMSB) Trent XWB 36-AK870, dated September 29, 2023.

In the NPRM, the FAA proposed to require replacement of affected EBAS T-Ducts and limit the installation of affected parts under certain conditions, as specified in a European Union Aviation Safety Agency (EASA) AD. The FAA is issuing this AD to address cracking of certain EBAS T-Ducts on Rolls-Royce (RR) Trent XWB-75, Trent XWB-84 and Trent XWB-97 engines. The unsafe condition, if not addressed, could result in cracking of the affected part with consequent air leakage, which

could result in high energy debris release (uncontained engine rotor failure), an uncontrolled engine fire, and subsequent loss of control of the airplane.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2024-1001.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA), who supported the NPRM without change.

The FAA received additional comments from Delta Air Lines. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request for Removal of Step in Exceptions Paragraph

Delta considered the exception in paragraph (h)(3) of the proposed AD unnecessary, and stated that this exception only restricts the use of later-approved revisions of Rolls-Royce Alert Non-Modification Service Bulletin TRENT XWB-36-AK870 (the NMSB). Delta stated that putting the date of the NMSB in the proposed AD limits the revision that can be used to comply with the AD, and use of later revisions will require approval of alternative methods of compliance (AMOCs). Delta noted that EASA AD 2023-0189 already defines the NMSB in the Definitions and Ref. Publications sections, and allows the use of later-approved revisions of the NMSB to comply with the EASA AD.

The FAA disagrees with removing paragraph (h)(3) of this AD. Appendix 1 of the NMSB defines affected EBAS T-Ducts by part and serial number. Because Appendix 1 may change in future revisions of the NMSB, this AD defines the acceptable NMSB version to control for the identity of the affected parts. Paragraph (h)(3) of this AD does not otherwise affect the use of later-approved versions for the actions required by paragraph (1) or (2) of the EASA AD2023-0189. The FAA agrees that AMOC approvals may be necessary to use a future NMSB version if the definition of affected parts changes. The FAA has not changed this AD in this regard.

Request for Reporting Clarification

Delta requested adding a new subparagraph to the "Exceptions"

section of the NPRM to clarify reporting requirements. Delta stated that paragraphs 3.A.(4) and 3.B.(4) of Trent Service Bulletin XWB 36-AK870 require the operator to complete an Appendix 3 form and submit it to Rolls-Royce. Delta claims the "reporting requirement" in an AD typically requests findings from an inspection to enable the manufacturer to learn more about the cause of the unsafe condition and determine appropriate corrective actions. Furthermore, the Trent Service Bulletin XWB 36-AK870, Appendix 3, merely requests that operators inform Rolls-Royce that the service bulletin is completed for their airplanes and does not specify submitting specific information such as test or inspection results.

The FAA agrees and has added paragraph (i) of this AD in order to clarify that no reporting is required.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2023-0189 specifies procedures for replacement of affected EBAS T-Ducts. EASA AD 2023-0189 also limits the installation of affected parts. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 32 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 2 work-hours × \$85 per hour = \$170	\$128,555	Up to \$128,725	Up to \$4,119,200.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2024-14-06 Airbus SAS: Amendment 39-22787; Docket No. FAA-2024-1001; Project Identifier MCAI-2023-01129-T.

(a) Effective Date

This airworthiness directive (AD) is effective September 25, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350-941 and -1041 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by reports that certain engine bleed air system (EBAS) T-Ducts on Rolls-Royce Trent XWB-75, Trent XWB-84, and Trent XWB-97 engines may not conform to the type design due to a quality escape not detected during the manufacturing process. The FAA is issuing this AD to address cracking of certain EBAS T-Ducts on Rolls-Royce (RR) Trent XWB-75, Trent XWB-84 and Trent XWB-97 engines. The unsafe condition, if not addressed, could result in cracking of the affected part with consequent air leakage, which could result in high energy debris release (uncontained engine rotor failure), an uncontrolled engine fire, and subsequent loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023-0189, dated October 31, 2023 (EASA AD 2023-0189).

(h) Exceptions to EASA AD 2023-0189

(1) Where EASA AD 2023-0189 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the "Remarks" section of EASA AD 2023-0189.

(3) Where the definition of affected part in EASA AD 2023-0189 specifies "as listed in the APPENDIX 1 of the NMSB," replace that text with "as listed in the APPENDIX 1 of Rolls-Royce ALERT Non-Modification Service Bulletin TRENT XWB 36-AK870, dated September 29, 2023."

(i) No Reporting Requirement

Although certain material referenced in EASA AD 2023-0189 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where an EBAS T-Duct can be replaced, provided only one EBAS T-Ducts requires replacement.

(k) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (l) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (k)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the

procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(l) Additional Information

For more information about this AD, contact Dat Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516-228-7300; email: 9-avs-nyaco-cos@faa.gov.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2023-0189, dated October 31, 2023.

(ii) [Reserved]

(3) For EASA AD 2023-0189, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this EASA AD on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations, or email fr.inspection@nara.gov.

Issued on July 12, 2024.

Suzanne Masterson,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024-18628 Filed 8-20-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-1008; Project Identifier MCAI-2024-00080-T; Amendment 39-22783; AD 2024-14-02]

RIN 2120-AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2023-02-13, which applied to certain Dassault

Aviation Model FALCON 900EX airplanes. AD 2023-02-13 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2023-02-13, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This AD continues to require certain actions in AD 2023-02-13 and requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 25, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 25, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of March 17, 2023 (88 FR 8740, February 10, 2023).

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2024-1008; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this material on the EASA website ad.easa.europa.eu. It is also available at regulations.gov under Docket No. FAA-2024-1008.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206-231-3226; email tom.rodriguez@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2023-02-13, Amendment 39-22320 (88 FR 8740, February 10, 2023) (AD 2023-02-13). AD 2023-02-13 applied to certain Dassault Aviation Model FALCON 900EX airplanes. AD 2023-02-13 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2023-02-13 to address reduced structural integrity of the airplane.

The NPRM published in the **Federal Register** on April 23, 2024 (89 FR 30289). The NPRM was prompted by AD 2024-0035, dated January 31, 2024, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2024-0035) (also referred to as the MCAI). The MCAI states that new or more restrictive airworthiness limitations have been developed.

In the NPRM, the FAA proposed to continue to require certain actions in AD 2023-02-13 and to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2024-0035. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2024-1008.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Material Under 1 CFR part 51

EASA AD 2024–0035 specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2022–0144, dated July 11, 2022, which the Director of the Federal Register approved for incorporation by reference as of March 17, 2023 (88 FR 8740, February 10, 2023).

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 88 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2023–02–13 to be \$7,650 (90 work-hours × \$85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new actions to be \$7,650 (90 work-hours × \$85 per work-hour).

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
- a. Removing airworthiness directive 2023–02–13, Amendment 39–22320 (88 FR 8740, February 10, 2023); and
 - b. Adding the following new airworthiness directive:

2024–14–02 Dassault Aviation:

Amendment 39–22783; Docket No. FAA–2024–1008; Project Identifier MCAI–2024–00080–T.

(a) Effective Date

This airworthiness directive (AD) is effective September 25, 2024.

(b) Affected ADs

This AD replaces AD 2023–02–13, Amendment 39–22320 (88 FR 8740, February 10, 2023) (AD 2023–02–13).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 900EX airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0035, dated January 31, 2024 (EASA AD 2024–0035).

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address reduced structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Revision of the Existing Maintenance or Inspection Program, With a New Terminating Action

This paragraph restates the requirements of paragraph (j) of AD 2023–02–13, with a new terminating action. Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022–0144, dated July 11, 2022 (EASA AD 2022–0144). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA 2022–0144, With No Changes

This paragraph restates the exceptions specified in paragraph (k) of AD 2023–02–13, with no changes.

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2022–0144 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2022–0144 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after March 17, 2023 (the effective date of AD 2023–02–13).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0144 is at the applicable “associated thresholds” specified in paragraph (3) of EASA AD 2022–0144, or within 90 days after March 17, 2023 (the effective date of AD 2023–02–13), whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0144 do not apply to this AD.

(5) The “Remarks” section of EASA AD 2020–0144 does not apply to this AD.

(i) Retained Restrictions on Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (l) of AD 2023–02–13, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2022–0144.

(j) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0035. Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2024–0035

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2024–0035.

(2) Paragraph (3) of EASA AD 2024–0035 specifies revising “the approved AMP,” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2024–0035 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2024–0035, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2024–0035.

(5) This AD does not adopt the “Remarks” section of EASA AD 2024–0035.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2024–0035.

(m) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (n) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Dassault Aviation’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Additional Information

For more information about this AD, contact Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3226; email tom.rodriguez@faa.gov.

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following material was approved for IBR on September 25, 2024.

(i) European Union Aviation Safety Agency (EASA) AD 2024–0035, dated January 31, 2024.

(ii) [Reserved]

(4) The following material was approved for IBR on March 17, 2023 (88 FR 8740, February 10, 2023).

(i) European Union Aviation Safety Agency (EASA) AD 2022–0144, dated July 11, 2022.

(ii) [Reserved]

(5) For EASA AD 2024–0035 and EASA AD 2022–0144, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADS@easa.europa.eu; website easa.europa.eu. You may find these EASA ADs on the EASA website ad.easa.europa.eu.

(6) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(7) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations, or email fr.inspection@nara.gov.

Issued on July 10, 2024.

James D. Foltz,

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

[FR Doc. 2024–18632 Filed 8–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2023–2422; Airspace Docket No. 23–AWP–48]

RIN 2120–AA66

Modification of Class E Airspace; Bishop Airport, Bishop, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace designated as a surface area,

Class E airspace area designated as an extension to a Class D or Class E surface area, Class E airspace extending upward from 700 feet above the surface of the earth, and revokes the Class E airspace extending upward from 1,200 feet above the surface of the earth at Bishop Airport, Bishop, CA. These actions support the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Effective date 0901 UTC, December 26, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT:

Keith Adams, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2428.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as will modify Class E airspace to support IFR operations at Bishop Airport, Bishop, CA.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2023–2422 in the **Federal Register** (89 FR 33303; April 29, 2024), proposing to modify Class E airspace at Bishop Airport, Bishop, CA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E2, E4, and E5 airspace areas are published in paragraphs 6002, 6004, and 6005, respectively, of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by modifying the Class E airspace designated as a surface area, Class E airspace area designated as an extension to a Class E surface area, and Class E airspace extending upward from 700 feet above the surface of the earth. It also revokes Class E airspace extending upward from 1,200 feet above the surface of the earth at Bishop Airport, Bishop, CA.

The Class E airspace designated as a surface area is expanded to include that airspace within a 5-mile radius of the airport, within 1.8 miles northeast and 1 mile southwest of the 147° bearing from the airport, extending from the 5-mile radius to 6.9 miles southeast of the airport, and that airspace within 3.8 miles either side of the 317° bearing extending to the 7.1-mile radius of the airport. This will more appropriately contain arriving IFR operations between the surface and 1,000 feet above the surface while executing the Area Navigation (RNAV) (Global Positioning System [GPS]) M Runway (RWY) 12 and the RNAV (GPS) M RWY 30 approaches. It will also better contain departing IFR operations until reaching the base of adjacent controlled airspace while executing the MOTSE ONE DEPARTURE (RNAV).

The Class E airspace area designated as an extension to a Class D or Class E

surface area is reduced to be within 1.2 miles east and 1.1 miles west of the airport's 337° bearing extending from the 7.1-mile radius of the airport to 9.6 miles northwest of the airport. This will more appropriately contain arriving IFR operations below 1,000 feet above the surface while executing the Localizer Directional Aid (LDA) RWY 17 approach.

The Class E airspace area extending upward from 700 feet above the surface of the earth is reduced to include that airspace within 3.4 miles northeast and 4 miles southwest of the airport's 157° bearing extending 7.6 miles southeast of the airport, and 4 miles southwest and 3.4 miles northeast of the airport's 337° bearing extending 15.2 miles northwest of the airport. This will better contain arriving IFR operations below 1,500 feet above the surface while executing the RNAV (GPS) M RWY 12 and RNAV (GPS) M RWY 30 approaches. The modification will also more appropriately contain departing IFR operations below 1,200 feet above the surface when executing the MOTSE ONE DEPARTURE (RNAV).

The Class E airspace extending upward from 1,200 feet above the surface is revoked, as the area is already within the Coaldale and Los Angeles Class E en route domestic airspace areas.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,” paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and

no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

AWP CA E2 Bishop, CA [Amended]

Bishop Airport, CA
(Lat. 37°22'23" N, long. 118°21'49" W)

That airspace extending upwards from the surface within a 5-mile radius of the airport, within 1.8 miles northeast and 1 mile southwest of the airport's 147° bearing extending to 6.9 miles southeast, and within 3.8 miles either side of the airport's 317° bearing extending to the 7.1-mile radius of the airport.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AWP CA E4 Bishop, CA [Amended]

Bishop Airport, CA
(Lat. 37°22'23" N, long. 118°21'49" W)

That airspace extending upward from the surface within 1.2 miles east and 1.1 miles west of the airport's 337° bearing extending from the 7.1-mile radius of the airport to 9.6 miles northwest of the airport.

* * * * *

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

* * * * *

AWP CA E5 Bishop, CA [Amended]

Bishop Airport, CA
(Lat. 37°22'23" N, long. 118°21'49" W)

That airspace extending upward from 700 feet above the surface within 3.4 miles northeast and 4 miles southwest of the airport's 157° bearing extending 7.6 miles southeast of the airport, and within 3.4 miles northeast and 4 miles southwest of the airport's 337° bearing extending 15.2 miles northwest of the airport.

* * * * *

Issued in Des Moines, Washington, on August 12, 2024.

B.G. Chew,

Group Manager, Operations Support Group,
Western Service Center.

[FR Doc. 2024-18601 Filed 8-20-24; 8:45 am]

BILLING CODE 4910-13-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 416, and 422

[Docket No. SSA-2023-0018]

RIN 0960-A122

Changes to the Administrative Rules for Claimant Representation and Provisions for Direct Payment to Entities

AGENCY: Social Security Administration.
ACTION: Final rule.

SUMMARY: We are revising our regulations to enable us to directly pay entities fees we may authorize to their employees, as required by the decision of the United States Court of Appeals for the First Circuit (First Circuit) in *Marasco & Nesselbush, LLP v. Collins*. To make direct payments, issue the necessary tax documents, and properly administer these rules, we are requiring all entities that want to be assigned direct payment of authorized fees and all representatives who want to be appointed on a claim, matter, or issue to register with us. We also are standardizing the registration, appointment, and payment processes. This rule will help us implement the changes required by the *Marasco* decision, increase accessibility to our electronic services, reduce delays, and help us prepare for more automation, thereby improving our program efficiencies.

DATES:

Effective date: September 20, 2024.

Implementation: For information on implementation dates, see

SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Mary Quatroche, Director, Office of Disability Policy, Office of Vocational Evaluation and Process Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 966-4794. For information on

eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our internet site, Social Security Online, at <https://www.ssa.gov>.

SUPPLEMENTARY INFORMATION:

Implementation

We will implement this final rule in two phases as follows:

Implementation Phase 1: registration of representatives and entities.

1. We will implement the following regulation sections on September 30, 2024:

§ 404.1703 Definitions.

§ 404.1705 Who may be your representative.

§ 404.1740 Rules of conduct and standards of responsibility for representatives.

§ 416.1503 Definitions.

§ 416.1505 Who may be your representative.

§ 416.1540 Rules of conduct and standards of responsibility for representatives.

Implementation Phase 2: appointment of a representative, assignment of direct payment of a representative's fee, and direct payment of representative fees to entities.

2. We will implement the following regulation sections on December 9, 2024:

§ 404.1707 Appointing a representative.

§ 404.1720 Fee for a representative's services.

§ 404.1730 Payment of fees.

§ 404.1735 Entity eligible for direct payment of fees.

§ 416.1507 Appointing a representative.

§ 416.1520 Fee for a representative's services.

§ 416.1530 Payment of fees.

§ 416.1535 Entity eligible for direct payment of fees.

§ 422.515 Forms used for withdrawal, reconsideration and other appeals, appointment of representative, and representative registration.

Background

On August 4, 2023, we published a notice of proposed rulemaking (NPRM), *Changes to the Administrative Rules for Claimant Representation and Provisions for Direct Payment to Entities*,¹ which proposed to update our regulations to enable us to directly pay to entities fees that we may authorize to their employees, as required by the decision of the First Circuit in *Marasco & Nesselbush, LLP v. Collins*, 6 F.4th 150 (1st Cir. 2021). This final rule adopts

these proposed changes, with modifications.

Generally, we must authorize fees that a representative² wants to charge or collect for services they provide to a claimant in assistance with their claim.³ If we authorize a fee to the representative, we may also pay that fee directly out of the claimant's past-due benefits, if certain conditions are met.⁴ Previously, our regulations did not allow a representative to assign direct payment of authorized fees to the entity⁵ that employs the representative. With the publication of this final rule, we will no longer prevent entities from directly receiving fees associated with a representative's work on a claim. Instead, we are establishing rules and procedures that will allow a representative to assign⁶ direct payment of authorized fees to an eligible entity with which the representative affiliates⁷ through registration,⁸ if certain criteria are met.⁹ To comply with the First Circuit's decision, we are establishing or revising several processes in our rules,

² *Representative* means an attorney who meets all the requirements of 20 CFR 404.1705(a) and 416.1505(a), or a person other than an attorney who meets all the requirements of 20 CFR 404.1705(b) and 416.1505(b), and whom a claimant appoints to represent them in dealings with us. For purposes of our Rules of conduct and standards of responsibility for representatives in 404.1740–404.1799 and 416.1540–416.1599, “representative” also includes an individual who provides representational services and an individual who is listed as a point of contact (POC) for an entity, as applicable to their identified role. This defined term is used in changes to 20 CFR 404.1703, 404.1720, 404.1740, 416.1503, 416.1520, and 416.1540. Representational services are defined in 20 CFR 404.1703 and 416.1503. For additional information, please see our instructions under our Program Operations Manual System (POMS) GN 03910.020, available at: <https://secure.ssa.gov/apps10/poms.nsf/lrx/0203910020>.

³ Any person who claims a benefit under our programs may appoint a representative(s) to assist with their claim, and representatives may seek a fee for the services they provide.

⁴ Generally, we will pay the fee directly if the representative is registered and eligible for direct payment, did not waive the fee or direct payment of the fee, and there are past-due benefits.

⁵ *Entity* means any business, firm, or other association, including but not limited to partnerships, corporations, for-profit organizations, and not-for-profit organizations. See 20 CFR 404.1703 and 416.1503.

⁶ *Assignment* means the transfer of the right to receive direct payment of an authorized fee to an entity as described in sections 404.1730(e) and 416.1530(e). This defined term is used in changes to 20 CFR 404.1703, 404.1730, 416.1503, and 416.1530.

⁷ *Affiliate* means to associate with an entity through our prescribed registration process. See 20 CFR 404.1703 and 416.1503.

⁸ We allow representatives to affiliate with the entity of their choice through registration using the Form SSA-1699, Representative Registration.

⁹ If all the conditions are met, we will accept an assignment and certify payment of the authorized fee to the entity. We are making these changes to 20 CFR 404.1720 and 416.1520.

including: (1) registration of representatives and entities; (2) assignment of direct payment of representational fees to entities, as well as rescission of the assignment; (3) point of contact (POC)¹⁰ requirements for the entity; and (4) direct payment to entities by electronic funds transfer (EFT).

How SSA Works With the Representative Community

While the *Marasco* case involved a single employment relationship where the entity's employment contract reflected that its salaried employees represent claimants only within the context of their employment, in practice, not all representatives work as employees of a single entity or with similar restrictions. Some are independent contractors who affiliate with more than one entity during their registration process and let us know on a case-by-case basis who they affiliate with on each specific case. Others may work primarily with one entity, but in a capacity that would permit them to continue to represent claimants who hire them regardless of the representative's employment status. We respect representatives' ability to structure their employment relationships as they see fit and do not limit representatives to affiliating with only one entity in our systems. As the First Circuit acknowledged, there are multiple ways to structure a process to directly pay entities. If we were to implement a process that only considers or works for the type of employment relationship at issue in *Marasco*, though, we would be imposing rules on representatives at large where those rules may not be appropriate or efficient in all cases.¹¹

¹⁰ *Point of Contact* means an individual who registers as a representative in the manner we prescribe and is selected by an entity to speak and act on the entity's behalf and who assumes the affirmative duties and obligations we prescribe. This defined term is used in changes to 20 CFR 404.1703, 404.1735, 404.1740, 416.1503, 416.1535, and 416.1540. The POC's role is to assist us in the resolution of fees or fee errors.

¹¹ For example, a limited review of the agency's available data shows that there are currently more than 31,000 registered representatives who are affiliated with more than one entity in our systems, while approximately 6,350 are affiliated with just one entity. This data does not capture representatives who are not affiliated with any entity, nor do we have data on representatives who have chosen not to register with us as registration is currently voluntary. These numbers suggest that a substantial portion of the representative community may structure their employment relationships differently than the *Marasco* plaintiffs. As described more fully below, the clear need to accommodate a variety of employment relationships necessitated the approach which we finalize in this rule. In addition, approaching the registration, appointment, and fee assignment process in a manner more consistent with that

We intentionally developed a process broad enough to accommodate a variety of employment relationships. For example, some representatives are independent contractors who affiliate with more than one entity and let us know which entity, if any, they are affiliated with in a specific case. Other representatives affiliate with no entity at all and operate as solo practitioners. Also, some representatives enter into employment contracts that limit them to representing claimants solely within the confines of that employment relationship, while others may continue to represent individual claimants after they leave the employment of the firm. These rules do not prevent entities from structuring their own employment contracts to include stricter terms, such as limiting their employees' ability to rescind assignments, if doing so is appropriate for their particular employment relationship. We think the process we are adopting serves the entire representative community and the public.

This approach is also necessary given certain limitations surrounding information technology systems and resource constraints which the agency faces as we work to leverage existing systems to comply with the court's order without further delay.¹² Transitioning to a system that pays entities directly, without tethering such payments to individual representatives, would require a significant overhaul of our *Registration, Appointment and Services for Representatives* (RASR) system and other legacy systems which are currently critical to how we register, assign, and pay fees to representatives. Within the constraints of our existing systems, the approach in this rule effectively accommodates the variety of employment relationships between entities and individuals who represent claimants before us.

Registration

All representatives must register¹³ with us by completing and submitting Form SSA-1699 (OMB No. 0960-0732), which is currently called "Registration

desired by commenters would require a complex overhaul of legacy systems that the agency currently relies on to manage the appointment and payment of claimant representatives, including significant changes to multiple aspects of downstream systems. See *infra* at 6-7. This would increase technical debt and preclude the agency from prioritizing using available resources for modernization.

¹² See *supra* n.11.

¹³ We define *Registration* as a process by which an individual or entity provides the information we require to conduct business with us. This defined term is used in changes to 20 CFR 404.1703, 404.1705, 404.1735, 416.1503, 416.1505, and 416.1535.

for Appointed Representative Services and Direct Payment" and is being changed to "Representative Registration," prior to being appointed on any claim.¹⁴ Registration will be a one-time process unless the representative's information changes. If there are changes, registration information must be kept current by submitting an updated Form SSA-1699. We will also require any unregistered individual to register as a representative before being named as a POC for an entity. We are making these changes in 20 CFR 404.1703, 404.1705, 404.1735, 416.1503, 416.1505, and 416.1535.

During the registration process, representatives may affiliate with one or more entities, which allows us to issue a copy of Form IRS 1099 to their employer to assist the parties in their accounting and tax reporting duties. Before a representative can assign direct payment of any fee that may be authorized on a claim to an entity, the representative must affiliate with the entity through registration. The entity must also register with us and name a POC before we will accept a representative's assignment of direct payment to that entity. To collect this new information from an entity, we revised the standard Form SSA-1694 (OMB No. 0960-0731), which is currently called "Request for Business Entity Taxpayer Information" and is being changed to "Entity Registration and Taxpayer Information" to collect the entity's name, POC information, and address, so that we may meet our obligation to provide entities with a Form IRS 1099 for their tax reporting responsibilities.¹⁵

Under this rule, registration for entities that do not want to receive direct payment of assigned fees will continue to be voluntary. Like representative registration, entity registration will be a one-time transaction unless the entity needs to update its information by submitting an updated Form SSA-1694. In addition,

¹⁴ We are not changing the process by which individual representatives register. Detailed instructions about the process can be found in our subregulatory instructions under our POMS Subchapter GN 03913, available at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203913000>. Representatives do not have to be appointed to be registered, but we will require individuals who want to become appointed as representatives to be registered first. Therefore, we recommend individuals who may wish to be appointed as representatives at any time to register as early as possible.

¹⁵ To enable direct payments to entities and meet our mandatory tax reporting obligations to the Internal Revenue Service (IRS), we also collect information such as tax identification numbers, addresses, and banking institutions from entities using our revised Form SSA-1694.

any entity that registered with us under our prior process and now wants to receive direct payment of assigned fees will have to register again to provide the additional information we do not currently have.¹⁶ Entities will be responsible, through their POC, for keeping their information accurate and current. We are making these changes in 20 CFR 404.1735 and 416.1535.

Appointment

To appoint a representative, we will require a claimant and their chosen representative to complete and submit our appointment Form SSA-1696 (OMB No. 0960-0527), "Claimant's Appointment of a Representative."¹⁷ When submitting an appointment, both the claimant and the representative, whether an attorney or non-attorney, must sign the Form SSA-1696.

We are making these changes in 20 CFR 404.1707 and 416.1507.

Payment Method

We will pay entities to whom direct payment of fees has been assigned exclusively through EFT. We will continue applying a waiver¹⁸ to allow individual representatives who have not assigned direct payment of their fees to

receive payment by check; however, we will not apply the waiver to entity payments. This rule will not change our current payment process or options for individual representatives. We are making these changes in 20 CFR 404.1735 and 416.1535.

Assignment

To assign direct payment of an authorized fee, the representative must: (1) be eligible¹⁹ for and seek direct payment; (2) be affiliated through our registration²⁰ process with an entity that is eligible for direct payment; and (3) make the assignment timely and in the manner we prescribe.²¹ Where all these conditions are satisfied, we can honor an assignment.²²

Representatives may assign direct payment of fees at any time prior to the date we notify the claimant of the first favorable determination or decision in their claim.²³ A representative may also rescind a previously established assignment prior to the date we notify the claimant of the first favorable determination or decision in their claim.²⁴ To ensure operational efficiency and accuracy, we cannot accept assignments or rescission of assignments filed after the date we notify the claimant of our first favorable determination or decision. This rule will apply to claims pending when the regulations in 20 CFR 404.1720, 404.1730, 404.1735, 416.1520, 416.1530, and 416.1535 become effective.

We will reject an assignment if either the representative or the entity does not properly register prior to filing the assignment, or if the representative does not properly identify the entity by providing the entity's name and Employer Identification Number (EIN) on the Form SSA-1696 when making the assignment. We will also reject any assignment that is made to an entity that is ineligible for direct payment, that is made by a representative who is not eligible for or requesting direct payment of an authorized fee, or that is not filed before the date that we notify the claimant of our first favorable determination or decision. We will

notify the representative if we reject an assignment. The rejection of an assignment will not affect the processing of an otherwise valid appointment or the representative's own eligibility for direct payment.

An assignment may be invalidated if the entity or representative become ineligible for direct payment. As discussed later in this preamble, a change in a representative's relationship with the entity would not, on its own, invalidate an assignment. For instance, previously, our rules did not allow a representative to receive direct payment if their appointment was withdrawn or revoked prior to a favorable determination or decision. Now, however, a representative will be able to withdraw from the appointment without losing their eligibility for direct payment. As a result, if that representative withdraws from the appointment when they leave the employment of an entity, neither their withdrawal nor their change in employment would, on their own, impact the validity of an assignment or their former employer's eligibility to receive direct payment of the authorized fee, even if they were the only representative for the relevant claimant affiliated with that entity.²⁵ However, as is the case with individual representatives, to receive direct payment of an assigned fee, whether that fee was authorized to a current or former employee, the entity must ensure that it does not otherwise lose eligibility for direct payment, such as by violating our rules by retaining unauthorized fees or fees that exceed the amount we authorized.

Payments to entities will still be subject to all our other rules governing payment of fees.²⁶ If, at the time we calculate the fee, the assignment meets all the criteria for a valid assignment, we will certify payment of the authorized fee to the entity. However, we will not charge claimants with an overpayment in order to make direct payment to an entity in situations where, through no error of our own, we

¹⁶ New information we will collect during entity registration includes banking information for direct payment and information regarding a designated POC.

¹⁷ A new selection is available on the revised form for a representative to assign direct payment of any authorized fee for a specific claim to an eligible entity. All assignments must be submitted using this standard form. However, a representative may assign direct payment of a fee any time before the date we notify the claimant of our first favorable determination or decision.

¹⁸ EFT is required by law for Federal nontax payments, with limited exceptions. One of those exceptions allows agencies to waive the EFT requirement when the agency does not anticipate making payments to the same recipient on a regular, recurring basis within a one-year period and the recipient's financial institution does not make remittance data explaining the purpose of the payment readily available. See 31 CFR 208.4 (enumerating certain exceptions to the requirement that all non-tax payments made by Federal agencies be made by EFT). As the Department of the Treasury explained in a 2010 rulemaking proceeding, this exception arose to address the needs of individual representatives seeking fee payments from us who claimed that their banks were not able or willing to provide all the information needed to identify the client on whose account the deposit was made and who were precluded from electronically depositing their fee payments into their employer/firm's bank account. However, we had already taken steps to begin transmitting information to banks to enable representatives to link payments to clients, and we encouraged those banks to pass that information on to their account holders as quickly as possible, thus addressing the issue of the availability of information tying payments to specific clients. See 31 CFR 208.4(a)(6); 75 FR 80315, 80325. And with this final rule, we will directly pay entities, eliminating individual representatives' concerns about the difficulty of transferring payments from their own accounts to their employers' accounts.

¹⁹ We will check eligibility at the time we process the assignment and at the time we certify the direct payment.

²⁰ Currently this is done using Form SSA-1699.

²¹ Representatives must make the assignment using Form SSA-1696.

²² An invalid assignment would not affect the processing of an otherwise valid notice of appointment.

²³ Throughout this preamble, "favorable determination or decision" refers to either a fully or partially favorable determination or decision.

²⁴ We will allow a representative to rescind an assignment by submitting an updated version of our prescribed form.

²⁵ Also, in the event an appointed representative dies, if the representative was eligible for direct payment, made a timely assignment, and other criteria are met (e.g., there are past-due benefits, we authorize a fee, the entity is eligible to receive direct payment), we will honor the assignment and make direct payment to the selected entity. At the time we pay the fee, we will honor the assignment unless certain invalidating actions occur, such as the representative timely rescinds the assignment, waives the right to a fee (or direct payment of a fee), is sanctioned, or becomes ineligible for direct payment, or the entity becomes ineligible for direct payment.

²⁶ This includes the requirement that past-due benefits are available and that we have withheld them.

did not withhold funds from past-due benefits; where we were not timely informed of an assignment of direct payment of fees; where the entity was, at the time of payment, ineligible for direct payment but later became eligible; or where the representative waived the fee (or direct payment of the fee), even if the representative withdrew the waiver, if that withdrawal occurred after we already made all other payments and released the past-due benefits.

We will allow only one assignment per representative per case. This restriction means a representative cannot assign direct payment to multiple entities in a single case. However, if multiple representatives involved in a case are affiliated with and assign direct payment to different entities, we will make fee payments following our existing rules for payments to multiple representatives and apply the rules herein to each separate assignment. If all other conditions for a valid assignment are met, we will honor the most recently updated (and timely filed) assignment of direct payment of a fee, which will supersede all prior assignment requests made by that representative. We are making these changes in 20 CFR 404.1730, 404.1735, 416.1530, and 416.1535.

Resolution of Fee Issues

To facilitate resolution of fee discrepancies and other fee-related issues, such as correcting a Form IRS-1099, we will require an entity to name a POC during the entity's registration. Each entity will name a single POC. This POC will need to register as a representative and must not currently be suspended or disqualified from practicing before us. However, a POC is not required to be an attorney, appointed on any individual claim, or eligible for direct payment. We will collect the POC's information, including the POC's name, Rep ID,²⁷ and phone number, during the entity's registration. We will reject any registration that is missing this information and will ask the entity or POC to provide the missing information. To ensure consistent communication, we will hold the POC and the entity jointly responsible for keeping their information current.

We expect the POC to assist us in resolving fee-related matters and to conduct all entity affairs with us with diligence, truthfulness, and competence.

Regardless of whether the POC is appointed on any claim, we will hold the POC responsible under our Rules of conduct and standards of responsibility for representatives if these duties are not met, but we will not hold the POC financially responsible for repayment of excess or otherwise erroneous fee payments made directly to the entity. The entity will be responsible for repayment of excess or otherwise erroneous fees via a remittance.²⁸ We revised our Rules of conduct and standards of responsibility for representatives to account for the new POC role in our processes. We made these changes in 20 CFR 404.1735, 404.1740, 416.1535, and 416.1540.

Entities may become ineligible for direct payment if they do not remit excess or otherwise erroneous fees; if they do not maintain an active POC; if they, through their POCs, do not assist us in correcting a fee payment error; or if they do not otherwise comply with our rules. An entity will need to update the entity registration to name a new POC immediately if there is any change in the current POC's status.²⁹ We will work with the POC to correct possible fee inaccuracies or recover erroneous fees.

We will maintain a list of entities that are ineligible for direct payment because, after notice to that entity's POC, the entity failed to resolve a fee matter or other issue restricting their eligibility. We will stop direct payments to any entity on this list and will not accept new assignments from representatives made to an entity on this list. We will remove an entity from the list and accept new assignments when the entity resolves to our satisfaction the fee matter or other issue restricting eligibility. If the entity is ineligible for direct payment at the time we are ready to make direct payment, we will make the payment to the representative who filed the assignment if that representative remains eligible for direct payment. If the representative is no longer eligible for direct payment at that time, we will, as we currently do, release the funds to the claimant. We are making these changes in 20 CFR 404.1735 and 416.1535.

Fee Waiver

Representatives who waive their fee, direct payment, or both will not be permitted to make an assignment because there would be no fee or direct payment to assign. We will not accept

fee waivers or direct payment waivers made by representatives who previously assigned direct payment of a fee and did not rescind the assignment prior to the date we notify the claimant of our first favorable determination or decision. Issues arising from untimely assignment submissions or rescissions, improper waivers, or similar events would be matters between the entity and the representative. We are making these changes in 20 CFR 404.1730 and 416.1530.

Form SSA-1695

On October 2, 2006, we issued a **Federal Register** Notice (FRN), "Registration Requirements for Representatives to Receive Direct Payment of Fees Approved for Services Provided Before the Social Security Administration or a Federal Court and Forms 1099-MISC" that required the submission of Form SSA-1695 "Identifying Information For Possible Direct Payment of Authorized Fees" (OMB No. 0960-0730).³⁰ We subsequently included relevant information from this collection instrument in the Form SSA-1696, while eliminating the representative's SSN requirement. The 2006 FRN's requirements are obsolete with the publication of this final rule.

Explanation of Changes

As mentioned above, we are updating our regulations to enable us to directly pay authorized fees to entities when certain conditions are met. Accordingly, we are making changes to the following sections: 20 CFR 404.1703, 404.1705, 404.1707, 404.1720, 404.1730, 404.1735, 404.1740, 416.1503, 416.1505, 416.1507, 416.1520, 416.1530, 416.1535, 416.1540, and 422.515.

Sections 404.1703, 404.1705, 416.1503, and 416.1505

In these sections, we are adding definitions, including affiliate, assignment, point of contact, and registration. We are also revising our definition of representative, revising representative registration requirements, and making minor stylistic changes.

Sections 404.1707 and 416.1507

In these sections, we are revising the process for appointments and modifying language to accommodate developments in methods for filing appointments.

²⁷ During the individual registration process, we issue a Representative Identification number (Rep ID) for representatives to use in lieu of their Social Security number (SSN).

²⁸ This is similar to what we currently do for individuals.

²⁹ To update a POC's information, the new POC must submit an updated Form SSA-1694.

³⁰ 71 FR 58043 (Oct. 2, 2006).

Sections 404.1720, 404.1730, 404.1735, 404.1740, 416.1520, 416.1530, 416.1535, and 416.1540

In these sections, we discuss assignments and eligibility for assignments. In these sections, we also explain a POC's role and responsibilities under our Rules of conduct and standards of responsibility for representatives.

Section 422.515

In this section, we update the title and description of the newly required and revised Form SSA-1696 Claimant's Appointment of a Representative and add the newly required and revised Form SSA-1699 Representative Registration.

Modifications From the NPRM

In several places, this final rule differs from the Code of Federal Regulations (CFR) text we proposed in the NPRM. As we discuss, we are adding a definition and revising language because we received comments specifically asking for clarification on old and new terminology. More specifically, we revised 20 CFR 404.1703 and 416.1503 to include a definition for "affiliate" and revised the definitions of "representative" and "point of contact." We revised 20 CFR 404.1705(c) and 416.1505(c) to give the agency operational flexibility with processing registration and appointment forms. We revised 20 CFR 404.1730(b)(i) and 416.1530(b)(i) for consistency with regulatory language elsewhere in this subpart. We revised 20 CFR 416.1530(b) to explain that we will pay a representative out of the past-due benefits the smallest of the amounts in paragraphs (b)(1)(iii) through (v), and we are clarifying that we are redesignating paragraph (b)(1)(iii) as (b)(1)(v) and redesignating paragraph (e) as paragraph (f). We also revised 20 CFR 404.1730(e) and 416.1530(e) to clarify that we will prescribe how representatives may make and rescind assignments. We revised 20 CFR 404.1735(d) and 416.1535(d) for consistency with the change to the definition of "point of contact." We revised 20 CFR 404.1720(f), 404.1730(e), 416.1520(f), and 416.1530(e) to clarify that a representative may assign direct payment of a fee to an entity. We also revised 20 CFR 422.515 to reflect the correct title of Form SSA-1696 and to include Form SSA-1699.

This final rule now defines affiliate to mean "to associate with an entity through our prescribed registration process."

We revised the representative definition to cite to our Rules of conduct

and standards of responsibility for representatives in 404.1740–404.1799 and 416.1540–416.1599.

We revised the point of contact definition to clarify that the POC need not be an established representative, but rather must register as a representative before filling that role. This final rule revises the definition of point of contact to mean "an individual who registers as a representative in the manner we prescribe and is selected by an entity to speak and act on the entity's behalf and who assumes the affirmative duties and obligations we prescribe."

Comments Summary

We received eleven submissions of public comments on the proposed rule. Many comments were supportive of the overall regulatory change, *i.e.*, establishing a process that permits the direct payment of representatives' fees to entities rather than only to the representatives. At the same time, multiple commenters asked questions or expressed confusion about some parts of our proposed implementation, and others documented concerns about various aspects of the proposed rule. Below we summarize and respond to the public comments.

This rule is necessary to establish the basic regulatory authority and framework we will use to comply with the court's order in *Marasco*. This rule is designed to give us the flexibility to adjust as we receive feedback from the advocate community and the public at large with implementation. Our intention is to use this flexibility to improve the process based on experience, and we will provide information on updates to the process through subregulatory instructions as appropriate. Our subregulatory instructions are generally publicly available.

Comments and Responses

Requests for Clarification

Comment: Multiple commenters opined that some of the central changes in the NPRM were inconsistent with the First Circuit's holding in *Marasco*, and that these changes will not actually steer payments to law firms. Some commenters disagreed with us establishing a process that allows the individual representative to decide whether or not to assign direct payment of authorized fees to an entity, arguing that the fees authorized for services performed as a representative while working as an employee belong to the entity, not the representative, and that the First Circuit's decision so held.

Response: We disagree with this interpretation of the First Circuit's decision. Prior to discussing ways in which we might comply with the decision, the First Circuit explicitly stated, "[i]t is not our role to determine what those mechanisms should be. However, we can see multiple ways of adjusting the current approach without disturbing the agency's judgment that only individuals should represent claimants. As noted above, the SSA already expects law firms to disclose an attorney-representative's affiliation with a firm. In such cases, the associate-representative could advise the SSA that any fees authorized from the claimant's past-due benefits are jointly payable to the firm." *Marasco & Nesselbush, LLP v. Collins*, 6 F.4th 150, 177–78 (1st Cir. 2021). In other words, the court preserved SSA's flexibility in establishing the process by which direct payments would be made to entities. In so doing, it contemplated a process like the one SSA adopts here, in which the representative would "advise" SSA whether fees should be made directly to an entity. *Id.*

Therefore, the flexibility offered by the First Circuit is important, as the court considered only one type of representative/entity relationship, rather than the many types of relationships that actually exist. The First Circuit did not state that authorized fees must be paid to the entity without the representative's involvement. In addition, on remand from the First Circuit, the district court ordered the agency to "[e]stablish a process to ensure that law firms that employ salaried associates to represent SSA claimants may receive direct payment of the attorney's fees *to which the firms' associates are entitled* for representation performed while employed by those law firms." (emphasis added). Accordingly, we have established a process that is consistent with the First Circuit's decision, that complies with the district court's order, and that also does not "disturb[]" our "judgment that only individuals should represent claimants." *Marasco*, 6 F. 4th at 177–178.

Moreover, the assignment process aligns with a suggestion by the First Circuit that the agency "could simply honor the limited power of attorney that . . . firms require their associates to execute, in which the associates relinquish payments made to them for representing SSA claimants." *Marasco*, 6 F.4th at 178. It would be untenable for the agency to efficiently review and accurately make payments based on requirements set out in a range of powers of attorney (with varied terms

governed by different state laws, which might also include an associate's right to rescind) that firms might require associates to execute. However, the assignment process adopted here accomplishes the same result as honoring any powers of attorney by allowing representatives to indicate that their authorized fees should be directly paid to an entity, through a uniform process that is efficient and workable for representatives and agency employees.

Therefore, our process permits and facilitates direct payment of authorized fees to entities, as the court ordered, while accommodating the varying types of underlying relationships between representatives and entities, in which we have no involvement. Those relationships may take many forms, and we respect the choices entities and representatives make with regard to their employment agreements and contractual terms, as well as local laws affecting such relationships.

To simplify implementation and build flexibility, we will allow any representative to affiliate with an entity and assign direct payment, if applicable, to that entity. We will not verify whether the representative is salaried with the entity or is a contractor. We currently allow representatives to affiliate with the entity or entities of their choice through registration using the Form SSA-1699 to provide the entity with an informational IRS Form 1099. Similarly, we will require the representative to use our prescribed registration process to affiliate with an entity as a condition for a representative to assign direct payment of a fee to a particular entity.

Comment: Commenters had concerns about whether the principal representative should be required to be the de facto POC and whether language regarding the principal representative will remain on the Form SSA-1696. Commenters also expressed concerns that if there is a POC assigned and a principal representative did not waive fees, the proposed rule does not clarify the impact a fee waiver by a later appointed representative would have on the payment to the entity.

Response: The POC and principal representative are separate roles, and the POC's function will not change, impact, or affect that of a principal representative. Principal representatives are chosen by claimants when a claimant appoints more than one representative on their claim. The claimant is responsible for making decisions related to the appointment, and the ability to designate the principal representative will remain on the Form SSA-1696. The principal representative

must be one of the representatives appointed by the claimant. When there are multiple representatives appointed on a single claim, we send notices for non-fee-related matters only to the principal representative, who is responsible for distributing the information to the other representatives.

In contrast, POCs are individuals chosen by entities to resolve fee-related issues on any claim for which the entity receives direct payment of a fee. They must be registered as representatives with us but do not need to be appointed on any individual claim. Rather, the POC's role is to assist us in the resolution of any fee issues or errors with respect to direct payments to an entity. We have revised 20 CFR 404.1703 and 416.1503 to clarify the POC's role. Further, due to applicable Federal law (including the Privacy Act), regulations (including our regulations), and directives governing how, when, and to whom we may disclose a claimant's personal information, unless the POC is also appointed by the claimant as a representative, the POC is not entitled to any information about the claim or claimant other than what is necessary to resolve fee-related issues on behalf of the entity. For non-fee issues, we will continue to communicate with and send claim-related notices to the principal representative only.

Because we continue to recognize only individuals as appointed representatives, the right to a fee for services will remain with the representative—even though direct payment may be assigned to an entity. When a representative, whether the principal representative or another representative who is appointed on the case, waives the fee, we will not authorize or pay a fee to that representative or to an affiliated entity. However, if there are other representatives appointed on the case who have assigned direct payment of their fee to an entity and who did not waive their fee, we will authorize or pay a fee to those representatives and honor any assignments of direct payment those representatives made to an entity, if all relevant conditions are met.

Any appointed representative on a case who is eligible for direct payment can assign direct payment to an entity, but each assignment is limited to only one entity per representative per claim. Different representatives appointed on the same claim can assign their respective payments to the same or different entities.

Comment: Another commenter asked us to clarify the processing times for registration so that representatives are

aware of the lead time required before they can be appointed. In addition, they asked for clarification on the method by which assignments will be made for an entity to receive direct payment of an authorized fee.

Response: We are implementing this final rule in two phases to accommodate concerns about processing times, with the first implementation phase focused on registering representatives and entities. After representatives and entities have had the opportunity to properly register, the second implementation phase will generally focus on assignment and direct payment of representative fees to entities. We are developing training that we will provide to agency staff who will be involved in this process to ensure they are prepared to explain the new requirements and necessary forms to claimants, prospective claimants, and anyone assisting them.

We will begin accepting entity registrations as soon as practicable and will generally process registrations as we receive them. We also plan to notify currently-registered entities about the changes in our rules and the need to update their registration. Our records indicate that there are approximately 5,000 registered entities that will need to update their registration to provide us their banking institution information and name a POC in order to receive direct payment via EFT based on an assignment. We have also identified several thousand EINs belonging to unregistered entities, meaning that representatives have listed these entities as affiliated with them, but these entities are unregistered. These entities must register in order to receive direct payment based on an assignment.

Individual representatives who are already registered and affiliated with an entity do not need to update their registration, unless their information changes or they wish to be affiliated with a different entity. Nonetheless, we plan to notify currently-registered individuals about the changes in our rules.

We have revised Form SSA-1696 (Claimant's Appointment of a Representative). On the revised form, a selection is available to assign direct payment of the fee to an affiliated entity. A representative may make an assignment any time before the date we notify the claimant of our first favorable determination or decision. All assignments must be filed using this standard form. We have added regulatory language to clarify that the assignment must be made in the manner we prescribe and will elaborate in our

instructions³¹ that the manner of assignment will be on the Form SSA–1696. We made these changes in 20 CFR 404.1730(e)(iii) and 416.1530(e)(iii). We encourage representatives to make their assignment at the time of appointment or as early as possible to help us collect this critical information early and process it in an efficient manner.

Comment: Commenters opined that the proposed rule is unclear about whether the changes apply to new appointments and assignments after the date of the final rule, or if the assignments can be made “retroactively.”

Response: In pending cases where a representative is already appointed, the representative may assign direct payment to an entity in accordance with these rules. The assignment must be made before the date we notify the claimant of our first favorable determination or decision.

However, although we will allow assignments for cases that are already in process prior to the final rule’s effective dates, we cannot accept assignments or rescission of assignments filed after the date we notify the claimant of our first favorable determination or decision for reasons of operational efficiency and accuracy. The vast majority of fees authorized by the agency use the fee agreement process, and section 206(a)(2)(A) of the Social Security Act (Act)³² requires fee agreements to be approved at the time of the favorable determination. Once the fee agreement is approved, our processes for authorizing the fee amount and issuing direct payments of the authorized fee begin. Because the timeline for the process that follows the fee agreement approval can be dependent on the facts of each case, we chose the time in the process that could be applied most uniformly and efficiently by agency technicians, and in the interest of uniformity, we will apply that rule regardless of whether the fees are authorized using the fee petition or fee agreement processes. We anticipate this deadline for making or rescinding appointments will minimize errors.

Attempting to treat differently pipeline cases in which a favorable determination or decision has been issued, but authorized representative fees have not been paid, by the effective date of the rule would greatly complicate our implementation of new policies and business processes. It would also increase the risk of processing errors.

Comment: Commenters stated that we had not been specific enough in identifying all the circumstances that would invalidate an assignment. As an example, they asked, “. . . what is the impact of the death of a representative who assigned fees to an entity prior to his death?”

Response: An established assignment will be invalidated if a representative or entity becomes ineligible for direct payment after the assignment is filed. For example:

- A representative may become ineligible for direct payment if they are sanctioned or if they are an eligible for direct payment non-attorney (EDPNA) who has lost their eligibility for direct payment.

- An entity may become ineligible if, for example, it fails to remit excess fees.

Further, we will not accept untimely assignments, *e.g.*, assignments made after we notified the claimant of the first favorable determination or decision on the case. If we determine in the future that other circumstances will invalidate an assignment, we will make those circumstances public in our subregulatory instructions. While we are unable to anticipate every possible circumstance at this time, we recognize the uncertainty this might cause the representative community as they try to comply with our rules and policies. To minimize this uncertainty, in addition to publishing changes in our publicly available subregulatory instructions, we will provide any updates to this policy to representatives through the channels we use to communicate with advocates, such as our Dear Colleague Letters and news announcements on our advocate web page. This will ensure that the representative community is aware of any changes.

Regarding this specific example raised by the commenter, in the event an appointed representative dies, we will continue to honor an already-filed assignment if the representative was eligible for direct payment at the time of death and other necessary criteria for assignment and direct payment are met (*e.g.*, there are past-due benefits, we authorize a fee, and the entity is eligible to receive direct payment).

Comment: Commenters asked how we will ensure that entities are paid for work performed by their salaried employees when that work was performed as a part of the representative’s employment. Commenters had concerns that the proposed rule allows a representative to rescind an assignment prior to the award of a claim, thus creating the possibility that the representative could

“take with them the fees to which the firm was clearly entitled.”

Response: While we recognize entities’ concerns about receiving compensation for work done by their employees, representative and entity relationships can take many forms, and we are not in a position to know how those relationships are arranged. We respect the choices entities and representatives make with regard to their employment agreements and contractual terms, and we established a process that is flexible enough to accommodate a variety of relationships. Permitting an individual representative to rescind an assignment is important to that flexibility, as rescission might be appropriate in certain relationships. For example, an employment contract might permit a representative to leave a firm’s employ but continue their representation and collect associated fees.

As well, maintaining this flexibility helps to protect claimant rights. Specifically, our process protects the claimant’s ability to continue to be represented by the individual representative of their choice, regardless of that individual’s employment relationship. To hinder that flexibility could disincentivize representatives who are not in the type of employment relationship that was at issue in *Marasco* from continuing representation in these circumstances.

While there may be other ways to preserve this flexibility, we are unable at this time to commit the significant information technology investments that would be required to, for instance, allow representatives the option of splitting direct payment of their authorized fee to accommodate those situations in which they are employed by an entity for only part of the time that they represent a claimant.³³ But again, nothing in these rules prevents entities and representatives from addressing such situations through their employment contracts (*e.g.*, they agree that direct payment of such a fee should be made to the entity with the entity returning a portion to the representative, or they agree that direct payment of the fee should be made to the representative with the representative returning a portion to the entity).

The agency’s new process is available to representatives and entities to use as appropriate for their individual circumstances. Ultimately, while we acknowledge the need for entities to receive payment for the work representative employees do while in their employ, and we encourage entities

³¹ Our instructions include POMS and HALLEX, which are publicly available.

³² 42 U.S.C. 406(a)(2)(A).

³³ See, *e.g.*, *supra* n.11.

and representatives to decide on and document those arrangements as part of a formal employment contract, we cannot assume responsibility for mediating the many types of employer-employee relationships. To do so would not be feasible.

As required, our process enables employers to directly receive fees authorized to representatives they employ through the assignment process. However, entities may structure their own employment contracts to prohibit or limit rescission of the assignment, if doing so is appropriate for their particular employment relationship, and may enforce those contracts as necessary. Additionally, neither the First Circuit's opinion nor the district court's order require the agency to favor a specific type of employment relationship.

Recapture of Fees

Comment: One commenter expressed concerns specifically about our proposed process for recovering excess or otherwise erroneous fees. They expressed, "No organizational requirements should permit Social Security to unilaterally recapture a fee from a representative or organization's bank account even if a fee was clearly, erroneously paid." They also stated, "Representatives remain responsible to return unearned, or mistakenly paid fees, but permitting Social Security to unilaterally take those fees whether disputed or not could lead to further mistake, violate a representative's appeals rights, and unduly harm a business that cannot predict the involuntary withdrawal of funds from its operating account, potentially years after a fee was paid and dispersed on the good faith belief that it was valid."

Response: We are not proposing to recapture fees from bank accounts. We currently have a long-established process to handle collection of erroneous or excess fees from individuals and are developing a similar process to collect erroneous or excess fees from entities. With this rule we require entities to name a POC so that we can work with that person to detect and confirm whether an error has occurred and, where appropriate, collect the excess fee via a remittance from the entity similar to what we currently do for individuals. We do not withdraw excess fees directly from an entity's or individual representative's bank account, and this rule will not change that.

Registration of Representatives and Entities

Comment: Some commenters had concerns with the revised definition of the term "representative," as well as the proposed rule's requirement that individual representatives register prior to being appointed on a claim.

One commenter stated, "The proposed rule's expansion of this requirement [registration by all representatives and use of the representative ID] appears to be beyond the scope of addressing the First Circuit direction to develop a process for paying entities directly and may well discourage friends and family from providing valuable assistance to claimants." However, they did concur that entities themselves should be required to register to receive direct payment.

Response: We expect that requiring all representatives to register with us will have several benefits. While we generally communicate with unregistered representatives via manual notifications, requiring all representatives to register will allow us to conduct business more efficiently because it will allow us to automate more notices, minimize manual errors, properly track transactions and related communications, and improve our sanctions process. The registration requirement will help us further automate communications that are managed by our centralized representative database and share the information with our secondary databases used to process cases at different adjudicatory levels, so these systems can also automate their communications. We expect this increased automation will also make the processing of appointments and fee payments more efficient by reducing errors associated with manual actions. In addition, the registration requirement will enable us to better track all representatives' actions and conduct on their cases, rather than just those who choose to register with us, and it will extend access to our electronic services to more representatives. Access to our Electronic Records Express (ERE) system, for example, has been an important tool for representatives to obtain real-time information from our files in an easy and efficient way without the need to contact an agency employee for that information.

Our subregulatory instructions already provide that general assistance, including accompanying a claimant to an appointment or our offices, or providing general help or casual advice, is not considered "representational

services."³⁴ Relatives, friends, or other individuals who want to assist claimants in this manner do not need to be registered or appointed. They can perform tasks such as interpreting for claimants, helping claimants fill out forms, or joining claimants in interviews. However, anyone who wants to actively represent a claimant, speak to us on behalf of a claimant, or access our electronic files must be appointed (unless the individual has other legal authority to do so). If friends and family members want to act in the capacity of an appointed representative, with the rights and responsibilities that go along with that role, they will need to register with us.

Comment: Commenters expressed concerns with our proposal to connect the appointment document (Form SSA-1696) to the payment of fees.

Response: As explained in more detail above, we chose to maintain our rule that only individuals, not entities, may be appointed as representatives. As such, our process facilitates direct payment to entities through assignment, which provides a reasonably reliable means for law firms to obtain fees compensating them for an individual's representation of a claimant on behalf of the entity directly from claimants' past-due benefits. The representative must make the assignment in the manner we prescribe—which will be the updated Form SSA-1696. We may update the prescribed manner in the future if appropriate.

We will collect the assignment selection on Form SSA-1696 because this collection instrument is required to document the appointment, is the first form we receive on a claim about the representation and is already used to collect information about payment of fees such as whether the representative will waive their fee or direct payment. Creating a separate form, or other means, to collect the assignment would be redundant and would create additional burden for claimants, their representatives, and us. In recent years, we archived another form (SSA-1695) and incorporated information contained therein on the Form SSA-1696 to help reduce the need for more forms. Further, our records show that most representatives use the Form SSA-1696 to document their appointments, so adding a box to collect the assignment information does not significantly increase the burden on representatives and their clients.

³⁴ See POMS GN 03910.020 Qualifications for and Recognition of Representatives, available at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203910020>.

Comment: Commenters expressed confusion and concern that the wording of our new requirement that attorneys also sign notices of appointment could be misconstrued as requiring all representatives to sign the same notice of appointment.

Response: Previously, our regulations only required non-attorneys to sign written notices of appointment. With these new rules, every representative, whether an attorney or non-attorney, will need to sign a prescribed notice of appointment before we will recognize the appointment. Each representative will need to sign a separate Form SSA-1696; we will not accept appointment forms signed by multiple representatives.

Requiring all representatives to sign the SSA-1696 regardless of attorney or non-attorney status will improve efficiency by implementing a uniform rule, as technicians will no longer be required to confirm different requirements are met depending on the representative's status as an attorney or non-attorney. It will also strengthen uniformity in the processing of appointments.

Fee Agreements and Fee Waivers

Comment: Multiple commenters said that the proposed rule fails to provide the procedures and required format for fee agreements with enough specificity, including whether all representatives appointed on a claim will be permitted to agree to be bound by a previously executed entity fee agreement without requiring an additional wet signature on a single document. Commenters also asked if the requirement that all representatives who jointly represent one claimant and have signed the same fee agreement will continue or whether one fee agreement with the entity's POC would suffice.

Response: These comments concern our fee authorization policies rather than our fee payment procedures. Our fee authorization policies, including who must sign a fee agreement, were not before the court and were not part of the First Circuit's decision or the district court's order. Therefore, because our focus is implementing a new process to pay entities as required by the court's order, we are not revising our rules related to who must sign a fee agreement or otherwise revising our fee authorization policies at this time. We continue to require that all representatives who will or may ask for a fee sign the same fee agreement to ensure that we authorize one fee under the same approved agreement and that the fee we authorize under this process does not exceed the maximum statutory

limit. We will continue to accept revised fee agreements if they are filed prior to the date of the first favorable determination or decision.

Comment: A commenter expressed concern that the proposed rule does not include a requirement that we find that the fee set forth in an approved fee agreement is reasonable.

Response: Section 206(a) of the Act³⁵ sets out several criteria for fee agreements, including that the fee under the fee agreement must not exceed the lesser of 25 percent of the claimant's past-due benefits or the maximum dollar limit set by the Commissioner (\$7,200 as of November 2022).³⁶ We do not examine reasonableness or consider services when evaluating a fee agreement. Under section 206(a)(1) of the Act,³⁷ we are tasked with determining whether the fee is reasonable when a fee petition, rather than a fee agreement, is filed. We consider the purpose of the program and use seven factors to ascertain whether the fee requested by a fee petition is reasonable.³⁸

The *Marasco* decision was limited to the issue of payment to the entity after we authorize a fee. The decision did not address or require changes to our rules for evaluating fee agreements or fee petitions, and these rules do not change any of our existing rules in that area.

Fee Petitions

Comment: Commenters pointed out that the proposed rule is silent on fee petitions, and they wanted to know whether we will allow the entity or POC to file one fee petition on behalf of all the representatives who were salaried employees of the entity. One commenter asked that we give entities the right to request a fee. Another said, "The proposed rule does not include any mechanisms for a law firm to collect a fee via the fee petition process for work performed by salaried associates who have left the employ of the firm."

Response: So long as the necessary criteria are met, we will pay any authorized fee directly to an entity if there is a valid assignment, regardless of whether the representative opted to use the fee agreement or fee petition process, and regardless of whether the representative is currently appointed on a case. For example, as we explained above, if a representative who has assigned direct payment of the authorized fee leaves the employment of

an affiliated entity or withdraws their appointment, this will not affect an entity's eligibility to receive direct payment of an authorized fee. As well, we note that it is common to have more than one representative assigned to a claim (and sign on to the fee agreement, if applicable), and to have additional representatives assigned to a case if one leaves. Moreover, we have already made policy and procedural changes to permit withdrawn representatives hired by the Federal Government to file fee petitions for services they provided prior to withdrawing and joining the government, and to receive direct payment of those fees.³⁹ In total, these provisions offer mechanisms for entities to receive direct payment of fees, regardless of the fee authorization process used by the representative. As we explained above with respect to fee agreements, with this final rule we are not revising who we recognize as a representative, and therefore we are likewise not revising our rules related to fee petitions.

Electronic Funds Transfers/Direct Deposits and 1099s

Comment: Some commenters opposed our proposed requirement that entities receive payments via electronic funds transfer (EFT), and they expressed concern about what information we would provide to the banks linking payments to specific clients, and what information individual banks would provide to their customers. Some commenters asked that we provide information linking payments to clients directly to representatives or entities via text, email, mail, or a dedicated portal. Because of these concerns, some commenters asked that we ensure the EFT process is fully developed and appropriate guidance is provided to financial institutions and entity payees before the proposed rule becomes final. Another commenter urged us to return to the process of identifying claimants and fee amounts on all Forms IRS 1099 we issue.

Response: We will use EFT to pay entities. Electronic payments are widely used, are preferred by the Department of the Treasury's Fiscal Service, and are efficient. Our current systems do not support paying entities by check, and system updates to facilitate this functionality would be expensive and take significant time, diverting resources from other important system

³⁵ 42 U.S.C. 406(a).

³⁶ 87 FR 39157 (June 30, 2022). The maximum dollar limit will increase to \$9,200 effective November 30, 2024. 89 FR 40523 (May 10, 2024).

³⁷ 42 U.S.C. 406(a)(1).

³⁸ See 20 CFR 404.1725 and 416.1525.

³⁹ See POMS GN 03980.005, available at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203980005>; id. GN 03980.010, available at <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203980010>; id. GN 03980.071, available at <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203980071>.

improvements necessary to carry out our core programs. When we certify a fee payment, we transmit key information linking payments to the related claims such as the claimant's first name, last name, and Social Security Number. We confirmed with the Department of the Treasury that it passes on this information to banking institutions. However, we understand that while the information is available, it may not be readily accessible by all representatives or entities depending on their choice of banking institution. We appreciate the concern raised and are actively looking for ways to make this information more accessible to representatives and entities while responsibly allocating limited resources.

Designated Point of Contact

Comment: Several commenters asked whether we would consider communicating with the POC's assistant(s), so that paralegals and other non-representatives could handle the administrative work while the representatives focused on the legal work. One commenter stated, "Most people in law firms who collect fees for the entity are legal assistants and not lawyers; therefore, they likely would not be registered representatives." They objected to our proposal to require that the POC be an individual who is a registered representative.

Response: A POC is not required to be an attorney; they need only be an individual registered with us in the manner we explained above using Form SSA-1699. The POC is not required to be eligible for direct payment or be appointed on any claim. As such, there is no reason the POC cannot be a paralegal or other staff member. As stated above, we expect the POC to assist us with resolving fee-related matters related to direct payment of fees to the entity. As also explained above, we will hold the POC responsible under our Rules of conduct and standards of responsibility for representatives,⁴⁰ as appropriate to their role.

Requiring individuals to register with us before being designated as POCs will facilitate quicker processing of the entity's registration because, at the time the entity submits its registration, the registered individual's information will already be in our system and will not need to be manually keyed in by a technician prior to processing the entity's registration, which would otherwise be the case. It will also allow us to readily identify and verify the POC when we share certain claim

information to resolve fee matters and, if needed, ensure accountability under our rules of conduct. Registration will also help us ensure that we keep accurate and comprehensive records of our communications with the entities and their POCs.

Comment: Another commenter asked about the procedure for the entity to amend the POC and how quickly we will be able to process the change.

Response: To update a POC's information the new POC must submit an updated Form SSA-1694. While the processing of the form is centralized and streamlined, it is not instantaneous. As such, entities should make every effort to make updates as early as possible.

Proposed Criteria

Comment: One commenter suggested a modification to the revised definition of "Registration" to indicate that the representative must have started the registration process prior to appointment.

Response: For reasons explained above, we deem it important that individual representatives now register with us through Form SSA-1699 in order to be appointed on a claim. To ensure a representative is registered before being appointed, Form SSA-1696 requires that the representative seeking appointment provide their Rep ID, which is issued at the completion of registration. Therefore, we cannot process a request to be appointed until registration is complete. Although we cannot process a new registration through Form SSA-1699 at the same time as a request for appointment through Form SSA-1696, we will not reject the Form SSA-1696 solely because it is submitted with an initial representative registration; we will hold the Form SSA-1696 and process it once registration is complete. Furthermore, we do not have the administrative capacity or systems resources to track registration in phases. When we receive a completed Form SSA-1699, it is placed in a processing queue. When it is processed, our system automatically generates and sends a notice to the representative to confirm registration. We do not expect registration delays will have a significant effect on a claimant's ability to timely appoint a representative.

Comment: A commenter suggested that we establish an Administrative POC or similar position who is accessible and required to be reasonably responsive to fee inquiries. The commenter opined that just as we plan to require that firms have a POC that can be reached to address fee issues, representatives should have a fee

coordinator at SSA, or similar position who is accessible and required to be reasonably responsive to fee inquiries.

Response: Appointed representatives and entity POCs may direct fee inquiries to the appropriate processing center.⁴¹ We will train staff who will be handling this workload in this newly developed process to ensure that they are able to respond to fee inquiries from an appointed representative or an entity's POC.

Comment: One commenter encouraged us to implement a process that minimizes the issuance of multiple checks when the fee agreement includes multiple employees of a single firm.

Response: Under the new rule, we will pay entities by way of direct payment, not a check, so we will not be issuing multiple checks to entities. In addition, if all appointed representatives eligible for direct payment assign direct payment of their fees to the same entity, we plan to make one total payment to the entity rather than multiple payments for each assignment.

Comment: Commenters encouraged us to formally recognize and permit the submission of valid, electronically signed representative documents (*i.e.*, Appointment of Representative and Fee Agreements).

Response: Electronic signature procedures are beyond the scope of this rule. However, we note that we currently accept electronic versions of the SSA-1696 and SSA-1693, (Fee Agreement for Representation Before the Social Security Administration), which can be electronically completed, signed, and filed. The e1696 and e1693 can be found on our website at: <https://www.ssa.gov/representation/>.

Comment: Commenters expressed concerns that claimants and some representatives may not be aware that they are now required to file our prescribed form (Form SSA-1696) to document an appointment.

Response: Our records show that the use of a written statement in lieu of an SSA-1696 is very rare by both claimants and representatives. However, our new requirement that representative appointments be made through the SSA-1696, along with other new requirements, will be made clear to the public through the publishing of this rule in the **Federal Register**; communications to the representative community; and announcements on our website at www.ssa.gov/representation. In addition, as noted above, we are developing training that we will provide

⁴⁰ 20 CFR 404.1740–404.1799, 416.1540–416.1599.

⁴¹ Specific contact information for processing centers can be found on our website www.ssa.gov.

to agency staff that will be involved in this process to ensure they are prepared to explain the new requirements and necessary forms to representatives, claimants, prospective claimants, and anyone assisting them.

Comment: Finally, a commenter suggested we specify that when the principal representative or the principal law firm withdraws, this also automatically serves as a withdrawal of the secondary representative in the same firm, unless stated otherwise. The commenter opined that current rules do not treat the secondary representative as withdrawn, even though they have not touched the file in several months, if at all.

Response: Only the appointed representative can withdraw their acceptance of an appointment. Representatives, including the principal representative, are prohibited from withdrawing on another representative's behalf. We are not changing this policy.

Additionally, each representative is responsible for conducting their dealings in such a way that furthers the efficient and orderly conduct of our administrative decision-making process, including withdrawing representation in a non-disruptive manner.⁴² Representatives have an affirmative duty to withdraw themselves when appropriate and to ensure that such withdrawal is not disruptive.

Regulatory Procedures

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

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule meets the criteria for a significant regulatory action under E.O.s 12866 and 14094 and is subject to OMB review.

Anticipated Accounting Costs of This Final Rule

Anticipated Transfers to Our Programs

Our Office of the Chief Actuary estimates that this final rule would not materially affect the availability and quality of representation. Specifically, this means any small incidental changes to scheduled OASDI (Old Age, Survivors, Disability, Insurance) benefits and federal SSI (Supplemental Security Insurance) payments would collectively be less than our baseline significance number of \$500,000 over

the period of fiscal years 2024 through 2033.

Anticipated Administrative Costs to the Social Security Administration

The systems upgrades necessary to comply with the *Marasco* decision are funded and currently underway. Once the rule becomes effective, the Office of Budget, Finance, and Management estimates administrative costs of less than 15 work years and \$2 million annually from the updates to our current business process.

Executive Order 13132 (Federalism)

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

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities. Although this final rule would require small entities who want to receive direct payment of authorized fees to provide us with certain information, maintain an active POC responsible for interacting with us, and accept payment by EFT, these requirements would not disadvantage small entities or limit their ability to compete with larger competitors. Additionally, this final rule does not place significant costs on entities.

We estimate that the time required for a small entity to complete the one-time transaction required to fill out and submit a basic registration form, provide banking information, and identify a POC would be minimal. Once the initial registration is complete, there would be no additional burden on the entity unless and until the entity needed to update its registration information. We anticipate that small entities that take advantage of the opportunity to receive direct payment of authorized fees through the assignment process may experience slight cost savings because of improved accuracy and efficiency in their recordkeeping processes and because they would no longer need to collect and properly account for payments made to individual representative employees. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

The final rule requires revisions to our existing information collections to enable SSA to directly pay entities fees we may authorize to their employees, and to register all entities who wish direct payment to register with us, using our revised, standardized registration system. For some sections in this rule, we previously accounted for the public reporting burdens under the following OMB approved information collections: 0960–0527 (SSA–1696 Claimant's Appointment of a Representative, which allows an individual to appoint a representative, and requires the representative's agreement to serve as representative), 0960–0731 (SSA–1694, Request for Business Entity Taxpayer Information, which requests specific taxpayer data from representatives requesting a fee), and 0960–0732 (SSA–1699, Representative Registration, which requires the representatives to prove eligibility when they register with SSA and allows them to request a fee). Consequently, we are not reporting those sections below.

However, the application of the revisions under this final rule requires burden changes and information collection revisions to the currently approved information collections under the following information collection requests: 0960–0527 (SSA–1696, Claimant's Appointment of a Representative, which allows an individual to appoint a representative, and requires the representative's agreement to serve as representative), 0960–0731 (SSA–1694, Request for Business Entity Taxpayer Information, which requests specific taxpayer data from representatives requesting a fee), and 0960–0732 (SSA–1699, Representative Registration, which requires the representatives to prove eligibility when they register with SSA and allows them to request a fee). We anticipate these revisions will increase the burdens for the affected information collections.

We published a Notice of Proposed Rulemaking (NPRM) on August 4, 2023, at 88 FR 51747. In that NPRM, we solicited comments under the PRA on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. The comments section above includes our responses to the PRA-related public comments we received under the NPRM.

⁴² See 20 CFR 404.1740(b)(3) and 416.1540(b)(3); POMS GN 03970.010 Rules of Conduct and Standards of Responsibility for Representatives, available at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203970010>.

Note: While this information collection request encompasses multiple information collection (IC) tools, not all of the ICs will become effective at the same time. We expect to make the SSA-1694 (OMB No. 0960-0731)

and the SSA-1699 (OMB No. 0960-0732) effective on September 30, 2024. However, we expect to make the SSA-1696 (OMB No. 0960-0527) effective December 9, 2024.

The following chart shows the time burden information associated with the final rule for the public reporting requirements we are revising:

CFR citations; OMB No. form No.	Description of new public reporting requirement	Number of respondents	Frequency of response	Average burden per response (minutes)	Anticipated estimated total burden under regulation (hours)
404.1707(a), 416.1507(a), SSA-1696 (0960-0527). <i>Effective Date:</i> December 9, 2024.	You [claimant] complete and sign our prescribed appointment form, and	1,100,000	1	7	128,333
404.1707(a), 416.1507(a), SSA-1696 (0960-0527). <i>Effective Date:</i> December 9, 2024.	Your representative completes and signs our prescribed appointment form, and	1,100,000	1	5	91,667
404.1720(f), 416.1520(f), SSA-1696 (0960-0527). <i>Effective Date:</i> December 9, 2024.	A representative who is eligible for direct payment of an authorized fee may assign the authorized fee to an entity that is eligible for direct payment.	500,000	1	5	* 41,667
404.1730(e)(2), 416.1530(e)(2), SSA-1696 (0960-0527). <i>Effective Date:</i> December 9, 2024.	A representative may rescind an assignment before the date on which we notify you of our first favorable determination or decision.	150,000	1	3	7,500
404.1735, 416.1535, SSA-1694 (0960-0731). <i>Effective Date:</i> September 30, 2024.	An entity is eligible for direct payment if the entity: (a) has an Employment Identification Number, (b) is registered with us in the manner we prescribe, (c) has not been found ineligible for direct payment, (d) designates and maintains an employee who is a registered representative as a point of contact to speak and act on the entity's behalf, (e) accepts payment via electronic transfer, and (f) conforms to our rules	7,000 15,382	1 1	18 20	2,100 15,382
404.1705(c), 404.1730(e)(v), 404.1735(b), 416.1505(c), 416.1530(e)(v), 416.1535(b), SSA-1699 (0960-0732). <i>Effective Date:</i> September 30, 2024.	Your representative(s) must be registered with us in the manner we prescribe before you submit the appointment(s).				
Totals .....	.....	2,867,382	.....	.....	276,394

The following chart shows the theoretical cost burdens associated with the final rule:

OMB No.; form No.; CFR citations	Number of respondents	Anticipated estimated total burden under regulation from chart above (hours)	Average theoretical hourly cost amount (dollars)**	Total annual opportunity cost (dollars)***
404.1707(a), 416.1507(a), SSA-1696 (0960-0527). <i>Effective Date:</i> December 9, 2024	1,100,000	128,333	** 13.30	*** 1,706,829
404.1707(a), 416.1507(a), SSA-1696 (0960-0527). <i>Effective Date:</i> December 9, 2024	1,100,000	91,667	** 84.84	*** \$7,777,028
404.1720(f), 416.1520 (f), SSA-1696 (0960-0527). <i>Effective Date:</i> December 9, 2024	500,000	* 41,667	** 84.84	*** 3,535,028
404.1730(e)(2), 416.1530(e)(2), SSA-1696 (0960-0527). <i>Effective Date:</i> December 9, 2024	150,000	7,500	** 84.84	*** 636,300
404.1735, 416.1535, SSA-1694 (0960-0731). <i>Effective Date:</i> September 30, 2024	7,000	2,100	** 84.84	*** 178,164
SSA-1699, (0960-0732), <i>Effective Date:</i> September 30, 2024	15,382	5,127	** 84.84	*** 434,975
Totals	2,867,382	276,394	.....	*** 14,268,324

* This is not additional burden but part of the existing burden for those representatives who complete this instrument but also check the assignment box. We include it here to indicate a change in burden for this regulatory section.

** We based these figures on average Legal Service hourly salary, as reported by Bureau of Labor Statistics data (<https://www.bls.gov/oes/current/oes231011.htm>) and the average DI payments based on SSA's current FY 2024 data (<https://www.ssa.gov/legislation/2024FactSheet.pdf>).

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. There is no actual charge to respondents to complete the application.

SSA submitted a single new Information Collection Request which encompasses revisions to information collections currently under OMB Numbers 0960-0527, 0960-0731 and 0960-0732 to OMB for the approval of

the changes due to the final rule. After approval at the final rule stage, we will adjust the figures associated with the current OMB numbers for these forms to reflect the new burden.

As we have revised the associated burdens for the above-mentioned forms since we made revisions to the final rule which were not included at the NPRM stage, we are currently soliciting comment on the burden for the forms as

shown in the charts above. If you would like to submit comments, please send them to:

Currently under Review—Open for Public Comments (<https://www.reginfo.gov/public/do/PRAMain>)⁴³ and choosing to click on one of SSA's published items. Please reference Docket ID Number [SSA–2023–0018] in your submitted response.

Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore MD 21235, Fax: 833–410–1631, Email address: OR.Reports.Clearance@ssa.gov.

You can submit comments until September 20, 2024, which is 30 days after the publication of this document. To receive a copy of the OMB clearance package, contact the SSA Reports Clearance Officer using any of the above contact methods. We prefer to receive comments by email or fax.

(Federal Assistance Listings Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

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

20 CFR Part 416

Administrative practice and procedure; Aged, Blind, Disability benefits, Public assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

20 CFR Part 422

Administrative practice and procedure; Reporting and recordkeeping requirements; Social security.

The Commissioner of the Social Security Administration, Martin O'Malley, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for

SSA, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

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

For the reasons stated in the preamble, we amend 20 CFR parts 404, 416, and 422 as set forth below:

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

Subpart R—Representation of Parties

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

Authority: 42 U.S.C. 405(a), 406, 902(a)(5), and 1320a–6.

■ 2. In § 404.1703, add definitions for “Affiliate”, “Assignment”, “Point of Contact”, and “Registration” in alphabetical order and revise the definition of “Representative” to read as follows:

§ 404.1703 Definitions.

* * * * *

Affiliate means to associate with an entity through our prescribed registration process.

Assignment means the transfer of the right to receive direct payment of an authorized fee to an entity as described in § 404.1730(e).

* * * * *

Point of Contact means an individual who registers as a representative in the manner we prescribe and is selected by an entity to speak and act on the entity's behalf and who assumes the affirmative duties and obligations we prescribe.

Registration means a process by which an individual or entity provides the information we require to conduct business with us.

* * * * *

Representative means an attorney who meets all of the requirements of § 404.1705(a), or a person other than an attorney who meets all of the requirements of § 404.1705(b), and whom you appoint to represent you in dealings with us. For purposes of our Rules of conduct and standards of responsibility for representatives in §§ 404.1740 through 404.1799, Representative also includes an individual who provides representational services and an individual who is listed as a point of contact for an entity, as applicable to their identified role.

* * * * *

■ 3. In § 404.1705, redesignate paragraph (c) as paragraph (d), add a

new paragraph (c), and revise newly redesignated paragraph (d) to read as follows:

§ 404.1705 Who may be your representative.

* * * * *

(c) Your representative(s) must be registered with us in the manner we prescribe.

(d) We may refuse to recognize your chosen representative if the person does not meet the requirements in this section. We will notify you and the proposed representative if we do not recognize the person as your representative.

■ 4. Revise § 404.1707 to read as follows:

§ 404.1707 Appointing a representative.

We will recognize a person as your representative if:

(a) You and your representative complete and sign our prescribed appointment form; and

(b) You or your representative file our prescribed appointment form in the manner we designate.

■ 5. In § 404.1720, add paragraph (f) to read as follows:

§ 404.1720 Fee for a representative's services.

* * * * *

(f) *Assignment of direct payment of fees.* A representative who is eligible for direct payment of an authorized fee may assign direct payment of the authorized fee to an entity that is eligible for direct payment of fees (see §§ 404.1730(e) and 404.1735).

■ 6. In § 404.1730:

■ a. Revise the paragraph (b) heading;

■ b. Revise paragraph (b)(1) introductory text;

■ c. Redesignate paragraph (b)(1)(i) as (b)(1)(iii) and paragraph (b)(1)(ii) as (b)(1)(iv);

■ d. Add new paragraphs (b)(1)(i) and (ii); and

■ e. Add paragraph (e).

The revisions and additions read as follows:

§ 404.1730 Payment of fees.

* * * * *

(b) *Fees we may pay*—(1) *Attorneys and eligible non-attorneys.* Except as provided in paragraph (c) of this section, if we make a determination or decision in your favor and you were represented by an attorney or an eligible non-attorney (see § 404.1717), and as a result of the determination or decision you have past-due benefits;

(i) We will pay your representative out of the past-due benefits the lesser of the amounts in paragraph (b)(1)(iii) or

⁴³ Please note that the link to the specific ICR connected to this regulation will only become active the day after the final rule publishes in the **Federal Register**.

(iv) of this section, less the amount of the assessment described in paragraph (d) of this section, unless the representative files a waiver of the fee or direct payment of the fee; and

(ii) If there is a valid assignment (see paragraph (e) of this section), we will pay the representative's fee (see paragraph (b)(1)(i) of this section) to an entity.

(e) *Assignment of direct payment of a fee to designated entity.* (1) A representative may assign direct payment of the fee we authorize to an eligible entity if the representative:

(i) Is eligible for direct payment;

(ii) Has not waived the fee or direct payment;

(iii) Assigns direct payment of the entire fee we authorize to one entity in the manner we prescribe;

(iv) Makes the assignment before the date on which we notify you of our first favorable determination or decision; and

(v) Affiliates with the entity through registration.

(2) A representative may rescind an assignment in the manner we prescribe before the date on which we notify you of our first favorable determination or decision.

(3) A representative may not assign direct payment of a fee to an entity that is ineligible to receive direct payment.

(4) A representative may not waive a fee or direct payment of a fee if the representative previously assigned direct payment of a fee in accordance with paragraph (e)(1) of this section and did not timely rescind that assignment in accordance with paragraph (e)(2) of this section.

■ 7. Add § 404.1735 to read as follows:

§ 404.1735 Entity eligible for direct payment of fees.

An entity is eligible for direct payment of an authorized fee if the entity:

(a) Has an Employer Identification Number;

(b) Has registered with us in the manner we prescribe;

(c) Has not been found ineligible for direct payment;

(d) Designates and maintains an employee who is registered as a representative in the manner we prescribe as a point of contact to speak and act on the entity's behalf;

(e) Accepts payment via electronic funds transfer; and

(f) Conforms to our rules.

■ 8. In § 404.1740, add paragraph (c)(15) to read as follows:

§ 404.1740 Rules of conduct and standards of responsibility for representatives.

(c) * * *

(15) While serving as a point of contact for an entity, violate applicable affirmative duties, engage in prohibited actions, or conduct dealings with us in a manner that is untruthful or does not further the efficient and prompt correction of a fee error.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart O—Representation of Parties

■ 9. The authority citation for subpart O is revised to read as follows:

Authority: 42 U.S.C. 405(a), 406, 902(a)(5), 1320a-6, and 1383(d).

■ 10. In § 416.1503, add definitions for “Affiliate”, “Assignment”, “Point of Contact”, and “Registration” in alphabetical order and revise the definition of “Representative” to read as follows:

§ 416.1503 Definitions.

* * *

Affiliate means to associate with an entity through our prescribed registration process.

Assignment means the transfer of the right to receive direct payment of an authorized fee to an entity as described in § 416.1530(e).

* * *

Point of Contact means an individual who registers as a representative in the manner we prescribe and is selected by an entity to speak and act on the entity's behalf and who assumes the affirmative duties and obligations we prescribe.

Registration means a process by which an individual or entity provides the information we require to conduct business with us.

* * *

Representative means an attorney who meets all of the requirements of § 416.1505(a), or a person other than an attorney who meets all of the requirements of § 416.1505(b), and whom you appoint to represent you in dealings with us. For purposes of our Rules of conduct and standards of responsibility for representatives in §§ 416.1540 through 416.1599, *Representative* also includes an individual who provides representational services and an individual who is listed as a point of contact for an entity, as applicable to their identified role.

* * *

■ 11. In § 416.1505, redesignate paragraph (c) as paragraph (d), add a new paragraph (c), and revise newly redesignated paragraph (d) to read as follows:

§ 416.1505 Who may be your representative.

* * *

(c) Your representative(s) must be registered with us in the manner we prescribe.

(d) We may refuse to recognize your chosen representative if the person does not meet the requirements in this section. We will notify you and the proposed representative if we do not recognize the person as your representative.

■ 12. Revise § 416.1507 to read as follows:

§ 416.1507 Appointing a representative.

We will recognize a person as your representative if:

(a) You and your representative complete and sign our prescribed appointment form; and

(b) You or your representative file our prescribed appointment form in the manner we designate.

■ 13. In § 416.1520, add paragraph (f) to read as follows:

§ 416.1520 Fee for a representative's services.

* * *

(f) *Assignment of direct payment of fees.* A representative who is eligible for direct payment of an authorized fee may assign direct payment of the authorized fee to an entity that is eligible for direct payment of fees (see §§ 416.1530(e) and 416.1535).

■ 14. In § 416.1530:

■ a. Revise the paragraph (b) heading;

■ b. Revise paragraph (b)(1) introductory text;

■ c. Redesignate paragraphs (b)(1)(i), (ii), and (iii) as (b)(1)(iii), (iv), and (v);

■ d. Add new paragraphs (b)(1)(i) and (ii);

■ e. Redesignate paragraph (e) as (f); and

■ f. Add a new paragraph (e).

The revisions and additions read as follows:

§ 416.1530 Payment of fees.

* * *

(b) *Fees we may pay*—(1) *Attorneys and eligible non-attorneys.* Except as provided in paragraph (c) of this section, if we make a determination or decision in your favor and you were represented by an attorney or an eligible non-attorney (see § 416.1517), and as a result of the determination or decision you have past-due benefits;

(i) We will pay your representative out of the past-due benefits the smallest

of the amounts in paragraphs (b)(1)(iii) through (v) of this section, less the amount of the assessment described in paragraph (d) of this section, unless the representative files a waiver of the fee or direct payment of the fee; and
(ii) If there is a valid assignment (see paragraph (e) of this section), we will pay the representative's fee (see paragraph (b)(1)(i) of this section) to an entity.

* * * * *

(e) *Assignment of direct payment of a fee to designated entity.* (1) A representative may assign direct payment of the fee we authorize to an eligible entity if the representative:

- (i) Is eligible for direct payment;
 - (ii) Has not waived the fee or direct payment;
 - (iii) Assigns direct payment of the entire fee we authorize to one entity in the manner we prescribe;
 - (iv) Makes the assignment before the date on which we notify you of our first favorable determination or decision; and
 - (v) Affiliates with the entity through registration.
- (2) A representative may rescind an assignment in the manner we prescribe before the date on which we notify you of our first favorable determination or decision.

- (3) A representative may not assign direct payment of a fee to an entity that is ineligible to receive direct payment.
- (4) A representative may not waive a fee or direct payment of a fee if the representative previously assigned direct payment of a fee in accordance with paragraph (e)(1) of this section and did not timely rescind that assignment in accordance with paragraph (e)(2) of this section.

* * * * *

■ 15. Add § 416.1535 to read as follows:

§ 416.1535 Entity eligible for direct payment of fees.

An entity is eligible for direct payment of an authorized fee if the entity:

- (a) Has an Employer Identification Number;
- (b) Has registered with us in the manner we prescribe;
- (c) Has not been found ineligible for direct payment;
- (d) Designates and maintains an employee who is registered as a representative in the manner we prescribe as a point of contact to speak and act on the entity's behalf;
- (e) Accepts payment via electronic funds transfer; and
- (f) Conforms to our rules.

■ 16. In § 416.1540, add paragraph (c)(15) to read as follows:

§ 416.1540 Rules of conduct and standards of responsibility for representatives.

* * * * *

(c) * * *

(15) While serving as a point of contact for an entity, violate applicable affirmative duties, engage in prohibited actions, or conduct dealings with us in a manner that is untruthful or does not further the efficient and prompt correction of a fee error.

PART 422—ORGANIZATION AND PROCEDURES

Subpart F—Applications and Related Forms

- 17. The authority citation for subpart F is revised to read as follows:
- Authority:** 42 U.S.C. 1320b–10(a)(2)(A).
- 18. In § 422.515, revise the section heading and the listing for form SSA–1696 and add a listing for form SSA–1699 in numerical order to read as follows:

§ 422.515 Forms used for withdrawal, reconsideration and other appeals, appointment of representative, and representative registration.

* * * * *

SSA–1696—Claimant's Appointment of a Representative. (For use by claimants or representatives as a notice of their appointment of a representative in a claim, issue, or other matter that is pending a determination or a decision before us).

SSA–1699—Representative Registration. (For use by individuals to register with us as representatives prior to appointment as a representative on a claim or designation as a point of contact for an entity).

* * * * *

[FR Doc. 2024–18497 Filed 8–20–24; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 525, 546, and 589

Adding a General License to Burma Sanctions Regulations and Correcting References in Sudan Stabilization and Ukraine/Russia-Related Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adopting a final rule

to add a general license, update language and authorities, and correct a cross-reference in existing regulations.

DATES: This rule is effective August 21, 2024.

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

SUPPLEMENTARY INFORMATION:

Electronic Availability

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

Background

In this document, OFAC is updating three parts of 31 CFR chapter V to add a general license, to update language, and to correct an erroneous reference. In the Burma Sanctions Regulations, 31 CFR part 525, OFAC is updating the authorities section to add a reference to recent legislation and adding a general license at § 525.512 to authorize the provision of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices to individuals whose property and interests in property are blocked pursuant to the Burma Sanctions Regulations.

In the Sudan Stabilization Sanctions Regulations, 31 CFR part 546, OFAC is updating three instances of the term “the Office of Foreign Assets Control” or “the Director of the Office of Foreign Assets Control” with the acronym “OFAC” in sections § 546.202(d), § 546.203(e), and § 546.703. Finally, in the Ukraine-/Russia-Related Sanctions Regulations, 31 CFR part 589, OFAC is updating the authorities section to reference two Executive orders issued pursuant to the national emergency declared in Executive Order 13660, “Blocking Property of Certain Persons Contributing to the Situation in Ukraine” (79 FR 13493), and correcting an erroneous cross-reference appearing in § 589.520.

Public Participation

Because the amendment of the Regulations is a rule of agency procedure and because it involves a foreign affairs function, the provisions of Executive Order 12866 of September 30, 1993, “Regulatory Planning and Review” (58 FR 51735, October 4, 1993), as amended, and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking,

opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the regulations being amended in this rule are contained in 31 CFR part 501 (the “Reporting, Procedures and Penalties Regulations”). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Parts 525, 546, and 589

Administrative practice and procedure, Banks, banking, Blocking of assets, Burma, Credit, Foreign trade, Penalties, Reporting and recordkeeping requirements, Russian Federation, Sanctions, Securities, Services, Sudan, Ukraine.

For the reasons set forth in the preamble, OFAC is issuing the following amendments:

PART 525—BURMA SANCTIONS REGULATIONS

- 1. The authority citation for part 525 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 22 U.S.C. 10201–10261; 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); E.O. 14014, 86 FR 9429, 3 CFR, 2021 Comp., p. 514.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

- 2. Add § 525.512 to read as follows:

§ 525.512 Transactions related to the provision of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates for personal, non-commercial use.

(a) All transactions prohibited by this part that are related to the provision, directly or indirectly, of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices to an individual whose property and interests in property are blocked pursuant to this part are authorized, provided the items are in quantities

consistent with personal, non-commercial use.

(b) For the purposes of this section, *agricultural commodities*, *medicine*, and *medical devices* are defined as follows:

(1) *Agricultural commodities*. For the purposes of this section, *agricultural commodities* are:

(i) Products that fall within the term “agricultural commodity” as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602); and

(ii) That are intended for ultimate use as:

(A) Food for humans (including raw, processed, and packaged foods; live animals; vitamins and minerals; food additives or supplements; and bottled drinking water) or animals (including animal feeds);

(B) Seeds for food crops;

(C) Fertilizers or organic fertilizers; or

(D) Reproductive materials (such as live animals, fertilized eggs, embryos, and semen) for the production of food animals.

(2) *Medicine*. For the purposes of this section, *medicine* is an item that falls within the definition of the term “drug” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(3) *Medical devices*. For the purposes of this section, a *medical device* is an item that falls within the definition of “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

Note 1 to § 525.512. This section does not relieve any person authorized thereunder from complying with any other applicable laws or regulations.

PART 546—SUDAN STABILIZATION SANCTIONS REGULATIONS

- 3. The authority citation for part 546 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13400, 71 FR 25483, 3 CFR, 2006 Comp., p. 220; E.O. 14098, 88 FR 29529.

Subpart B—Prohibitions

§ 546.202 [Amended]

- 4. Amend § 546.202 in the introductory text of paragraph (d) by removing “the Director of the Office of Foreign Assets Control” and adding in its place “OFAC”.

§ 546.203 [Amended]

- 5. Amend § 546.203 in paragraph (e) by removing “the Office of Foreign Assets Control” and adding in its place “OFAC”.

§ 546.703 [Amended]

- 6. Amend § 546.703 by removing “the Office of Foreign Assets Control” and adding in its place “OFAC”.

PART 589—UKRAINE-/RUSSIA-RELATED SANCTIONS REGULATIONS

- 7. The authority citation for part 589 is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 8901–8910, 8921–8930; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); Pub. L. 115–44, 131 Stat. 886 (codified in scattered sections of 22 U.S.C.); E.O. 13660, 79 FR 13493, 3 CFR, 2014 Comp., p. 226; E.O. 13661, 79 FR 15535, 3 CFR, 2014 Comp., p. 229; E.O. 13662, 79 FR 16169, 3 CFR, 2014 Comp., p. 233; E.O. 13685, 79 FR 77357, 3 CFR, 2014 Comp., p. 313, E.O. 13849, 3 CFR, 2018 Comp., p. 875, E.O. 14065, 87 FR 10293, 3 CFR, 2022 Comp., p. 340.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 589.520 [Amended]

- 8. Amend § 589.520 in the introductory text by removing “589.206” and adding in its place “589.207”.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2024–18747 Filed 8–20–24; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 591

Publication of Venezuela Sanctions Regulations Web General License 40C

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of a web general license.

SUMMARY: The Department of the Treasury’s Office of Foreign Assets Control (OFAC) is publishing one general license (GL) issued pursuant to the Venezuela Sanctions Regulations: GL 40C, which was previously made available on OFAC’s website.

DATES: GL 40C was issued on July 8, 2024. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

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

SUPPLEMENTARY INFORMATION:

Electronic Availability

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

Background

On July 8, 2024, OFAC issued GL 40C to authorize certain transactions otherwise prohibited by the Venezuela Sanctions Regulations (VSR), 31 CFR part 591. GL 40C was made available on OFAC's website (<https://ofac.treasury.gov/>) when it was issued. GL 40C supersedes GL 40B, which was issued on July 10, 2023. GL 40C has an expiration date of July 8, 2025. The text of this GL is provided below.

OFFICE OF FOREIGN ASSETS CONTROL**Venezuela Sanctions Regulations****31 CFR Part 591****GENERAL LICENSE NO. 40C****Authorizing Certain Transactions Involving the Exportation or Reexportation of Liquefied Petroleum Gas to Venezuela**

(a) Except as provided in paragraph (b) of this general license, all transactions related to the exportation or reexportation, directly or indirectly, of liquefied petroleum gas to Venezuela, involving the Government of Venezuela, Petróleos de Venezuela, S.A. (PdVSA), or any entity in which PdVSA owns, directly or indirectly, a 50 percent or greater interest, that are prohibited by E.O. 13850 of November 1, 2018, as amended by E.O. 13857 of January 25, 2019, or E.O. 13884 of August 5, 2019, each as incorporated into the Venezuela Sanctions Regulations, 31 CFR part 591 (the VSR), are authorized through 12:01 a.m. eastern daylight time, July 8, 2025.

(b) This general license does not authorize:

(1) Any payment-in-kind of petroleum or petroleum products; or

(2) Any transactions otherwise prohibited by the VSR, including transactions involving any blocked persons other than PdVSA, any entity in which PdVSA owns, directly or indirectly, a 50 percent or greater interest, or any Government of Venezuela person that is blocked solely pursuant to E.O. 13884.

(c) Effective July 8, 2024, General License No. 40B, dated July 10, 2023, is replaced and superseded in its entirety by this General License No. 40C.

Note to General License No. 40C. Nothing in this general license relieves any persons from compliance with the requirements of other Federal agencies, including the

Department of Commerce's Bureau of Industry and Security.

Dated: July 8, 2024.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2024-18754 Filed 8-20-24; 8:45 am]

BILLING CODE 4810-AL-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 4**

[PS Docket Nos. 15-80 and 13-75, ET Docket No. 04-35, FCC 24-73 FR ID 238688]

Disruptions to Communications; Improving 911 Reliability; Concerning Disruptions to Communications

AGENCY: Federal Communications Commission.

ACTION: Denial of petition for reconsideration.

SUMMARY: In this document, the Federal Communications Commission (FCC) adopted an Order on Reconsideration that denies the petition for reconsideration filed by Competitive Carriers Association (CCA) with respect to the Second Report and Order in this proceeding.

DATES: Effective August 21, 2024.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Barbara Kunkel, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418-0671 or via email at Barbara.Kunkel@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, FCC 24-73, adopted on July 10, 2024, and released on July 11, 2024. The complete text of this document is available for public inspection on the Commission's website at <https://docs.fcc.gov/public/attachments/FCC-24-73A1.pdf>. 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 (voice).

Synopsis

1. The Order on Reconsideration denies the petition for reconsideration of the Second Report and Order, 88 FR 9756 (Feb. 15, 2023), filed by CCA on March 17, 2023. In the Second Report

and Order the Commission adopted rules to harmonize the 911 outage notification requirements for originating service providers (OSPs) and covered 911 service providers. Specifically, the Second Report and Order required both OSPs and covered 911 service providers to notify Public Safety Answering Points (PSAPs) of outages that potentially affect them as soon as possible, but no later than 30 minutes after discovering the outage. The Commission also required OSPs and covered 911 service providers to maintain accurate and up-to-date PSAP contact information for the purpose of providing 911 outage notifications.

2. CCA sought reconsideration of two aspects of the Second Report and Order as they apply to OSPs. First, CCA argued that it is unreasonable to require OSPs to initially notify PSAPs of 911 outages within 30 minutes of discovering an outage. CCA further argued that OSP compliance with the 30-minute rule (1) is infeasible or impossible, (2) should not apply to outages attributable to third-party vendors, (3) will cause over-notification to PSAPs, and (4) will overburden small and rural carriers. CCA argued instead that the Commission should revert to the previous rule that required OSPs to notify PSAPs "as soon as possible" with no time limitation. In the alternative, if the Commission retains the 30-minute rule, CCA argued that the Commission should define "discovery" of an outage to be when an OSP receives notification of the outage from its third-party vendor or service provider, rather than when the third-party vendor or service provider itself discovers the outage. CCA also argued that the Commission should modify the 30-minute rule to deem OSPs compliant if they begin notifying affected PSAPs within 30 minutes, even if they do not complete notification to all potentially affected PSAPs within that timeframe. Second, CCA requested that the Commission reconsider the requirement that OSPs use "special diligence" to identify, maintain, and annually confirm contact information for PSAPs in their service areas. CCA argued that the Commission materially erred in estimating the cost to OSPs of complying with this requirement, and that the rule will overburden small and rural carriers. Accordingly, CCA asserted that the Commission should create and operate a centralized PSAP contact information database rather than requiring OSPs to maintain PSAP contact information themselves.

3. Regarding the application of a 30-minute initial PSAP notification deadline to OSPs, the Commission

found CCA's arguments unpersuasive and concluded that the Commission was reasonable in adding a time limit to the OSP notification rules. The Commission found in the Second Report and Order that in the absence of a time limit, the "as soon as possible" standard does not incentivize OSPs to provide timely outage notifications, but instead incentivizes them to take a passive approach to monitoring and detecting outages. In the Order on Reconsideration, the Commission observed that delays in receiving outage notifications undermine the ability of PSAPs to provide timely information to the public on available means to contact emergency services when an outage impacts 911 service, and that reverting to a notification standard with no time limit, as CCA advocated, would exacerbate the very harm the rule was adopted to address. The Commission also disagreed with CCA's contention that a 30-minute time limit on OSP notifications is infeasible or unreasonable. The Commission found that CCA and supporting commenters provided no basis for reconsidering the Commission decision in the Second Report and Order rejecting arguments that 30 minutes is an insufficient amount of time for OSPs to obtain initial information about outages and provide notification to PSAPs. In the Order on Reconsideration, the Commission explained that as a practical matter, providers will have at least an hour, and potentially more, from the start of any outage to gather information to include in the initial outage notifications to PSAPs, and that the purpose of the initial notification is not to provide complete information about the outage, but to serve as a preliminary notice of a potential problem to a 911 special facility. With respect to OSP responsibility for third-party discovery of an outage, in the Order on Reconsideration, the Commission determined that the Second Report and Order properly defined an OSP's discovery of an outage to include when the outage is discovered by its third-party vendor or service provider. In addition, the Commission in the Order on Reconsideration explained that an OSP may satisfy its obligation to notify a PSAP of an outage "if the party that actually discovers the outage—which may be a third party—notifies the PSAP within these timeframes." With respect to over-notification to PSAPs, the Commission rejected CCA's contention that the 30 minute rule will force OSPs to send blanket notifications to PSAPs that may not be directly affected by an outage, leading to over-notification,

notification fatigue, and overburdening of PSAPs. The Commission found that proper application of the rule should limit the risk of over-notification, citing the reporting thresholds in the Part 4 rules and that nothing precludes OSPs from working together to establish more coordinated and efficient outage notification processes that reduce the likelihood of unnecessary notifications. Additionally, even if the rule results in occasional unnecessary notifications, the Commission found that the overriding objective is for OSPs to notify PSAPs to better enable PSAPs to more quickly reduce the impact of an outage, including the PSAPs' ability to coordinate emergency response resources with first responders. Finally, with regard to CCA's assertion that the 30 minute requirement will overburden small or rural carriers, the burden on smaller carriers to provide notifications is likely to be less than for larger carriers because the notification requirement is based in part on potential user minutes impacted. The Commission explained that OSPs that operate lines that serve fewer customers would have to experience longer outages to reach the user-minute threshold required for notification, which effectively allows more time for them to investigate the outages.

4. Regarding using special diligence to maintain up-to-date PSAP contact information, the Commission rejected CCA's proposal to have the Commission create a centralized database before OSPs would be required to exercise special diligence in maintaining PSAP contact information. The Commission noted that this compliance obligation can be readily met by other means, including by the service providers developing their own database capabilities rather than waiting for the Commission to do so; PSAP contact information is currently available to OSPs through a variety of sources; and CCA's proposal ignores the fact that the rules have long required OSPs to contact PSAPs in the event of an outage, which necessitates their having current PSAP contact information. The Commission declined to establish a safe harbor because it would act as a disincentive for OSPs to create methods to affirmatively confirm PSAP contact information, effectively nullifying the special diligence standard. The Commission also was unpersuaded by arguments that the special diligence standard for maintaining up-to-date PSAP contact information is confusing and fails to provide certainty on how to comply; and the Commission found that the Second Report and Order fully

explained the special diligence standard and properly rejected commenters' proposed alternatives. Regarding the burden on small and rural carriers, the Commission found, contrary to CCA's arguments, that the Second Report and Order correctly took the interests and capabilities of small and rural carriers into account, in adopting the special diligence requirement for maintaining PSAP contact information. Finally, the Commission reviewed the Second Report and Order cost estimate in light of CCA's arguments that the Commission materially erred in estimating the compliance costs for providers to maintain up-to-date PSAP contact information, and the Commission made upward revisions to better reflect the cost information. Although this change resulted in a considerable increase in costs, the Commission found that costs are still low enough for the Commission to conclude that the benefits outweigh the costs of the requirements.

I. Procedural Matters

5. *Paperwork Reduction Act Analysis.* This Order on Reconsideration does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. Thus, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

6. *Congressional Review Act.* The Commission will not send a copy of this Order on Reconsideration to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because no rule was adopted or amended.

7. *Regulatory Flexibility Act Analysis.* In the Second Report and Order, the Commission provided a Final Regulatory Flexibility Analysis pursuant to the Regulatory Flexibility Act of 1980, as amended (RFA). We received no petitions for reconsideration of that Final Regulatory Flexibility Analysis. In this present Order on Reconsideration, the Commission promulgates no additional final rules. Our present action is, therefore, not an RFA matter.

II. Ordering Clauses

8. Accordingly, *it is ordered* that the Petition for Reconsideration filed on March 17, 2023, by CCA *is denied*.

9. *It is further ordered* that this Order on Reconsideration *shall be effective*

upon publication in the **Federal Register**.

Federal Communications Commission

Marlene Dortch,
Secretary.

[FR Doc. 2024–18606 Filed 8–20–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 385

[Docket No. FMCSA–2024–0073]

RIN 2126–AC65

Incorporation by Reference; North American Standard Out-of-Service Criteria; Hazardous Materials Safety Permits

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FMCSA amends its Hazardous Materials Safety Permits (HMSPs) regulations to incorporate by reference the updated Commercial Vehicle Safety Alliance (CVSA) handbook containing inspection procedures and Out-of-Service Criteria (OOSC) for inspections of shipments of transuranic waste and highway route-controlled quantities (HRCQs) of radioactive material (RAM). The OOSC provide enforcement personnel nationwide, including FMCSA’s State partners, with uniform enforcement tolerances for inspections. Currently, the regulations reference the April 1, 2023, edition of the handbook. Through this final rule, FMCSA incorporates by reference the April 1, 2024, edition.

DATES: Effective September 20, 2024. The incorporation by reference of certain material listed in this rule is approved by the Director of the Federal Register as of September 20, 2024.

Petitions for reconsideration of this final rule must be submitted to the FMCSA Administrator no later than September 20, 2024.

FOR FURTHER INFORMATION CONTACT: David Sutula, Vehicle and Roadside Operations Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–9209, MCPSV@dot.gov.

SUPPLEMENTARY INFORMATION: FMCSA organizes this final rule as follows:

- I. Availability of Rulemaking Documents
- II. Executive Summary

III. Abbreviations

IV. Legal Basis

V. Discussion of Proposed Rulemaking and Comments

A. Proposed Rulemaking

B. Comments and Responses

VI. Section-by-Section Analysis

VII. Regulatory Analyses

A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), E.O. 14094 (Modernizing Regulatory Review), and DOT Regulatory Policies and Procedures

B. Congressional Review Act

C. Regulatory Flexibility Act

D. Assistance for Small Entities

E. Unfunded Mandates Reform Act of 1995

F. Paperwork Reduction Act

G. E.O. 13132 (Federalism)

H. Privacy

I. E.O. 13175 (Indian Tribal Governments)

J. National Environmental Policy Act of 1969

I. Availability of Rulemaking Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2024-0073/document> and choose the document to review. To view comments, click this final rule, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations at U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Executive Summary

This final rule updates an incorporation by reference found at 49 Code of Federal Regulations (CFR) 385.4(b)(1) and referenced at § 385.415(b). The provision at § 385.4(b)(1) currently references the April 1, 2023, edition of CVSA’s handbook titled “North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR part 173.403.” The CVSA handbook contains inspection procedures and OOSC for inspections of shipments of transuranic waste and HRCQs of RAM. The OOSC, while not regulations, provide enforcement personnel nationwide, including FMCSA’s State partners, with uniform enforcement tolerances for inspections. The material is available,

and will continue to be available, for inspection at the FMCSA, Office of Safety, 1200 New Jersey Avenue SE, Washington, DC 20590 (Attention: Chief, Hazardous Materials Division) at (202) 493–0027. The document may be purchased from the Commercial Vehicle Safety Alliance, 99 M Street SE, Suite 1025, Washington, DC 20003, 202–998–1002, www.cvsa.org.

Eleven updates distinguish the April 1, 2024, handbook edition from the April 1, 2023, edition. The updates are all described in detail in the May 3, 2024, notice of proposed rulemaking (NPRM) for this rule (89 FR 36742). The incorporation by reference of the 2024 edition does not impose new regulatory requirements.

III. Abbreviations

CE Categorical Exclusion

CFR Code of Federal Regulations

CVSA Commercial Vehicle Safety Alliance

DOT Department of Transportation

FMCSA Federal Motor Carrier Safety Administration

FR Federal Register

HMSP Hazardous Materials Safety Permit

HRCQ Highway Route Controlled Quantity

NPRM Notice of Proposed Rulemaking

OOS Out-of-Service

OOSC Out-of-Service Criteria

PIA Privacy Impact Assessment

PTA Privacy Threshold Assessment

RAM Radioactive Material

RFA Regulatory Flexibility Act

UMRA The Unfunded Mandates Reform Act of 1995

U.S.C. United States Code

IV. Legal Basis

Congress has enacted several statutory provisions to ensure the safe transportation of hazardous materials in interstate commerce. Specifically, in provisions codified at 49 United States Code (U.S.C.) 5105(d), relating to inspections of motor vehicles carrying certain hazardous material, and 49 U.S.C. 5109, relating to motor carrier safety permits (“HMSPs”), the Secretary of Transportation is required to promulgate regulations as part of a comprehensive safety program on HMSPs. The FMCSA Administrator has been delegated authority under 49 U.S.C. 113(f) and 49 CFR 1.87(d)(2) to carry out the functions vested in the Secretary of Transportation related to HMSPs. Consistent with that authority, FMCSA has promulgated regulations under 49 CFR part 385, subpart E to address the congressional mandate on HMSPs. Those regulations are the underlying provisions to which the material incorporated by reference discussed in this rule is applicable.

Congress authorized DOT by statute to promote safe transportation of hazardous materials in interstate

commerce by prescribing, among other things, regulations and minimum standards for practices, methods, and procedures for inspections and safety permits for motor vehicles carrying certain hazardous materials (49 U.S.C. 5105(d); 49 U.S.C. 5109). The purpose of this rule is to incorporate by reference the 2024 edition of the CVSA handbook outlining the OOSC and inspection procedures for commercial highway vehicles transporting RAMs. The provisions within the CVSA handbook are intended to operate holistically in addressing a range of issues necessary to ensure the safe transport of hazardous materials. However, FMCSA recognizes that certain provisions focus on unique topics. Therefore, FMCSA finds that the various provisions within the CVSA handbook would be severable and the remaining provision or provisions within the handbook would continue to operate functionally if any one or more provisions were invalidated and any other provision(s) remained.

V. Discussion of Proposed Rulemaking and Comments

A. Proposed Rulemaking

FMCSA published an NPRM on May 3, 2024 (89 FR 36742). Because the incorporation by reference found at § 385.4(b)(1) and referenced at § 385.415(b) references the outdated April 1, 2023, edition of CVSA's "North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR part 173.403," the NPRM proposed to incorporate by reference the current April 1, 2024, edition. Eleven updates distinguish the April 1, 2024, edition from the 2023 edition. Each of the changes was described and discussed in detail in the NPRM. Generally, the changes serve to clarify or provide additional guidance to inspectors regarding uniform implementation and application of the OOSC, and none is expected to affect the number of OOS violations cited during Level VI inspections. The incorporation by reference of the 2024 edition does not change what constitutes a violation of FMCSA regulations.

B. Comments and Responses

FMCSA solicited comments concerning the NPRM for 30 days ending June 3, 2024. No comments were submitted.

C. Final Rule

As FMCSA received no comments on the NPRM, the Agency finalizes the incorporation by reference of the April 1, 2024, edition of the CVSA handbook without modification.

VI. Section-by-Section Analysis

Section 385.4 Matter Incorporated by Reference

Section 385.4(b)(1), as amended on November 8, 2023, references the April 1, 2023, edition of the CVSA handbook. This final rule replaces the reference to the April 1, 2023, edition date with a reference to the new edition date of April 1, 2024.

VII. Regulatory Analyses

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), E.O. 14094 (Modernizing Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, E.O. 14094 (88 FR 21879, Apr. 11, 2023), Modernizing Regulatory Review, and DOT's regulatory policies and procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563 and E.O. 14094, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. Accordingly, OMB has not reviewed it under that E.O.

This final rule will update an incorporation by reference from the April 1, 2023, edition to the April 1, 2024, edition of CVSA's handbook titled "North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR part 173.403." FMCSA reviewed its Motor Carrier Management Information System (MCMIS) data on inspections performed from 2020 to 2023 and does not expect the handbook updates to have any effect on the number of OOS violations cited during Level VI inspections. Therefore, the final rule's impact will be de minimis.

B. Congressional Review Act

This rule is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. 801–808).¹

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,² requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. None of the updates from the 2024 edition impose new requirements or make substantive changes to the Federal Motor Carrier Safety Regulations.

When an Agency issues a final rule, the RFA requires the Agency to "prepare and make available an initial regulatory flexibility analysis" that will describe the impact of the final rule on small entities (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, instead of preparing an analysis, if the final rule is not expected to impact a substantial number of small entities. The final rule will update an incorporation by reference found at § 385.4(b)(1) and referenced at § 385.415(b), and will incorporate by reference the April 1, 2024, edition of the CVSA handbook. The changes to the 2024 edition of the CVSA handbook from the 2023 edition are intended to ensure clarity in the presentation of the OOS conditions and are generally editorial or ministerial. As noted above, FMCSA does not expect the changes made in the 2024 edition of the CVSA handbook to affect the number of OOS violations cited during Level VI inspections in the United States. Accordingly, I certify that the proposed

¹ A *major rule* means any rule that OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 802(4)).

² Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

action will not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see <https://www.sba.gov/about-sba/oversight-advocacy/office-national-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 FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their discretionary regulatory actions.

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 \$200 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2023 levels) or more in any 1 year. Though this final rule will not result in such an expenditure, and the analytical requirements of UMRA do not apply as a result, the Agency discusses the effects of this rule elsewhere in this preamble.

F. Paperwork Reduction Act

This final rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

G. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has “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.”

FMCSA has determined that this final rule will not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

H. Privacy

The Consolidated Appropriations Act, 2005,³ requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This final rule will not require the collection of personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002,⁴ requires Federal agencies to conduct a Privacy Impact Assessment (PIA) for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology will collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency submitted a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the proposed rulemaking might have on collecting, storing, and sharing personally identifiable information. The PTA was adjudicated by DOT's Chief Privacy Officer on March 26, 2024.

I. E.O. 13175 (Indian Tribal Governments)

This final rule does not have Tribal implications under E.O. 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.

J. National Environmental Policy Act of 1969

FMCSA analyzed this final rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2, paragraph 6(b). This Categorical Exclusion (CE) covers minor revisions to regulations. The proposed requirements in this rule are covered by this CE.

List of Subjects in 49 CFR 385

Administrative practice and procedure, Highway safety, Incorporation by reference, Mexico, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, FMCSA amends 49 CFR chapter III, part 385, as set forth below:

PART 385—SAFETY FITNESS PROCEDURES

- 1. The authority citation for part 385 continues to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b), 5105(d), 5109, 5113, 13901–13905, 13908, 31135, 31136, 31144, 31148, 31151, 31502; sec. 113(a), Pub. L. 103–311, 108 Stat. 1673, 1676; sec. 408, Pub. L. 104–88, 109 Stat. 803, 958; sec. 350, Pub. L. 107–87, 115 Stat. 833, 864; sec. 5205, Pub. L. 114–94, 129 Stat. 1312, 1537; and 49 CFR 1.87.

- 2. Amend § 385.4 by revising paragraph (b)(1) to read as follows:

§ 385.4 Matter incorporated by reference.

* * * * *

(b) * * *

(1) “North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR part 173.403,” April 1, 2024; incorporation by reference approved for § 385.415(b).

* * * * *

Issued under authority delegated in 49 CFR 1.87.

Vincent G. White,
Acting Administrator.

[FR Doc. 2024–18749 Filed 8–20–24; 8:45 am]

BILLING CODE 4910-EX-P

³ Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

⁴ Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

Proposed Rules

Federal Register

Vol. 89, No. 162

Wednesday, August 21, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

[Docket ID: OPM–2024–0018]

RIN 3206–AO75

Prevailing Rate Systems; Definition of Saratoga County, New York, to a Nonappropriated Fund Federal Wage System Wage Area

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing a rule to define Saratoga County, New York, as an area of application to the Jefferson, NY, nonappropriated fund (NAF) Federal Wage System (FWS) wage area for pay-setting purposes. This change is necessary because there is one NAF FWS employee working in Saratoga County, and the county is not currently defined to a NAF wage area.

DATES: Send comments on or before September 20, 2024.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.

All comments received must include the agency name and docket number or RIN for this document. The general policy for comments from members of the public is to make them available for public viewing at <https://www.regulations.gov> without change, including any personal identifiers or contact information. However, OPM retains discretion to redact personal or sensitive information from comments before they are posted.

FOR FURTHER INFORMATION CONTACT: Ana Paunoiu, by telephone at (202) 606–2858 or by email at paypolicy@opm.gov.

SUPPLEMENTARY INFORMATION: OPM is proposing a rule that would define

Saratoga County, NY, as an area of application to the Jefferson, NY, NAF FWS wage area. The Department of Defense (DOD), on behalf of the Department of the Navy (Navy), indicated that the Navy Support Facility—Saratoga Springs now has one NAF FWS employee in Saratoga County, NY.

Under section 532.219 of title 5, Code of Federal Regulations, each NAF wage area “shall consist of one or more survey areas, along with nonsurvey areas, if any, having nonappropriated fund employees.” Saratoga County does not meet the regulatory criteria under 5 CFR 532.219 to be established as a separate NAF wage area; however, nonsurvey counties may be combined with a survey area to form a wage area. Section 532.219 lists the regulatory criteria OPM considers when defining FWS wage area boundaries. This rulemaking allows consideration of the following criteria: proximity of largest activity in each county, transportation facilities and commuting patterns, and similarities of the counties in overall population, private employment in industry categories, and kinds and sizes of private industrial establishments.

Saratoga County, NY, would be defined as an area of application to the Jefferson, NY, NAF FWS wage area. The proximity criterion favors the Jefferson NAF wage area. Although the Naval Support Facility—Saratoga Springs is located approximately 147 miles from Fort Drum, the wage area’s host activity, Saratoga County is adjacent to Schenectady County, NY, which is currently defined to the Jefferson wage area.

With the definition of Saratoga County to the Jefferson NAF wage area, the Jefferson wage area would contain one survey county, Jefferson County, NY, and seven area of application counties: Albany, Oneida, Onondaga, Ontario, Saratoga, Schenectady, and Steuben Counties, NY. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended this change by consensus. This change would be effective on the first day of the first applicable pay period beginning on or after 30 days following publication of the final regulations.

Expected Impact of This Rule

Section 5343 of title 5, U.S. Code, provides OPM with the authority and responsibility to define the boundaries of NAF FWS wage areas. Any changes in wage area definitions have the long-term effect of increasing pay for Federal employees in affected locations. OPM expects this rulemaking to impact approximately 1 NAF FWS employee. Considering the small number of employees affected, OPM does not anticipate that this proposed rule will substantially impact local economies or have a large impact in local labor markets. However, OPM is requesting comment in this rulemaking regarding the impact. As this and future wage area changes may impact higher volumes of employees in geographical areas and could rise to the level of impacting local labor markets, OPM will continue to study the implications of such impacts in this or future rules as needed.

Regulatory Review

OPM has examined the impact of this rulemaking as required by Executive Orders 12866, 13563, and 14094, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). OMB has determined that this rulemaking is not a “significant regulatory action” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094.

Regulatory Flexibility Act

The Director of OPM certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Federalism

OPM has examined this rulemaking in accordance with Executive Order 13132, Federalism, and has determined that this rule will not have any negative impact on the rights, roles, and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This rulemaking meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Act of 1995

This rulemaking will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

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

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

Accordingly, OPM is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

■ 2. In Appendix D to subpart B, amend the table by revising the wage area listing for the State of New York to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

Definitions of Wage Areas and Wage Area Survey Areas

* * * * *

NEW YORK

Jefferson

Survey Area

New York:

Jefferson

Area of Application. Survey area plus:

New York:

Albany
Oneida
Onondaga
Ontario
Saratoga
Schenectady
Steuben

Kings-Queens

Survey Area

New York:

Kings
Queens

Area of Application. Survey area plus:

New Jersey:

Essex
Hudson

New York:

Bronx
Nassau
New York
Richmond
Suffolk

Niagara

Survey Area

New York:

Niagara

Area of Application. Survey area plus:

New York:

Erie
Genesee

Ohio:

Trumbull

Pennsylvania:

Erie

Orange

Survey Area

New York:

Orange

Area of Application. Survey area plus:

New York:

Dutchess
Westchester

* * * * *

[FR Doc. 2024–18741 Filed 8–20–24; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 33, and 35

[Docket No.: FAA–2024–1398; Notice No. 24–23]

RIN 2120–AL94

Equipment, Systems, and Network Information Security Protection

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rulemaking would impose new design standards to address cybersecurity threats for transport category airplanes, engines, and propellers. The intended effect of

this proposed action is to standardize the FAA’s criteria for addressing cybersecurity threats, reducing certification costs and time while maintaining the same level of safety provided by current special conditions.

DATES: Send comments on or before October 21, 2024.

ADDRESSES: Send comments identified by docket number FAA–2024–1398 using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov and follow the online instructions for sending your comments electronically.
- **Mail:** Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- **Hand Delivery or Courier:** Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at www.dot.gov/privacy.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Varun Khanna, AIR–626D, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, WA 98198; telephone (206) 231 3159; email varun.khanna@faa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Overview of Proposed Rule

The FAA proposes to add new regulations to and revise certain existing regulations in title 14, Code of Federal Regulations (14 CFR) part 25

(Airworthiness Standards: Transport Category Airplanes), part 33 (Airworthiness Standards: Aircraft Engines), and part 35 (Airworthiness Standards: Propellers). These changes would introduce type certification and continued airworthiness requirements to protect the equipment, systems, and networks of transport category airplanes, engines, and propellers against intentional unauthorized electronic interactions (IUEI) ¹ that could create safety hazards. Design approval applicants would be required to identify, assess, and mitigate such hazards, and develop Instructions for Continued Airworthiness (ICA) that would ensure such protections continue in service. Proposed changes to parts 25, 33, and 35 would mandate such protection and apply to applicants for design approval of transport category airplanes, engines, and propellers. The changes would also affect future operators of these products through the application of the ICA.

The substance of the proposed rules would generally reflect current practice (e.g., special conditions) that the FAA has used to address product cybersecurity since 2009. Under the proposed regulations, the FAA would continue to apply the same substantive requirements established by current special conditions via the same methods of compliance to new applicable certification projects; thus, the impact on applicants and operators would not be significant. The intended effect of this action is to reduce the costs and time necessary to certify new and changed products and harmonize FAA regulatory requirements with the regulations that other civil aviation authorities are using to address cybersecurity vulnerability, while maintaining the level of safety provided by current Aircraft System Information Security/Protection (ASISP) special conditions.

B. Background

The current trend in airplane design includes an increasing level of integration of airplane, engine, and propeller systems with increased connectivity to internal or external data networks and services. Regulators and industry must constantly monitor the

cybersecurity threat environment in order to identify and mitigate new threat sources. These designs can introduce or allow cybersecurity vulnerabilities from sources such as:

- Field Loadable Software;
- Maintenance laptops;
- Airport or airline gate link networks;
- Public networks, e.g., internet;
- Wireless aircraft sensors and sensor networks;
- Cellular networks;
- Universal Serial Bus (USB) devices;
- Satellite communications;
- Portable electronic devices and portable electronic flight bags (EFBs); and
- GPS and satellite-based augmentation system digital data.

The FAA has found its airworthiness regulations, including §§ 25.1301, 25.1309, 25.1319, 25.1529, 33.28, and 35.23, inadequate and inappropriate to address the cybersecurity vulnerabilities caused by increased interconnectivity. Beginning with the Boeing 787 program, the FAA has been addressing the need to protect aircraft systems from the threat of IUEI. Since then, the FAA has issued special conditions to address IUEI in every new transport category airplane certification project and relevant design change. A special condition is a rule that applies to a particular aircraft, aircraft engine, or propeller design. The FAA issues special conditions when the agency's airworthiness regulations do not contain adequate or appropriate safety standards to address a proposed novel or unusual design feature. The FAA provides the public with an opportunity to comment on proposed special conditions.²

Each set of special conditions addresses a project-specific novel or unusual feature of the applicant's proposed design. The FAA's special conditions addressing cybersecurity on transport category airplanes have generally required applicants' proposed designs to accomplish three things. Applicants have been required to:

1. Show that their proposed airplane designs either provide isolation from or protection against internal or external unauthorized access.
2. Show that their designs prevent inadvertent changes, malicious changes, and all adverse impacts to the airplane equipment, systems, and networks necessary for safe operation.
3. Establish procedures to ensure that they maintain such cybersecurity protections.³

² 14 CFR 21.16.

³ See, e.g., 88 FR 46953 (July 21, 2023) and 89 FR 3333 (January 18, 2024).

Applicants have met the first two criteria using the method of compliance (MoC) part of the cybersecurity special condition issue papers. Special conditions are issued if the existing applicable airworthiness standards do not contain adequate or appropriate safety standards for an aircraft, aircraft engine, or propeller because of novel or unusual design features of the product to be type certificated. Issue papers provide a structured means for describing and tracking the resolution of significant technical, regulatory, and administrative issues that occur during a project. The early cybersecurity MoC followed the positions listed in those issue papers: the applicants created a certification plan meeting those positions, then the FAA approved that certification plan. After RTCA, Inc. published its guidance (Document (DO)-326, DO-355, and DO-356), industry wanted to use them as a MoC.

After it became evident to the FAA that this new level of system interconnectivity would most appropriately be addressed through a single set of objective airworthiness standards, on December 18, 2014, the Aviation Rulemaking Advisory Committee (ARAC) accepted a task from the FAA to provide recommendations regarding ASISP⁴ rulemaking, policy, and guidance on best practices for aircraft systems and parts, including both certification and continued airworthiness. ASISP refers to the protection of aircraft from electronic threats from IUEI. The ARAC created the ASISP Working Group comprised of a wide range of domestic and international industry and government experts tasked to ensure that the resulting recommendations considered relevant design, airworthiness, and international harmonization. On August 22, 2016, the working group submitted their report, including unanimous recommendations, to the ARAC. The ARAC approved and publicly released the report during its September 15, 2016 meeting.⁵

The report contained several recommendations on the necessity for ASISP-related rulemaking and guidance,

⁴ The term ASISP is used to exclude physical security issues related to individuals who could gain physical access to aircraft to cause malicious damage to the aircraft systems (e.g., improper maintenance procedures, fuel contamination, cutting wire bundles), which is addressed by other Federal agencies.

⁵ See Aviation Rulemaking Advisory Committee (ARAC) Aircraft System Information Security/Protection (ASISP) working group to the Federal Aviation Administration, dated October 22, 2016, www.faa.gov/regulations_policies/rulemaking/committees/documents/media/ARACasisp-T1-20150203R.pdf.

¹ RTCA Glossary page 24: Intentional Unauthorized Electronic Interaction (IUEI) is defined, for purposes of this rulemaking, as “[a] circumstance or event with the potential to affect the aircraft due to human action resulting from unauthorized access, use, disclosure, denial, disruption, modification, or destruction of information and/or aircraft system interfaces. Note that this includes malware and the effects of external systems, but does not include physical attacks such as electromagnetic jamming.”

including specific proposals for rule language and destination within the current regulatory framework for both type certification and continued airworthiness. This NPRM addresses the report's recommendations for the FAA to conduct rulemaking to add ASISP requirements to parts 25, 33, and 35 of title 14.⁶

In the report, the ASISP Working Group proposed a regulatory framework that established a single set of objective airworthiness standards for all transport category airplanes. Its structure provided a clear set of discrete requirements for applicants to show compliance. Specific to this proposed rule, the ASISP Working Group recommended the following regulatory text for transport category airplanes:

§ 25.13XX Equipment, Systems, and Network Security Protection

(a) Airplane equipment, systems, and networks, considered separately and in relation to other systems, must be protected from intentional unauthorized electronic interactions that may result in an adverse effect on the safety of the airplane by showing that the security risks have been identified, assessed, and mitigated as necessary.

(b) When required by paragraph (a), applicants must make available procedures and instructions for continued airworthiness to ensure security protections are maintained. The ASISP Working Group further recommended the FAA adopt similar provisions for engine control systems, propeller control systems, and to harmonize the regulatory requirement between U.S. and international regulatory authorities.⁷

On October 5, 2018, Congress enacted H.R.302—FAA Reauthorization Act of 2018 (the “Act”). Section 506 of the Act requires the FAA to consider revising its airworthiness certification regulations to address cybersecurity by protecting aircraft systems, including engines and propellers, from unauthorized internal and external access. The Act further required the FAA to consider the recommendations of the ASISP Working Group discussed above.

Additionally, representatives of the European Union Aviation Safety Agency (EASA) participated in the ASISP Working Group for regulatory harmonization purposes and have implemented the recommendations of the ASISP Working Group to introduce

cybersecurity provisions into their relevant certification specifications (CS). EASA CS prescribe the airworthiness standards for products certified by the European Union: CS–25 large aeroplanes corresponds to 14 CFR part 25 for transport category airplanes, CS–E for engines corresponds to 14 CFR part 33, and CS–P for propellers corresponds to 14 CFR part 35. Like the FAA, prior to implementing the recommendations of the ASISP Working Group, EASA had addressed the protection of aircraft systems from IUEI through the issuance of special conditions.

On February 22, 2019, EASA released NPA 2019–01, Aircraft Cybersecurity, a set of proposed amendments to CS–23, CS–25, CS–27, CS–29, CS–E, CS–ETSO, CS–P and also release their related acceptable means of compliance/guidance material. EASA Decision 2020/006/R “Aircraft cybersecurity” finalized these amendments and their guidance on July 1, 2020, issuing CS–25 Amendment 25, CS–E Amendment 6, and CS–P Amendment 2, along with amendments to CS for other product types. These amendments introduced cybersecurity provisions into the relevant CS, incorporating the provisions of the existing EASA special conditions and the ARAC ASISP recommendations. While EASA also codified cybersecurity provisions for other product types such as small airplanes and rotorcraft, the FAA proposes no such requirements, as existing rules in parts 23 (§§ 23.2500, 23.2505, 23.2510), 27 (§§ 27.1301, 27.1309), and 29 (§§ 29.1301, 29.1309) suffice in these cases.⁸

C. Statement of the Problem

Aircraft, engines, and propellers increasingly incorporate networked bus⁹ architectures susceptible to cybersecurity threats. These threats have the potential to affect the airworthiness of the airplane. These network architectures require cybersecurity provisions to address vulnerabilities to IUEI.¹⁰ The FAA currently addresses transport category airplane security through the issuance of special conditions requiring proposed designs to isolate or protect vulnerable systems

from unauthorized internal or external access.

Over time, the FAA has observed that repeated issuance of project-specific ASISP special conditions could result in cybersecurity-related certification criteria that are neither standardized between projects nor harmonized between the FAA and other Civil Aviation Authorities. These disconnects increase the certification complexity, cost, and time for both the applicant and regulator. This proposed rulemaking package codifies the substantive requirements of frequently-issued cybersecurity special conditions to address these issues.

II. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is issued under the authority described in subtitle VII, part A, subpart III, section 44701, “General Requirements.” Under that section, the FAA is charged with prescribing regulations that promote safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority as it prescribes new safety standards for the design and performance of transport category airplanes, engines, and propellers.

III. Discussion of the Proposed Rule

A. Protection of Transport Airplanes, Engines, and Propellers From IUEI

The FAA is proposing to add new §§ 25.1319, 33.28(n), 35.23(f), and revise their associated appendices, to protect against IUEI that may result in adverse effects on the safety of transport category airplanes, engines, and propellers. The proposed rule would implement ARAC recommendations, harmonize with the corresponding EASA CSs, and reduce if not eliminate the need for the FAA to continue to issue project-specific special conditions addressing cybersecurity threats.

The proposed rule would require applicants to “protect” transport category airplanes, engines, and propellers from IUEI that may result in adverse effects on safety. To provide such protection for each product, applicants would be required by regulation to “identify and assess” the

⁶ Recommendations 02, 14, and 15, respectively.

⁷ The Report also contained recommendations for addressing several other subjects, including cybersecurity concerns related to rotorcraft and small airplanes, which are not addressed in this proposed rulemaking.

⁸ The Report primarily recommended that the FAA undertake policy rather than regulatory changes to address cybersecurity on small airplanes and rotorcraft. *See, e.g.*, sections 2.3 and 2.4 of the Report.

⁹ A bus is a communication system that transfers data between components inside a computer, or between computers.

¹⁰ The FAA uses the term “security” in our rules rather than cybersecurity.

security risks posed by IUEI, and to “mitigate” those risks as necessary for safety, functionality, and continued airworthiness.

- For such identification and assessment of security risk, the applicant would be required to perform a security risk analysis to identify all threat conditions associated with the system, architecture, and external or internal interfaces.

- The FAA would expect such risk analysis to assess the severity of the effect of threat conditions on associated assets (system, architecture, etc.), consistent with the means of compliance the applicant has been using to meet the FAA’s special conditions on this topic.

- Such assessment would also need to analyze these vulnerabilities for the likelihood of exploitation.

- The proposed regulation would then require each applicant to “mitigate” the vulnerabilities, and the FAA expects such mitigation would occur through the applicant’s installation of single or multilayered protection mechanisms or process controls to ensure functional integrity, *i.e.*, protection.

- Finally, each applicant would be required to include the procedures within their instructions for continued airworthiness necessary to maintain such protections.¹¹

- Pursuant to 14 CFR 21.21(b), determinations regarding whether applicants have sufficiently identified and mitigated the security risks from IUEI would be made by the Administrator.

B. Transport Category Airplane Protection (Proposed 14 CFR 25.1319)

The requirements of proposed § 25.1319 are substantively based on the ASISP special conditions the FAA has issued in past transport airplane certification projects and the recommendations of the ARAC ASISP report. The FAA expects applicants would continue meeting the same objectives required by the ASISP special conditions and EASA’s cybersecurity standards.

The FAA proposes that to adequately “mitigate the security risks as necessary for safety, functionality, and continued airworthiness” the applicant would generally need to show that the design accomplishes the first two requirements of the FAA’s ASISP special conditions. First, that the design protects against

unauthorized access from inside or outside of the airplane. Second, that the design prevents malicious changes to, and adverse impacts on, the airplane equipment, systems, and networks required for safe operation.

In addition, certain proposed regulatory terms merit additional explanation. The term “IUEI” means a circumstance or event with the potential to affect the aircraft due to human action resulting from unauthorized access, use, disclosure, denial, disruption, modification, or destruction of information and/or aircraft system interfaces. Note that this definition includes malware and the effects of external systems on aircraft systems but does not include physical attacks or electromagnetic jamming. The new regulations would require applicants to consider the airplane’s equipment, systems, and networks “separately and in relation to other systems.” This language reflects the concern discussed in the ARAC ASISP report that cybersecurity threats can propagate from one system to another.¹²

The FAA also acknowledges that only IUEI vulnerabilities that may result in adverse effects on safety of the airplane require protection. This condition would limit the scope of the required protection to those effects that could impact the safety and airworthiness of the aircraft and its operation. For example, the ARAC ASISP report noted that, while devices used to process passenger credit cards may raise security issues related to passenger information, means other than airworthiness regulations would address such issues unless they also could impact systems with the potential to adversely affect the safety of the airplane.¹³

The regulatory language used for the proposed §§ 25.1319, 33.28(n), 35.23(f), and their associated appendices build upon these concepts in the same manner. While EASA chose to adopt the ARAC’s recommended wording directly, the FAA formatted the language to match existing FAA regulations.

C. Engine Control System and Propeller Control System Protections (Proposed 14 CFR 33.28 and 35.23)

Engine and propeller systems increasingly incorporate networked bus architectures susceptible to cybersecurity threats. These threats have the potential to affect the airworthiness of part 25 airplanes. These network architectures require cybersecurity provisions to address vulnerabilities

from IUEI. Engine and propeller protections against IUEI threats are important because unmitigated cyberattacks can adversely affect the propulsion control functions needed for safe operation of the aircraft. Such attacks could also cause data corruption in crew displays and in health monitoring parameters used in operation and maintenance decisions.

To address this need and respond to the recommendations in the ARAC ASISP report, the FAA proposes to add new §§ 33.28(n) “Engine Control System” and 35.23(f) “Propeller Control System” sections to parts 33 and 35 of title 14 respectively. The proposed rule addresses any engine and propeller systems installed in airplanes, equipment, and networks that are susceptible to IUEI. These systems can include control functions that modulate propulsion output, propulsion controls, monitoring functions that track the health of the engine’s systems, communication functions such as data buses and networks, and auxiliary equipment such as fuel, lube, or pneumatic subsystems with embedded electronics.

Like the part 25 proposed rule, the proposed engine and propeller rules would require the applicant to protect against IUEI that could result in adverse effects on the safety of the airplane. This protection is accomplished by identifying and assessing all security risks caused by IUEI and then mitigating the security risks as necessary for safety, functionality, and continued airworthiness. The FAA expects that applicants would assess such risks using a risk analysis methodology that identifies all system and network vulnerabilities, a common industry practice used to address cybersecurity threats, and determine which vulnerabilities require mitigation for safe operation.

D. Instructions for Continued Airworthiness

Further, proposed revisions to appendix H to part 25 and to appendix A to both parts 33 and 35 would require applicants to prepare all procedures and ICA necessary to ensure continued protection against IUEI. The proposed changes to the appendices of parts 33 and 35 would require the applicant to furnish these procedures and ICA to the first owner of any transport airplane, engine, or propeller and make them available to subsequent operators per 14 CFR 21.50(b). Operators must follow these procedures and instructions to maintain aircraft, engine, and propeller security protections.

¹¹ Instructions for Continued Airworthiness contain the instructions and information necessary for the continued airworthiness of the aircraft, engine, propeller, parts, and appliances as required by the applicable Certification Basis.

¹² Report, pp. 22, 152, and 182.

¹³ Report, pp. 22 and 69.

The FAA intends that the phrase “procedures and instructions for continued airworthiness” convey that maintenance procedures for security protections extend beyond typical ICA content. To accomplish these maintenance procedures, operators develop an Aircraft Network Security Program¹⁴ based on the applicant’s security guidance to ensure conformance to type design and continued airworthiness.

The term “transfer” in the proposed regulation addresses the following activities. The lifecycle of airplanes, engines, and propellers involves data transfers between the onboard and offboard systems that collect and analyze data for health monitoring, trending, and maintenance decisions. These data transfer and software reprogramming activities can create operational vulnerabilities that require the implementation of safeguards to maintain airworthiness. The FAA proposes that these regulations will address such vulnerabilities.

E. Harmonization

EASA CS-25 prescribes the airworthiness standards corresponding to 14 CFR part 25 for products certified by the European Union. For aircraft certification in general, where part 25 and CS-25 differ, an applicant must meet both airworthiness standards if it desires to obtain both a U.S. type certificate and the validation of the type certificate by foreign authorities. Otherwise, the applicant must obtain exemptions, equivalent level of safety findings, special conditions, or the foreign authority’s equivalent to those as necessary to meet one standard in lieu of the other. This proposal harmonizes the FAA’s parts 25, 33, and 35 ASISP requirements with those of EASA, which would benefit manufacturers and modifiers by providing them a single set of requirements with which they must show compliance, thereby reducing the cost and complexity of certification and codifying a consistent level of safety. Unlike the FAA’s proposal, EASA developed its equivalent regulatory text to address a broader range of products aligned with a European Union Horizontal cybersecurity requirement imposed across all industries. The proposed rule would eliminate the need to issue special conditions during the certification process in a manner harmonized with EASA requirements.

This proposed regulatory framework would establish a set of cybersecurity airworthiness standards for the

certification and continued airworthiness of transport category airplanes, engines, and propellers. These standards align with the requirements of previously-issued ASISP special conditions, ARAC recommendations, and the corresponding EASA CS. As noted above, this framework would also have the benefit of reducing cost and time to certify new and changed products for both industry and the FAA.

F. Advisory Material for Proposed §§ 25.1319, 33.28, and 35.23 Miscellaneous Amendments

The FAA has developed proposed Advisory Circular (AC) 20-XXX, “Aircraft Systems Information Security/Protection (ASISP).” This AC would provide guidance on an acceptable means, but not the only means, of showing compliance with proposed §§ 25.1319, 33.28(n), and 35.23(f). It refers to the guidance materials that applicants have been using to show compliance with commonly issued special conditions. The FAA has placed this AC into the docket for comment.

IV. Regulatory Notices and Analyses

Federal agencies consider the impacts of regulatory actions under a variety of Executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563, as amended by Executive Order 14094 (“Modernizing Regulatory Review”), direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate that may result in the expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is \$183 million using the most current (2023) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble presents the FAA’s analysis of the economic impacts of this proposed rule.

In conducting these analyses, the FAA has determined that this proposed rule (1) would have benefits that justify its costs, (2) is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866, as amended; (3) would not have a significant economic impact on a substantial number of small entities; (4) would not create unnecessary obstacles to the foreign commerce of the United States; and (5) would not impose an unfunded mandate on State, local, or Tribal governments, or on the private sector by exceeding the threshold identified above.

A. Regulatory Evaluation

The intended effects of this proposal would be to (1) incorporate the substance of the requirements contained in commonly issued ASISP special conditions, (2) reduce the cost and time necessary to certify new and changed products for both industry and the FAA; (3) harmonize FAA regulations with EASA cybersecurity CS; and (4) address ARAC recommendations. Subsequently, this proposal would create a cost savings for the FAA and the applicant by eliminating the need to continue issuing similar ASISP special conditions.

Aircraft, engines, and propellers increasingly incorporate networked bus architectures susceptible to cybersecurity threats. These threats have the potential to affect the airworthiness of the airplane. These network architectures require cybersecurity provisions to address vulnerabilities to IUEI.

The proposed rule may affect all five U.S. entities manufacturing transport category airplanes, four entities manufacturing engines for transport category airplanes, and four entities manufacturing propellers. Additionally, operators could have modifiers retrofit legacy airplanes with systems that would require cybersecurity provisions. The proposed changes to parts 25, 33, and 35 would apply to applicants for design approval of transport category airplanes, engines, and propellers. Under the proposed rule, the FAA would apply the requirements currently contained in the ASISP special conditions. This action would reduce the costs and time to certify new and changed products while maintaining the level of safety provided by current ASISP special conditions.

Type certification of engines and propellers against cybersecurity threats has not required the issuance of special conditions. An issue paper provided to applicants describes an acceptable means of compliance for existing

¹⁴ See AC 119-1A, Operational Authorization of Aircraft Network Security Program.

§§ 33.28, 33.75, 35.15, and 35.23 rules for these systems. The MoC contains FAA-accepted industry standards for protection against cybersecurity threats.¹⁵ This proposal would codify the requirements for engine control systems and propeller control systems in §§ 33.28(n) and 35.23(f), respectively. Appendix A of these parts would contain the requirements for the applicant to develop procedures and ICA.

The FAA estimated the cost savings from eliminating ASISP special conditions over a ten-year period. The FAA assumes that, in absence of this proposed rule,¹⁶ an equivalent number of special conditions processed from 2013 to 2022 would occur in the next ten years. The FAA processed and issued a total of 68 special conditions for cybersecurity from 2013 through 2022.

The FAA estimates, it would take about 170 hours of FAA's time to process a special condition application of average complexity. The FAA acknowledges that special conditions can vary in complexity. However, for purposes of this analysis, the FAA estimates its time savings from the elimination of ASISP special conditions to average about 170 hours. Multiplying the forecast for special conditions processed annually by processing time provides an estimate for the total time savings from the elimination of cybersecurity special conditions for the FAA over a ten-year period.

The process of issuing special conditions involves engineers, technical writers, and managers, and its cost averages \$13,498 per special condition. To calculate the cost savings from reducing the number of special conditions, the FAA multiplied the forecast for the number of special

conditions issued by its corresponding processing cost.

In summary, over a 10-year period of analysis, this proposal would result in a present value of cost savings for the FAA of about \$783,366 at a three percent discount rate with an annualized cost savings of about \$91,834. Applying a seven percent discount rate would result in a present value cost savings of about \$645,584 with an annualized net cost savings of \$91,916.

The cost savings above does not include the applicants for type certificates for transport category airplanes that would result from the elimination of the need to issue ASISP special conditions due to a lack of information. The FAA requests information for this group of applicants, along with supporting data, for the estimated time and cost savings.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) and the Small Business Jobs Act of 2010 (Pub. L. 111–240), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The FAA is publishing this Initial Regulatory Flexibility Analysis (IRFA) to aid the public in commenting on the potential impacts on small entities from this proposal. The FAA invites interested parties to submit data and

information regarding the potential economic impact that would result from the proposal. The FAA will consider comments when making a determination or when completing a Final Regulatory Flexibility Assessment.

An IRFA must contain the following:

(1) A description of the reasons why the action by the FAA is being considered;

(2) A succinct statement of the objective of, and legal basis for, the proposed rule;

(3) A description of, and where feasible, an estimate of the number of small entities to which the proposed rule would apply;

(4) A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that would be subject to the requirement and the type of professional skills necessary for the preparation of the report or record;

(5) An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule; and

(6) A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes, and which minimize any significant economic impact of the proposed rule on small entities.

Currently, five entities in the United States manufacture transport category airplanes, four entities manufacture engines for transport category airplanes, and four entities manufacture propellers. The table below provides the North American Industrial Classification System (NAICS) codes for manufacturing aircraft, aircraft engines, and aircraft propellers, along with the size standard in terms of number of employees established by the Small Business Administration.¹⁷

TABLE 1

NAICS Code	Description	Size standard (employees)
336411	Aircraft Manufacturing	1,500
336412	Aircraft Engine and Engine Parts Manufacturing	1,500
336413	Other Aircraft Parts and Auxiliary Equipment Manufacturing	1,250

Based on the Small Business Administration (SBA) size standard for NAICS Code 336411 Aircraft Manufacturing, and NAICS Code

336412 Aircraft Engine and Engine Parts Manufacturing, the five transport category airplane manufacturers and four transport airplane engine

manufacturers are not classified as small.

Of the four U.S. manufacturers of propellers (NAICS code 336413), only

¹⁵ For example, cybersecurity standards that have been passed by RTCA and the European Organization for Civil Aviation Equipment (EUROCAE) are an FAA-accepted Means of Compliance.

¹⁶ The FAA acknowledges that upon finalization of this proposed rule cybersecurity special conditions may still be required on occasion.

¹⁷ Small Business Administration, Table of Small Business Size Standards Matched to NAICS Codes. Effective March 17, 2023. www.sba.gov/document/support-table-size-standards.

one had published data for their number of employees. The entity with published data is not categorized as small by SBA standards. The FAA does not know how many people the three remaining propeller manufacturers employ. Therefore, the FAA does not know whether these three remaining manufacturers are small entities.

This proposed rulemaking would standardize the FAA's criteria for addressing cybersecurity threats for transport category airplanes, engines, and propellers to reduce certification costs and time while maintaining the same level of safety provided by current special conditions. Therefore, it results in cost savings for the industry. The FAA welcomes comments on this analysis.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this proposed rule and determined that its objective is to promote the safety of the American public and does not exclude imports that meet this objective. As a result, the FAA does not consider this proposed rule as creating an unnecessary obstacle to foreign commerce.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. The FAA determined that the proposed rule would not result in the expenditure of \$183 million or more by State, local, or

Tribal governments, in the aggregate, or the private sector, in any one year.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA) in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6f for regulations and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order (E.O.) 13132, Federalism. The FAA has determined that this proposed action would not have a substantial direct effect on the States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government, and, therefore, would not have federalism implications.

B. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Consistent with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,¹⁸ and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation

Policy and Procedures,¹⁹ the FAA ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to affect uniquely or significantly their respective Tribes. At this point, the FAA has not identified any unique or significant effects, environmental or otherwise, on tribes resulting from this proposed rule.

C. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The FAA has determined that it would not be a “significant energy action” under the Executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this proposed action under the policy and agency responsibilities of E.O. 13609. The FAA has determined that this proposed action would eliminate differences between U.S. aviation standards and those of other civil aviation authorities.

VI. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposal in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written

¹⁹ See FAA Order No. 1210.20, dated January 28, 2004, <https://www.faa.gov/documentLibrary/media/1210.pdf>.

¹⁸ 65 FR 67249 (November 6, 2000).

comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

B. Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

C. Electronic Access and Filing

A copy of this NPRM, all comments received, any final rule, and all background material may be viewed online at www.regulations.gov using the docket number listed above. A copy of this proposed rule will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours a day, 365 days a year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at www.federalregister.gov and the Government Publishing Office's website at www.govinfo.gov. A copy may also be found at the FAA's Regulations and Policies website at www.faa.gov/regulations_policies.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence

Avenue SW, Washington, DC 20591, or by calling (202) 267-9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

D. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** section of this document. To find out more about SBREFA on the internet, visit www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects

14 CFR Part 25

Aircraft, Aviation safety, Navigation (air), Reporting and recordkeeping requirements.

14 CFR Part 33

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 35

Aircraft, Aviation safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

- 1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702 and 44704; Pub. L. 115–254, 132 Stat 3281 (49 U.S.C. 44903 note).

- 2. Add § 25.1319 under the undesignated center heading "General" to read as follows:

§ 25.1319 Equipment, systems, and network information security protection.

(a) *Airplane equipment, systems, and network information security protection.* Airplane equipment, systems, and networks—considered separately and in relation to other systems—must be protected from intentional unauthorized electronic interactions that may result in

adverse effects on the safety of the airplane. The applicant must—

(1) Identify and assess the security risks from all intentional unauthorized electronic interactions.

(2) Mitigate the security risks as necessary for safety, functionality, and continued airworthiness.

(3) Prepare and make available all procedures and instructions for continued airworthiness necessary to maintain security protections in accordance with appendix H to this part.

(b) [Reserved]

■ 3. In appendix H:

■ a. Under the heading H25.1, revise paragraph (a); and

■ b. Under the heading H25.3, add paragraph (h);

The revision and addition read as follows:

Appendix H to Part 25—Instructions for Continued Airworthiness

H25.1 General.

(a) This appendix specifies requirements for preparation of Instructions for Continued Airworthiness as required by §§ 25.1319, 25.1529, 25.1729, and applicable provisions of parts 21 and 26 of this chapter.

* * * * *

H25.3 Content.

* * * * *

(h) Procedures and instructions necessary to maintain airplane security protections from intentional unauthorized electronic interactions.

* * * * *

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

- 5. The authority citation for part 33 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

- 6. In § 33.28, add paragraph (n) to read as follows:

§ 33.28 Engine control systems.

* * * * *

(n) *Engine equipment, systems, and network information security protection.* Engine control, monitoring and auxiliary equipment, systems, and networks—considered separately and in relation to other systems—must be protected from intentional unauthorized electronic interactions that may result in adverse effects on the safety of the engine or the aircraft. The applicant must—

(1) Identify and assess the security risks from all intentional unauthorized electronic interactions.

(2) Mitigate such security risks as necessary for safety, functionality, and continued airworthiness.

(3) Prepare and make available all procedures and instructions for continued airworthiness necessary to maintain security protections in accordance with appendix A to this part.

■ 7. In appendix A, under the heading a33.3, add paragraph (a)(10) to read as follows:

Appendix A to Part 33—Instructions for Continued Airworthiness

* * * * *

a33.3 content

* * * * *

(a) * * *

(10) Procedures and instructions for transfer of engine control software, monitoring software, and data between aircraft, engines, and ground systems to maintain information security protections as required by § 33.28(n).

* * * * *

PART 35—AIRWORTHINESS STANDARDS: PROPELLERS

■ 8. The authority citation for part 35 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, 44704.

■ 9. In § 35.23, add paragraph (f) to read as follows:

§ 35.23 Propeller control system.

* * * * *

(f) Propeller control, monitoring and auxiliary equipment, systems, and networks—considered separately and in relation to other systems—must be protected from intentional unauthorized electronic interactions that may result in adverse effects on the safety of the propeller or the aircraft. The applicant must—

(1) Identify and assess the security risks from all intentional unauthorized electronic interactions.

(2) Mitigate such security risks as necessary for safety, functionality, and continued airworthiness.

(3) Prepare and make available all procedures and instructions for continued airworthiness necessary to maintain security protections in accordance with appendix A to this part.

■ 10. In appendix A, under the heading a35.3, add paragraph (a)(10) to read as follows:

Appendix A to Part 35—Instructions for Continued Airworthiness

* * * * *

a35.3 content

(a) * * *

(10) Procedures and instructions for transfer of propeller control software, monitoring software, and data between aircraft, propellers, and ground systems to

maintain information security protections as required by § 35.23(f).

* * * * *

Issued under authority provided by 49 U.S.C. 106(f) and 44701(a), and 44703 in Washington, DC.

Wesley L. Mooty,
Acting Executive Director, Aircraft Certification Service.
[FR Doc. 2024–17916 Filed 8–20–24; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2022; Project Identifier MCAI–2024–00189–T]
RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X, FALCON 900EX, and FALCON 2000EX airplanes. This proposed AD was prompted by reported occurrences of swelling of the lithium-polymer internal and external batteries of certain electronic display units (EDUs). This proposed AD would require modifying certain EDUs and would prohibit the installation of affected parts, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 7, 2024.

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

- *Federal eRulemaking Portal*: Go to *regulations.gov*. Follow the instructions for submitting comments.
- *Fax*: 202–493–2251.
- *Mail*: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery*: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–2022; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*. It is also available at *regulations.gov* under Docket No. FAA–2024–2022.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3226; email: *tom.rodriguez@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the ADDRESSES section. Include “Docket No. FAA–2024–2022; Project Identifier MCAI–2024–00189–T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner.

Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206-231-3226; email: tom.rodriguez@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2024-0072, dated March 15, 2024 (EASA AD 2024-0072) (also referred to as the MCAI), to correct an unsafe condition for certain Dassault Aviation Model FALCON 7X, FALCON 900EX, and FALCON 2000EX airplanes. The MCAI states that occurrences were reported of swelling of the lithium-polymer internal and external batteries of CMA-1310 EDU having part number (P/N) 100-604073-000, with a mod-status between 2 and 6 (inclusive). The swelling occurs due to a high inrush charge and discharge current stress condition applied on a deeply discharged lithium-polymer battery. The FAA is proposing this AD to prevent internal and external battery swelling. This condition, if not corrected, could lead to the thermal

runaway of a battery, possibly resulting in the release of heat, smoke, fire, and explosion in the cockpit.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-2022.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024-0072 specifies procedures for modifying CMA-1310 EDUs having P/N 100-604073-000 and with current mod-status between 2 and 6 (inclusive) to a mod-status 7 or higher, including a visual inspection of the external removable battery for defects (swelling) and replacement of any defective external removable battery with a new external removable battery, and updating the BIOS/EC firmware. EASA AD 2024-0072 prohibits the installation of CMA-1310 EDU having P/N 100-604073-000 and with a mod-status between 2 and 6 (inclusive) on any airplane.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in

EASA AD 2024-0072 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2024-0072 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2024-0072 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2024-0072 does not mean that operators need comply only with that section. For example, where the AD requirement refers to "all required actions and compliance times," compliance with this AD requirement is not limited to the section titled "Required Action(s) and Compliance Time(s)" in EASA AD 2024-0072. Service information required by EASA AD 2024-0072 for compliance will be available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-2022 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 719 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 4 work-hours × \$85 per hour = \$340	\$20,840	Up to \$21,180	Up to \$15,228,420.

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on

the results of any required actions. The FAA has no way of determining the

number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Actions	Labor cost	Parts cost	Cost per product
Replace one external battery	1 work-hour × \$85 per hour = \$85	\$430	\$515

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Dassault Aviation: Docket No. FAA–2024–2022; Project Identifier MCAI–2024–00189–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 7, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X, FALCON 900EX, and FALCON 2000EX airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0072, dated March 15, 2024 (EASA AD 2024–0072).

Note 1 to paragraph (c): Model FALCON 7X airplanes with modification M1000 incorporated are commonly referred to as "Model FALCON 8X" airplanes as a marketing designation.

Note 2 to paragraph (c): Model FALCON 900EX airplanes with modification M3083 incorporated are commonly referred to as "Model FALCON 900EX Easy, FALCON 900LX and FALCON 900DX" airplanes as a marketing designation.

Note 3 to paragraph (c): Model FALCON 2000EX airplanes with modification M1691 incorporated are commonly referred to as "Model FALCON 2000EX Easy, FALCON 2000LX, FALCON 2000LXS, FALCON 2000S, and FALCON 2000DX" airplanes as a marketing designation.

(d) Subject

Air Transport Association (ATA) of America Code 46, Information systems.

(e) Unsafe Condition

This AD was prompted by reported occurrences of swelling of the lithium-polymer internal and external batteries of CMA–1310 electronic display units (EDUs) having part number (P/N) 100–604073–000, with a mod-status between 2 and 6 (inclusive). The FAA is proposing this AD to prevent internal and external battery swelling. The unsafe condition, if not addressed, could lead to the thermal runaway of a battery, possibly resulting in the release of heat, smoke, fire, and explosion in the cockpit.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0072.

(h) Exceptions to EASA AD 2024–0072

(1) Where EASA AD 2024–0072 refers to its effective date, this AD requires using the effective date of this AD.

(2) Paragraph (1) of EASA AD 2024–0072 specifies to "replace each affected part with a serviceable part. This can be accomplished in accordance with the instructions of the SB." This AD, however, requires replacing that text with "replace each affected part with a serviceable part in accordance with the Accomplishment Instructions of the SB."

(3) This AD does not adopt the "Remarks" section of EASA AD 2024–0072.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Additional Information

For more information about this AD, contact Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3226; email: tom.rodriguez@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2024–0072, dated March 15, 2024.

(ii) [Reserved]

(3) For EASA AD 2024–0072 identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You

may find this EASA AD on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on August 12, 2024.

Victor Wicklund,

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

[FR Doc. 2024–18484 Filed 8–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2025; Project Identifier MCAI–2024–00120–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A321–251NX, –252NX, –253NX, –271NX, and –272NX airplanes. This proposed AD was prompted by the discovery during a quality review performed during manufacturing, that a torque strip indicator (material “Dykem”) had been applied on the orifice fitting on certain slides’ inflation reservoirs’ venting holes. This proposed AD would require an inspection for discrepancies of affected parts (certain reservoirs having certain orifices) and replacement of discrepant affected parts, and would prohibit installing affected parts, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 7, 2024.

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

- **Federal eRulemaking Portal:** Go to regulations.gov. Follow the instructions for submitting comments.

- **Fax:** 202–493–2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2024–2025; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at regulations.gov under Docket No. FAA–2024–2025.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT:

Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3667; email timothy.p.dowling@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2024–2025; Project Identifier MCAI–2024–00120–T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other

information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to regulations.gov, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3667; email timothy.p.dowling@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2024–0057, dated February 28, 2024 (EASA AD 2024–0057) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A321–251NX, –252NX, –253NX, –271NX, and –272NX airplanes. The MCAI states that during a quality review performed during manufacturing, a quality escape was identified on the Model A321NX door 3 slide and offwing slide inflation reservoirs’ venting holes, where a torque strip indicator (material “Dykem”) has been applied on the orifice fitting (clogging the vent hole). This condition, in combination with a slide reservoir pressure loss, if not detected and corrected, could lead to deployment in flight of a non-inflated slide, possibly resulting in damage to, and reduced control of, the airplane.

The FAA is proposing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–2025.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0057 specifies a general visual inspection of affected parts (certain reservoirs having certain orifices) for discrepancies (the presence of “Dykem” material on the orifice fitting) and replacement of discrepant affected parts, and prohibits installing affected parts. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in ADDRESSES.

FAA’s Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA

is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2024–0057 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2024–0057 by reference in the FAA final rule. This

proposed AD would, therefore, require compliance with EASA AD 2024–0057 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2024–0057 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2024–0057. Service information required by EASA AD 2024–0057 for compliance will be available at *regulations.gov* under Docket No. FAA–2024–2025 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 227 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × \$85 per hour = \$85	\$0	\$85	\$19,295

The FAA estimates the following costs to do any necessary on-condition action that would be required based on

the results of any required actions. The FAA has no way of determining the

number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
1 work-hour × \$85 per hour = \$85	Negligible	\$85

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in

Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not

have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Airbus SAS: Docket No. FAA–2024–2025; Project Identifier MCAI–2024–00120–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 7, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A321–251NX, –252NX, –253NX, –271NX, and –272NX airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by the discovery during a quality review performed during manufacturing, that a torque strip indicator (material “Dykem”) had been applied on the orifice fitting on certain slides’ inflation reservoirs’ venting holes. The FAA is issuing this AD to address blocked venting holes on the orifice fitting on an escape slide’s inflation reservoir. The unsafe condition, if not addressed, could, in combination with a slide reservoir pressure loss, result in deployment in flight of a non-inflated slide, possibly resulting in damage to, and reduced control of, the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2024–0057, dated February 28, 2024 (EASA AD 2024–0057).

(h) Exceptions to EASA AD 2024–0057

- (1) Where EASA AD 2024–0057 refers to March 13, 2024, or its effective date, this AD requires using the effective date of this AD.
- (2) This AD does not adopt the “Remarks” section of EASA AD 2024–0057.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information referenced in EASA AD 2024–0057 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3667; email timothy.p.dowling@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2024–0057, dated February 28, 2024.

(ii) [Reserved]

(3) For EASA AD 2024–0057, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this EASA AD on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locationsoremailfr.inspection@nara.gov.

Issued on August 12, 2024.

Peter A. White,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–18483 Filed 8–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2024–2023; Project Identifier MCAI–2023–01246–T]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–100–1A10 airplanes. This proposed AD was prompted by uncommanded horizontal stabilizer motion during several in-service events caused by a problem with the trim switch wiring. This proposed AD would require installing the pitch/roll trim switch relays. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 7, 2024.

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

- *Federal eRulemaking Portal:* Go to regulations.gov. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

• *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-2023; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Bombardier material identified in this proposed AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; phone 514-855-2999; email ac.yul@aero.bombardier.com; website [bombardier.com](https://www.bombardier.com).

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

FOR FURTHER INFORMATION CONTACT:

Steven Dzierzynski, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email 9-avs-nyaco-cos@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2024-2023; Project Identifier MCAI-2023-01246-T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to [regulations.gov](https://www.regulations.gov), including any personal information you provide. The agency

will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Steven Dzierzynski, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email 9-avs-nyaco-cos@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF-2023-77, dated December 7, 2023 (Transport Canada AD CF-2023-77) (also referred to after this as the MCAI), to correct an unsafe condition on certain Bombardier, Inc., Model BD-100-1A10 airplanes. The MCAI states that during several in-service events, following a STAB TRIM FAULT advisory message and an auto-pilot disconnect, both pilot and co-pilot commands to trim the horizontal stabilizer nose-up resulted in a nose-down movement of the horizontal stabilizer. In some events, the horizontal stabilizer reached the full travel nose-down position before the crew recognized the nature of the problem, and quickly recovered control of the airplane for safe landing. Transport Canada issued AD CF-2022-03, dated February 1, 2022 (Transport Canada AD CF-2022-03) (which corresponds to FAA AD 2022-12-02 (87 FR 34125, June 6, 2022)), as a mitigating action to require the use of an Expanded Pitch Trim Pre-Flight Check, the use of Trim Malfunction procedures, the revision of the AP STAB TRIM FAIL caution and STAB TRIM FAULT advisory procedures to address this unsafe condition. During the ongoing

investigation by Bombardier and the supplier of the horizontal stabilizer pitch/roll trim switch (trim switch), Bombardier determined that one of the springs within the trim switch had failed. The supplier of the spring was changed in 2019. The majority of observed trim switch failures occurred in trim switches that were manufactured after 2019. Consequently, Transport Canada issued AD CF-2022-24, dated May 2, 2022 (Transport Canada AD CF-2022-24) (which corresponds to FAA AD 2023-02-01 (88 FR 7856, February 7, 2023)), to remove and replace the defective springs in the affected fleet. At that time, Bombardier also found an existing issue with the trim switch wiring installation. The problem with the trim switch wiring was identified as the main cause of the in-service unintended horizontal stabilizer motion events. On this airplane model, manual trim is accomplished by enabling the trim function by both pressing down on the trim switch and simultaneously moving the switch up, down, left, or right, as required to command trim in pitch or roll. The current wiring of the system is such that an enable signal originating from either the pilot-side or the copilot-side trim switch will enable both sides. By design, the pilot-side trim commands have priority over the copilot-side trim commands. Thus, if trim is enabled via the copilot-side trim switch, and the pilot-side trim switch malfunctions, it is possible for trim to move uncommanded or opposite to the intended direction. Transport Canada AD CF-2023-77 requires changes to the trim switch wiring installation to ensure the pilot and co-pilot trim Enable/Arm switch signals remain segregated in both roll and pitch axes.

The FAA is proposing this AD to address the problem with the trim switch wiring, which is the main cause of the uncommanded horizontal stabilizer motion. The unsafe condition, if not addressed, could result in increased crew workload and reduced safety margins, and if the flightcrew is unable to regain control of the horizontal stabilizer, would result in loss of control of the airplane and high control forces.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-2023.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Bombardier Service Bulletin 100-27-22 and Bombardier Service Bulletin 350-27-012, both dated December 29, 2022. The material specifies procedures to install the pitch/roll trim switch relays. The

installation includes reworking the plate assembly; installing relay bracket assemblies, relays, ground return stacks on the relay bracket assemblies, wires for the relays, and line replaceable units and trays on the left-side and right-side avionics racks; and performing operational testing. These documents are distinct since they apply to different airplane serial numbers.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and material referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the material already described.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 359 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 45 work-hours × \$85 per hour = Up to \$3,825	\$3,582	Up to \$7,407	Up to \$2,659,113.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Bombardier, Inc.: Docket No. FAA-2024-2023; Project Identifier MCAI-2023-01246-T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 7, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD-100-1A10 airplanes, certificated in any category, serial numbers 20003 through 20500 inclusive and 20501 through 20936 inclusive.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by uncommanded horizontal stabilizer motion during several in-service events caused by a problem with the trim switch wiring. The FAA is issuing this AD to address the problem with the trim switch wiring. The unsafe condition, if not addressed, could result in increased crew workload and reduced safety margins, and if the flightcrew is unable to regain control of the horizontal stabilizer, would result in loss of control of the airplane and high control forces.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Installation of Pitch/Roll Trim Switch Relays and Tests

Within 3,000 flight hours or 5 years, whichever occurs first, from the effective date of this AD, install the pitch/roll trim switch relays, in accordance with sections 2.B. and 2.C. of the Accomplishment Instructions of the applicable material specified in paragraph (g)(1) or (2) of this AD.

(1) Bombardier Service Bulletin 100-27-22, dated December 29, 2022 (for airplane serial numbers 20003 through 20500 inclusive).

(2) Bombardier Service Bulletin 350-27-012, dated December 29, 2022 (for airplane serial numbers 20501 through 20936 inclusive).

(h) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation

Branch, mail it to the address identified in paragraph (i) of this AD. Information may be emailed to: 9-AVS-NYACO-COS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or Transport Canada; or Bombardier, Inc.'s Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Additional Information

For more information about this AD, contact Steven Dzierzynski, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email 9-avs-nyaco-cos@faa.gov.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Service Bulletin 100-27-22, dated December 29, 2022.

(ii) Bombardier Service Bulletin 350-27-012, dated December 29, 2022.

(3) For Bombardier material identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; phone 514-855-2999; email ac.yul@aero.bombardier.com; website bombardier.com.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on August 12, 2024.

Victor Wicklund,

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

[FR Doc. 2024-18478 Filed 8-20-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 20

[REG-119683-22]

RIN 1545-BQ88

Revising Qualified Domestic Trust Regulations Under Section 2056A To Update Outdated References and Procedures

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Federal estate tax regulations applicable to estates of decedents passing property to or for the benefit of a noncitizen spouse in a domestic trust for which the executor of the decedent's estate has made an election to be a qualified domestic trust and the trust satisfies all of the requirements for such treatment under applicable Federal tax law and regulations. The proposed regulations would modify those regulations to update outdated references, information, and procedures. The proposed regulations primarily would affect the estates of decedents passing property to or for the benefit of a noncitizen spouse in such a trust pursuant to applicable Federal tax law.

DATES: Written or electronic comments as well as requests for a public hearing must be received by October 21, 2024.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-119683-22) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the "Comments and Requests for a Public Hearing" section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG-119683-22), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Donna Douglas, (202) 317-6859 (not a toll-free number); concerning the submission of comments and/or requests for a public hearing, Vivian

Hayes by email at publichearings@irs.gov or by phone at (202) 317-6901 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Estate Tax Regulations (26 CFR part 20) under section 2056A of the Internal Revenue Code (Code).

I. Statutory Overview

Although section 2056(d)(1) of the Code generally disallows a marital deduction for the value of property passing to a noncitizen spouse of a decedent or donor, section 2056(d)(2)(A) allows a marital deduction for such property passing to the decedent's surviving spouse in a qualified domestic trust (QDOT), as defined in section 2056A. Section 2056A of the Code was added by the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647) and further amended by the Revenue Reconciliation Act of 1989 (Pub. L. 101-239), the Revenue Reconciliation Act of 1990 (Pub. L. 101-508), the Taxpayer Relief Act of 1997 (Pub. L. 105-34), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107-16).

Generally, for purposes of sections 2056 and 2056A, section 2056A(a) defines the term "qualified domestic trust," with respect to any decedent, as any trust if (1) its trust instrument meets certain requirements regarding the identity and powers of the trustee, (2) such trust meets such requirements as the Secretary of the Treasury or her delegate (Secretary) may by regulations prescribe to ensure the collection of any tax imposed by section 2056A(b), and (3) an election under section 2056A by the executor of the decedent's estate applies to such trust. Section 2056A(b) generally prescribes rules relating to a deferred estate tax on distributions of corpus from the QDOT during the spouse's lifetime and on the balance of the corpus held in the QDOT on the date of the spouse's death (section 2056A estate tax). Section 2056A(c) provides definitions of certain relevant terms, and section 2056A(d) provides rules regarding the section 2056A election. Finally, section 2056A(e) directs the Secretary to prescribe regulations as may be necessary or appropriate to carry out the purposes of section 2056A.

II. Regulatory Overview

Regulations addressing the application of sections 2056(d) and 2056A were published in the **Federal Register** (58 FR 305) as proposed

regulations on January 5, 1993 (1993 proposed regulations). The 1993 proposed regulations included proposed rules under §§ 20.2056A–1 through 20.2056A–13. Relevant to these proposed regulations, § 20.2056A–2 of the 1993 proposed regulations sets forth the proposed qualification requirements for a QDOT; § 20.2056A–4 of the 1993 proposed regulations sets forth the proposed procedures for conforming marital trust and nontrust marital transfers to the requirements of a QDOT; and § 20.2056A–11 of the 1993 proposed regulations sets forth the proposed rules relating to filing requirements and payment of the section 2056A estate tax.

On August 22, 1995, after consideration of all written comments and public hearing testimony, the 1993 proposed regulations were adopted as final regulations by the publication of TD 8612 in the **Federal Register** (60 FR 43531), with one exception: section 20.2056A–2(d) of the 1993 proposed regulations, which had proposed additional requirements to ensure collection of the section 2056A estate tax, was not finalized. On the same date, the Treasury Department and the IRS published TD 8613 in the **Federal Register** (60 FR 43554), which included temporary regulations under § 20.2056A–2T(d) (1995 temporary regulations). The text of the 1995 temporary regulations also served, by cross-reference, as the text of reissued proposed regulations published on the same date in the **Federal Register** (60 FR 43574) to address and solicit further commentary on the additional requirements necessary to ensure collection of the section 2056A estate tax (1995 proposed regulations). On November 29, 1996, the Treasury Department and the IRS published TD 8686 in the **Federal Register** (61 FR 60551) to adopt § 20.2056A–2(d) of the 1995 proposed regulations as final regulations (1996 final regulations). In an apparent oversight, the 1996 final regulations did not update the references to § 20.2056A–2T(d) found in §§ 20.2056A–2, 20.2056A–4, and 20.2056A–11.

Explanation of Provisions

The Treasury Department and the IRS have determined that an update of §§ 20.2056A–2, 20.2056A–4, and 20.2056A–11 of the Estate Tax Regulations is required to remove outdated references to § 20.2056A–2T(d). An update of § 20.2056A–2 is also required to correct outdated references to a publication, to IRS officials and offices, and to procedures and addresses to be used by certain

trustees to provide a security instrument to satisfy the requirements of a QDOT. In addition, an update to the definition of “finally determined” in § 20.2056A–2(d)(1)(iii) is needed because the current definition of that term includes an outdated reference to the issuance of an estate tax closing letter. An update of §§ 20.2056A–4 and 20.2056A–11 is required to properly identify the titles of IRS officials authorized to enter into agreements with respect to the section 2056A estate tax and to grant extensions of time to file a Form 706–QDT, *U.S. Estate Tax Return for Qualified Domestic Trusts*, or to pay any section 2056A estate tax.

The Treasury Department and the IRS are aware that other matters in the current regulations under section 2056A may be outdated, but these matters do not cause the current regulations to be substantively inaccurate. For instance, the examples in § 20.2056A–6 use outdated figures but accurately illustrate the application of the rules of the regulations. Modifications to update information that does not impede the ability of taxpayers and their representatives to comply with the regulations, or the ability of the IRS to process information provided by taxpayers or their representatives, are outside the scope of these proposed regulations.

I. Section 20.2056A–2—Qualification Requirements for QDOT

A. Updating References to the 1995 Temporary Regulations in § 20.2056A–2(a) and (b)

Current § 20.2056A–2(a) and (b)(2) and (3) refer to § 20.2056A–2T(d) in describing certain qualification requirements for QDOTs. Because the 1995 proposed regulations have been finalized, the Treasury Department and the IRS propose to update these paragraphs to reference § 20.2056A–2(d) instead of § 20.2056A–2T(d).

B. Updating the Definition of Finally Determined in § 20.2056A–2(d)(1)(iii)

Current § 20.2056A–2(d)(1)(i) and (ii) provide alternate additional requirements, one of which will apply to a QDOT depending upon the fair market value, as finally determined for Federal estate tax purposes, of the assets passing to the QDOT. Current § 20.2056A–2(d)(1)(iii) provides the definition of “finally determined” for purposes of § 20.2056A–2(d)(1)(i) and (ii). This definition relies in part on the issuance by the IRS of an estate tax closing letter, an IRS practice that was routine prior to June 1, 2015, for every Federal estate tax return filed. Estate tax

closing letters are no longer routinely issued by the IRS. The Treasury Department and the IRS propose to update § 20.2056A–2(d)(1)(iii) to conform to current IRS procedures for establishing the final value of an asset for Federal estate tax purposes.

C. Updating the Name of Offices, Addresses, Titles of Officials, Reference to the Uniform Customs and Practice for Documentary Credits, and Procedure for Filing Required Security Instruments Set Forth in § 20.2056A–2(d)(1)(i)(B) and (C)

Current § 20.2056A–2(d)(1)(i) requires that QDOTs with assets whose value exceeds \$2 million must satisfy one of three alternative security arrangements to secure the payment of the section 2056A estate tax. Paragraphs (B) and (C) of § 20.2056A–2(d)(1)(i), respectively, describe the requirements and form of the bond and the letter of credit that may be used as the required security arrangement. Both the provisions describing the requirements for each type of security, and the forms themselves, detail the notifications that must be given to the IRS of a decision not to renew the security arrangement and of the establishment of a replacement arrangement, if any. Precise addresses and IRS officials are identified in these paragraphs as the recipients of these notices but, as a result of changes in the titles of various IRS officials and the identification and location of the IRS offices responsible for the functions relevant to these security arrangements, this information is no longer accurate. Specifically, with respect to decedents who are residents of the United States, the required forms refer to the District Director of the District Office for Estate and Gift Tax Examination Group at the address of the District Office of the IRS that has examination jurisdiction over the decedent’s estate. With respect to decedents who are nonresident noncitizens and U.S. citizens who die domiciled outside the United States, the current regulations direct these notices to the Estate Tax Group, Assistant Commissioner (International) at 950 L’Enfant Plaza, CP:IN:D:C:EX:HQ:1114, Washington, DC 20241. Neither of these tax examination groups currently exists, and the examination of estate and gift tax returns is now part of a specialty examination group that keeps a national inventory. The Estate Tax Advisory Group currently is the collection advisory office of the IRS tasked with monitoring the bond or letter of credit until there is a taxable disposition of the QDOT’s assets or until the IRS determines that no tax will be owed (for

example, when a noncitizen spouse becomes a citizen and the requirements of section 2056A(b)(12) are met). Accordingly, to correct the outdated references and to avoid future obsolescence if an office is moved, renamed, or eliminated, the Treasury Department and the IRS propose to update § 20.2056A–2(d)(1)(i)(B)(1) and (2), and § 20.2056A–2(d)(1)(i)(C)(1) and (2) to direct trustees, taxpayers, and their representatives to IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>, to determine the correct address to use when submitting the notices required in these sections of the regulations.

The text required by current § 20.2056A–2(d)(1)(i)(C)(2) and (3) to be included in certain documents includes a reference to the *Uniform Customs and Practice for Documentary Credits*, 1993 Revision, ICC Publication No. 500 (Publication 500), which is published by the International Chamber of Commerce. The 1993 revision of Publication 500 is no longer the most recent edition of that publication. Accordingly, to correct the outdated references and to avoid any future obsolete references, the Treasury Department and the IRS propose to update these regulations to include language directing trustees, taxpayers, and their representatives to the most recent revision of Publication 500, which can be found on www.iccwbo.org.

Current § 20.2056A–2(d)(1)(i)(B)(4) and (C)(5), respectively, provide that the bond or letter of credit is to be filed with the decedent's Federal estate tax return (Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*, or Form 706–NA, *United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States*). Security instruments attached to a decedent's Federal estate tax return are not easily identified, which hinders prompt forwarding to the Estate Tax Advisory Group. Accordingly, the Treasury Department and the IRS propose to update these paragraphs to provide that a security instrument provided in compliance with § 20.2056A–2(d) is not to be attached to the decedent's Federal estate tax return (Form 706 or Form 706–NA), but instead is to be filed by submitting it directly to the Estate Tax Advisory Group. In addition, the Treasury Department and the IRS propose to update these paragraphs to direct trustees, taxpayers, and their representatives to IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in

IRS forms and instructions or on <https://www.irs.gov>, to determine the correct address that must be used to submit a security instrument provided in compliance with § 20.2056A–2(d).

II. Section 20.2056A–4—Procedures for Conforming Marital Trusts and Nontrust Marital Transfers to the Requirements of a QDOT

A. Updating References to the 1995 Temporary Regulations in § 20.2056A–4(a)(1), (2), and (c)(1)

Current § 20.2056A–4(a)(1) applies the requirements of § 20.2056A–2T(d) in setting out the procedures for conforming marital trusts and nontrust marital transfers to the requirements of a QDOT. Current § 20.2056A–4(a)(2) refers to § 20.2056A–2T(d)(1) in describing the consequences of failing to comply with applicable requirements in the case of a judicial reformation, and to § 20.2056A–2T(d)(3) with regard to the required annual statement. Current § 20.2056A–4(c)(1) refers to § 20.2056A–2T(d) in describing the circumstances under which property passing to a surviving spouse under a plan, annuity, or other arrangement which is not assignable or transferable (or is treated as such) can be treated as passing to the surviving spouse in the form of a QDOT. The Treasury Department and the IRS propose to update current § 20.2056A–4(a)(1), (2), and (c)(1) to reference § 20.2056A–2(d) instead of § 20.2056A–2T(d) to reflect the publication of the 1996 final regulations.

B. Updating Titles of Officials in § 20.2056A–4(c)(6) and (7)

Current § 20.2056A–4(c)(2) and (3) describe alternative procedures the executor may use to cause a plan, annuity, or other arrangement which is not assignable or transferable (or is treated as such) to be treated as passing to the surviving spouse in the form of a QDOT. To conform a nonassignable annuity or other payment under current § 20.2056A–4(c)(2) or (3), current § 20.2056A–4(c)(6) requires the executor to file with the Federal estate tax return an *Agreement to Pay Section 2056A Estate Tax*, whose required language is included in this paragraph. Alternatively, current § 20.2056A–4(c)(7) requires an *Agreement to Roll Over Annuity Payments*, whose required language is included in that paragraph. The required agreement under current § 20.2056A–4(c)(6) refers to the District Director, and the required agreement under current § 20.2056A–4(c)(7) refers to the Assistant Commissioner (International).

As discussed in part I.C. of this Explanation of Provisions, the examination of estate and gift tax returns is now handled by a specialty examination group that keeps a national inventory, and the Estate Tax Advisory Group is tasked with monitoring the bond or letter of credit until there is a taxable disposition of the QDOT's assets or until the IRS determines that no tax will be owed (for example, when a noncitizen spouse becomes a citizen and the requirements of section 2056A(b)(12) are met). Accordingly, the Treasury Department and the IRS propose to update current § 20.2056A–4(c)(6) and (7) by replacing each reference to the District Director and Assistant Commissioner (International) with a reference to the Chief Tax Compliance Officer, IRS (or their delegate or designee or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>).

III. Section 20.2056A–11—Filing Requirements and Payment of the Section 2056A Estate Tax

A. Updating References to the 1995 Temporary Regulations in § 20.2056A–11(a)

Current § 20.2056A–11(a) provides guidance on the due date of the section 2056A estate tax and on obtaining an extension of time for filing a Form 706–QDT. That paragraph also directs the reader to § 20.2056A–2T(d)(3) regarding the requirements for filing Form 706–QDT in the case of the required annual statement. The Treasury Department and the IRS propose to update current § 20.2056A–11(a) to reference § 20.2056A–2(d)(3) instead of § 20.2056A–2T(d)(3) to reflect the publication of the 1996 final regulations.

B. Updating Titles of Officials in § 20.2056A–11(c)(1) and (2)

Current § 20.2056A–11(c)(1) and (2) provide guidance on obtaining an extension of time for paying the section 2056A estate tax, and states that an extension may be granted by the District Director or the Director of the service center where the Form 706–QDT is filed. The Treasury Department and the IRS propose to update current § 20.2056A–11(c)(1) and (2) by replacing each reference to “the district director or director of the service center where the Form 706–QDT is filed” with a reference to “the Advisory Group Managers (or their delegate or designee or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>).”

IV. Section 20.2056A-13—Applicability Dates

Current § 20.2056A-13 provides the effective dates for all of the provisions of § 20.2056A. Because these regulations propose applicability dates that are specific to the sections in which changes are being proposed, the Treasury Department and the IRS propose to make a coordinating change to § 20.2056A-13 to reflect these specific exceptions.

Proposed Applicability Date

The regulations are proposed to apply with respect to estates of decedents dying on or after the date of publication of final regulations in the **Federal Register**. For dates of applicability, see proposed §§ 20.2056A-2(e), 20.2056A-4(e), 20.2056A-11(e), and 20.2056A-13.

Special Analyses

I. Regulatory Planning and Review

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The proposed regulations would update the current regulations under section 2056A by modifying and replacing outdated references, information, and procedures, such as references to IRS officials, offices, and addresses that no longer exist and references to temporary regulations. The collections of information within these proposed regulations include reporting and third-party disclosure requirements imposed by the IRS to ensure that the IRS has been provided with adequate security for the collection of the section 2056A estate tax, to allow marital trusts and nontrust marital transfers to be conformed to the requirements of a QDOT, and to provide extensions of

time for the payment of section 2056A estate tax.

The proposed regulations include third-party disclosure and reporting requirements under proposed § 20.2056A-2(d)(1)(i) for surety and banks to notify trustees and the IRS of the failure to renew a bond or letter of credit. These collection requirements are already approved by OMB under 1545-1443 for all filers. These proposed regulations would not change the already approved collection requirements, and only would modify the location of where to file. An update to the filing location does not change the already approved burden.

The proposed regulations include reporting requirements related to a security instrument used to meet the qualifications of a QDOT and filed at the time the executor of an estate files a Form 706 or 706-NA. The proposed regulations also include reporting requirements related to Form 706-QDT used to calculate and report the section 2056A estate tax due or to notify the IRS that the trust is exempt from future filing because a noncitizen spouse has become a citizen. These reporting requirements are already approved by OMB under 1545-1443 for all filers. These proposed regulations would not substantively change the collection requirements, and only would modify the location of where to file the security instruments and arrangements. An update to the filing location does not change the already approved burden.

The proposed regulations include reporting requirements related to requesting extensions using Form 4768 to file Form 706-QDT, Form 706, and Form 706-NA. These reporting requirements are already approved by OMB under 1545-0181 for all filers. These proposed regulations would not substantively change the collection requirements, and only would modify the location of where to file the extension. An update to the filing location does not change the already approved burden.

Books and records relating to a collection of information must be retained as long as their contents might become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103 of the Code.

III. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that the proposed regulations would not have a significant economic impact on a substantial number of small entities. This rule primarily affects

individuals (or their estates) and trusts, which are not small entities for purposes of the Regulatory Flexibility Act. Although it is anticipated that there may be an incremental economic impact on executors that are small entities, including entities that provide tax and legal services that assist individuals in preparing tax returns, any impact would not be significant and would not affect a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

IV. Section 7805(f)

Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments and is not required by statute, or preempts State law unless the agency meets the consultation and funding requirements of section 6 of the executive order. These proposed regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the executive order.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. In addition to requesting comments on all

aspects of the proposed regulations, the Treasury Department and the IRS request comments on whether other rules in the current regulations under section 2056A require revision or removal to update information that is outdated (e.g., as a result of amendments to the Code, regulations, or local laws made after such rules were promulgated). All commenters are strongly encouraged to submit comments electronically. The Treasury Department and the IRS will publish for public availability any comment submitted electronically or on paper to its public docket at <https://www.regulations.gov>.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are encouraged to be made electronically. If a public hearing is scheduled, a notice of the date and time for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Donna Douglas of the Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 20 as follows:

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

■ **Paragraph 1.** The authority citation for part 20 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

■ **Par. 2.** Section 20.2056A–0 is amended by:

- 1. Revising the entry for paragraph (d)(6) of § 20.2056A–2;
- 2. Adding an entry for paragraph (e) of § 20.2056A–2;
- 3. Adding an entry for paragraph (e) of § 20.2056A–4; and
- 4. Adding an entry for paragraph (e) of § 20.2056A–11.

The revision and additions read as follows:

§ 20.2056A–0 Table of contents.

* * * * *

§ 20.2056A–2 Requirements for qualified domestic trust.

- * * * * *
- (d) * * *
- (6) Special rules.
- (e) Applicability date.
- * * * * *

§ 20.2056A–4 Procedures for conforming marital trusts and nontrust marital transfers to the requirements of a qualified domestic trust.

- * * * * *
- (e) Applicability date.
- * * * * *

§ 20.2056A–11 Filing requirements and payment of the section 2056A estate tax.

- * * * * *
- (e) Applicability date.
- * * * * *

■ **Par. 3.** Section 20.2056A–2 is amended by:

- 1. Revising the first sentence of paragraph (a);
- 2. Revising paragraph (b)(2);
- 3. Revising the first sentence of paragraph (b)(3);
- 4. Removing the fourth sentence of paragraph (d)(1)(i)(B)(1) and adding in its place two new sentences;
- 5. Revising the ninth and tenth sentences of paragraph (d)(1)(i)(B)(2);
- 6. Revising the first sentence of paragraph (d)(1)(i)(B)(4), and adding a new sentence at the end of the paragraph;
- 7. Removing the fourth sentence of paragraph (d)(1)(i)(C)(1) and adding in its place two new sentences;
- 8. Revising the first, fourteenth, and fifteenth sentences of paragraph (d)(1)(i)(C)(2);
- 9. Revising the first, tenth, and eleventh sentences of paragraph (d)(1)(i)(C)(3);
- 10. Revising the first sentence of paragraph (d)(1)(i)(C)(5), and adding a new sentence at the end of the paragraph;
- 11. Revising paragraph (d)(1)(iii);
- 12. Revising the paragraph heading of paragraph (d)(6);
- 13. Deleting paragraph (d)(6)(i);
- 14. Redesignating paragraphs (d)(6)(ii) and (iii) as paragraphs (d)(6)(i) and (ii) respectively; and
- 15. Adding paragraph (e).

The revisions and addition read as follows:

§ 20.2056A–2 Requirements for qualified domestic trust.

(a) *In general.* To qualify as a qualified domestic trust (QDOT), the requirements of paragraphs (b) through (d) of this section must be satisfied.

* * *

(b) * * *

(2) *Property passing outright to spouse.* If property does not pass from a decedent to a QDOT, but passes to a noncitizen surviving spouse in a form that meets the requirements for a marital deduction without regard to section 2056(d)(1)(A), and that is not described in paragraph (b)(1) of this section, the surviving spouse must either actually transfer the property, or irrevocably assign the property, to a trust (whether created by the decedent, by the decedent's executor, or by the surviving spouse) that meets the requirements of paragraphs (c) and (d) of this section (pertaining, respectively, to statutory requirements and regulatory requirements imposed to ensure collection of tax) prior to the filing of the estate tax return for the decedent's estate and on or before the last date prescribed by law that the QDOT election may be made (see § 20.2056A–3(a)).

(3) * * * If property does not pass from a decedent to a QDOT, but passes under a plan or other arrangement that meets the requirements for a marital deduction without regard to section 2056(d)(1)(A) and whose payments are not assignable or transferable (see § 20.2056A–4(c)), the property is treated as meeting the requirements of this section, and the requirements of § 20.2056A–2(d), if the requirements of § 20.2056A–4(c) are satisfied. * * *

* * * * *

(d) * * *

(1) * * *

(i) * * *

(B) * * *

(1) * * * Any notice of failure to renew is required to be sent to the Estate Tax Advisory Group of the Internal Revenue Service. See IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>, to determine the correct address to use when submitting the required documentation. * * *

(2) * * * All notices required to be sent to the Internal Revenue Service under this instrument should be sent to the Estate Tax Advisory Group of the Internal Revenue Service. See IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>, to determine the correct address to use when submitting the required documentation. * * *

* * * * *

(4) * * * The bond is to be filed (separately from the decedent's Federal estate tax return) by submitting it

directly to the Estate Tax Advisory Group of the Internal Revenue Service on or before the later of the filing date or due date of the decedent's Federal estate tax return (Form 706 or 706-NA) unless an extension for filing the bond is granted under § 301.9100 of this chapter. * * * See IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>, to determine the correct address to use when submitting the required documentation.

(C) * * *

(1) * * * Any notice of failure to renew or closure of a U.S. branch of a foreign bank required to be sent to the Internal Revenue Service must be sent to the Estate Tax Advisory Group of the Internal Revenue Service. See IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in the IRS forms and instructions or on <https://www.irs.gov>, to determine the correct address to use when submitting the required documentation. * * *

(2) * * * The letter of credit must be made in the following form (or in the form that is the same as the following form in all material respects), or an alternative form that the Commissioner prescribes by guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter):

[Issue Date]

To: Internal Revenue Service

Attention: Estate Tax Advisory Group. (See IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>, to determine the correct address to use when submitting the required documentation). * * *

Except where otherwise stated herein, this Letter of Credit is subject to the most recent revision of the Uniform Customs and Practice for Documentary Credits published by the International Chamber of Commerce (ICC), which can be found on <https://www.iccwbo.org>. If we notify you of our election not to consider this Letter of Credit renewed and the expiration date occurs during an interruption of business described in the most recent revision of that publication, unless you had consented to cancellation prior to the expiration date, the bank hereby specifically agrees to effect payment if this Letter of Credit is drawn against within 30 days after the resumption of business. * * *

(3) *Form of confirmation.* If the requirements of this paragraph (d)(1)(i)(C) are satisfied by the issuance of a letter of credit by a foreign bank

with confirmation by a bank as defined in section 581, the confirmation must be made in the following form (or in a form that is the same as the following form in all material respects), or an alternative form that the Commissioner prescribes by guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter):

[Issue Date]

To: Internal Revenue Service

Attention: Estate Tax Advisory Group. (See IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>, to determine the correct address to use when submitting the required documentation). * * *

Except where otherwise stated herein, this Confirmation is subject to the most recent version of the *Uniform Customs and Practice for Documentary Credits* published by the International Chamber of Commerce (ICC), which can be found on <https://www.iccwbo.org>. If we notify you of our election not to consider this Confirmation renewed and the expiration date occurs during an interruption of business described in the most recent version of that publication, unless you had consented to cancellation prior to the expiration date, the bank hereby specifically agrees to effect payment if this Confirmation is drawn against within 30 days after the resumption of business. * * *

* * * * *

(5) *Procedure.* The letter of credit (and confirmation, if applicable) is to be filed separately from the decedent's Federal estate tax return (Form 706 or Form 706-NA) by submitting it directly to the Estate Tax Advisory Group of the Internal Revenue Service on or before the later of the filing date or the due date of the decedent's Federal estate tax return (unless an extension for filing the letter of credit is granted under § 301.9100 of this chapter). * * * See IRS Publication 4235, *Collection Advisory Offices Contact Information*, or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>, to determine the correct address to use when submitting the required documentation.

* * * * *

(iii) *Definition of finally determined—*
(A) *In general.* For purposes of § 20.2056A-2(d)(1)(i) and (ii), the fair market value of assets is the fair market value of those assets as finally determined for Federal estate tax purposes. That value is—

(1) The value reported on an estate tax return filed with the Internal Revenue Service, once the period of limitations

on assessment (see section 6501) of estate tax has expired without that value having been timely adjusted by the Internal Revenue Service;

(2) The value determined or specified by the Internal Revenue Service for unreported property, or for reported property where the value determined or specified by the Internal Revenue Service differs from the value reported on an estate tax return filed with the Internal Revenue Service, once the period of limitations on assessment applicable to the estate tax has expired without that value having been timely contested by the executor;

(3) The value determined in a written agreement with the Internal Revenue Service (whether entered into during the course of the administrative proceedings between the estate and the Internal Revenue Service or after the commencement of litigation) once that written agreement has been executed by both the executor and the Internal Revenue Service and is binding on all parties (including, but not limited to, the executor, the Internal Revenue Service, and the beneficiaries); or

(4) The value determined by a court for the purpose of determining the estate tax liability of the estate, once the court's determination no longer can be appealed to any court.

(B) *Contested and Executor defined.*

For purposes of this paragraph (d)(1)(iii), the term *contested* means to put at issue the value of property in a written communication to the Internal Revenue Service that identifies the specific property, states that the executor does not accept as correct the value of that property as determined or specified by the Internal Revenue Service, and provides the executor's claimed value for that property as determined in accordance with the requirements of section 2031, the corresponding regulations, and other applicable guidance. An issue cannot be contested by a general protective statement or written communication that does not include each of these specified elements. For purposes of this paragraph (d)(1)(iii), the term *executor* includes any person described in section 2203, as expanded to include all persons required under section 6018(b) to file an estate tax return.

* * * * *

(6) *Special rules.*

* * * * *

(e) *Applicability date.* This section applies with respect to estates of decedents dying on or after [the date of publication of final regulations in the **Federal Register**].

■ **Par. 4.** Section 20.2056A–4 is amended by:

- 1. Revising the second sentence of paragraph (a)(1).
- 2. Revising the fifth and sixth sentences of paragraph (a)(2).
- 3. Revising the sixth sentence of paragraph (c)(1).
- 4. Revising the final sentence of (c)(6)(ii).
- 5. Revising the final sentence of (c)(7)(ii).
- 6. Revising paragraph (e).

The revisions read as follows:

§ 20.2056A–4 Procedures for conforming marital trusts and nontrust marital transfers to the requirements of a qualified domestic trust.

(a) * * *

(1) * * * For this purpose, the requirements of a QDOT include all of the applicable requirements set forth in § 20.2056A–2. * * *

(2) * * * Thus, the trustee of the trust is responsible for filing the Form 706–QDT, paying any section 2056A estate tax that becomes due, and filing the annual statement required under § 20.2056A–2(d)(3), if applicable. Failure to comply with these requirements may cause the trust to be subject to the anti-abuse rule under § 20.2056A–2(d)(1)(v). * * *

* * * * *

(c) * * *

(1) * * * In the case of a plan, annuity, or other arrangement which is not assignable or transferable (or is treated as such), the property passing under the plan from the decedent is treated as meeting the requirements of § 20.2056A–2 (pertaining to the general requirements, qualified marital interest requirements, statutory requirements, and requirements to ensure collection of the tax) if the requirements of either paragraph (c)(2) or (3) of this section are satisfied. * * *

* * * * *

(6) * * *

(ii) * * * I agree, at the request of the Chief Tax Compliance Officer, IRS (or their delegate or designee or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>), to enter into a security agreement to secure my undertakings under this agreement.

(7) * * *

(ii) * * * I agree, at the request of the Chief Tax Compliance Officer, IRS (or their delegate or designee or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>), to enter into a security agreement to secure my undertakings under this agreement.

* * * * *

(e) *Applicability date.* This section applies with respect to estates of decedents dying on or after [the date of publication of the final regulations in the **Federal Register**].

■ **Par. 5.** Section 20.2056A–11 is amended by:

- 1. Revising the final sentence of paragraph (a);
- 2. Revising the final sentence of paragraph (c)(1);
- 3. Revising paragraph (c)(2); and
- 4. Adding paragraph (e).

The revisions and addition read as follows:

§ 20.2056A–11 Filing requirements and payment of the section 2056A estate tax.

(a) * * * See also § 20.2056A–5(c)(1) regarding the requirements for filing a Form 706–QDT in the case of a distribution to the surviving spouse on account of hardship, and § 20.2056A–2(d)(3) regarding the requirements for filing Form 706–QDT in the case of the required annual statement.

* * * * *

(c) * * *

(1) * * * Such extension may be granted by the Advisory Group

Managers (or their delegate or designee or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>).

(2) *Extension of time for paying tax under section 6161(a)(1).* An extension of time beyond the due date to pay any part of the estate tax imposed on lifetime distributions under section 2056A(b)(1)(A), or imposed at the death of the surviving spouse under section 2056A(b)(1)(B), or imposed at the termination of the QDOT (such as on the death or resignation of the U.S. trustee), may be granted for a reasonable period of time, not to exceed 6 months (12 months in the case of the estate tax imposed under section 2056A(b)(1)(B) at the surviving spouse's death), by the Advisory Group Managers (or their delegate or designee or as otherwise provided in IRS forms and instructions or on <https://www.irs.gov>).

* * * * *

(e) *Applicability date.* This section applies with respect to estates of decedents dying on or after [the date of publication of the final regulations in the **Federal Register**].

■ **Par. 6.** Section 20.2056A–13 is amended by revising the section heading and the first sentence to read as follows:

§ 20.2056A–13 Applicability dates.

Except as provided in this section and in §§ 20.2056A–2(e), 20.2056A–4(e), and 20.2056A–11(e), the provisions of §§ 20.2056A–1 through 20.2056A–12 are applicable with respect to estates of decedents dying on or after August 22, 1995. * * *

Douglas W. O'Donnell,

Deputy Commissioner.

[FR Doc. 2024–18437 Filed 8–20–24; 8:45 am]

BILLING CODE 4830–01–P

Notices

Federal Register

Vol. 89, No. 162

Wednesday, August 21, 2024

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

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Solicitation for the Agricultural Policy Advisory Committee (APAC) and the Related Agricultural Technical Advisory Committees (ATACs) for Trade and Continuation of Requests for Nominations for the Agricultural Trade Advisory Committees

AGENCY: Foreign Agricultural Service, Department of Agriculture.

ACTION: Solicit for nominations.

SUMMARY: Pursuant to section 135 of the Trade Act of 1974 and the Federal Advisory Committee Act, as amended, notice is hereby given that the Secretary of Agriculture (Secretary), in coordination with the United States Trade Representative (Trade Representative or USTR), is soliciting nominations for the Agricultural Policy Advisory Committee (APAC) and the related Agricultural Technical Advisory Committees (ATACs) for Trade to provide detailed policy and technical advice, information, and recommendations regarding trade barriers, negotiation of trade agreements, and implementation of existing trade agreements affecting food and agricultural products, including the performance of other advisory functions relevant to U.S. agricultural trade policy matters. The Foreign Agricultural Service (FAS) continues to welcome nominations for persons to serve on APAC and ATACs. The APAC and ATACs charters were renewed on June 13, 2023, and the committees are in the public interest in connection with the duties of USDA imposed by the Trade Act of 1974, as amended.

DATES: We will accept nominations for membership on the APAC and six ATACs until September 20, 2024, for the January 2025–2029 term. New

applicants are considered approximately every 12–18 months.

ADDRESSES: Electronic copies of the nomination materials should be sent to ATACs@usda.gov.

All nomination materials may also be mailed in a single, complete package to: Office of the Secretary, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 200A, Jamie L. Whitten Building, Washington, DC 20250–1001, Attn: APAC/ATACs.

FOR FURTHER INFORMATION CONTACT: Darlene Maginnis, Group Federal Officer, Foreign Agricultural Service, U.S. Department of Agriculture at 202–868–7059; or by email at ATACs@usda.gov. You can find additional information about the APAC and ATACs on the Foreign Agricultural Service website at www.fas.usda.gov/atacs.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Section 135 of the Trade Act of 1974 (19 U.S.C. 2155(c)) and the Federal Advisory Committee Act, as amended, (5 U.S.C. 1001 *et seq.*), notice is hereby given that the Secretary of Agriculture (Secretary), in coordination with the United States Trade Representative (Trade Representative or USTR), is soliciting nominations for the Agricultural Policy Advisory Committee (APAC) and the related Agricultural Technical Advisory Committees (ATACs) for Trade. In 1974, Congress established a private-sector advisory committee system to ensure that U.S. trade policy and negotiation objectives adequately reflect U.S. commercial and economic interests.

As provided for in the law and their charters, the APAC has the following responsibilities:

(A) The Committee will advise, consult with, and make recommendations to the Secretary and Trade Representative concerning the trade policy of the United States and the matters arising in the administration of such policy; (B) The Committee will provide information and advice regarding the following: negotiating objectives and bargaining positions of the United States before the United States enters into trade agreements, the operation of any trade agreement once entered into, and matters arising in connection with the administration of the trade policy of the United States;

and (C) The Committee will furnish such other advisory opinions and reports as the Secretary and Trade Representative deem necessary. The ATACs have similar responsibilities.

General Committee Information

Each committee has a chairperson, who is elected from the membership of that committee. Committees meet as needed, and all committee meetings are typically held in Washington, DC or by telephone or video conference. Committee meetings may be closed if USDA or USTR determines that a committee will be discussing issues that justify closing a meeting or portions of a meeting, in accordance with 19 U.S.C. 2155(f).

Throughout the year, members are requested to review sensitive trade policy information and provide comments regarding trade negotiations. In addition to their other advisory responsibilities, at the conclusion of negotiations of any trade agreement, all committees are required to provide a report on each agreement to the President, Congress, USTR and USDA.

Committee Membership Information

All committee members are appointed by and serve at the discretion of the Secretary and Trade Representative. Committee appointments are typically for a period of four years but may be renewed for an additional term. Each committee member must be a U.S. citizen and must represent a U.S. entity with an interest in agricultural trade and must not be registered with the Department of Justice under the Foreign Agents Registration Act. To attend most meetings, committee members must have a current security clearance. New members will be guided in how to apply for a security clearance and their appointment will be contingent on successful completion of the investigation. Committee members serve without compensation and are not reimbursed for their travel expenses. No person may serve on more than one USDA advisory committee at the same time unless a specific exception is granted by the USDA Committee Management Officer. No entity may have more than one representative on any single trade advisory committee.

Nominations and Appointments of Members

Eligibility: Nominations for APAC and ATAC membership are open to individuals representing U.S. entities with an interest in agricultural trade. USDA prohibits discrimination in all of its programs and activities on the basis of “race, color, national origin, religion, sex, (including gender identity and sexual orientation), disability, age, marital status, familial or parental status, income derived from a public assistance program, political beliefs, genetic information, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities. Members should have expertise and knowledge of agricultural trade as it relates to policy and commodity specific issues. Members will normally come from an entity with an interest in agriculture, and will serve as a Representative, presenting the views and interests of a particular U.S. entity that has an interest in the subject matter of the committee.

However, should a member be appointed primarily for his or her expertise, and not as a representative of an interest group, he or she shall be designated as a Special Government

Employee (SGE). SGEs are subject to specific provisions of the ethics laws, including disclosure of financial interests, if they are appointed because of their personal knowledge, background, or expertise. USDA will assist SGEs in disclosing their financial interest and will provide ethics training on an annual basis.

Appointments are made of individuals only and are not transferrable. No person, company, producer, farm organization, trade association, or other entity has a right to membership on a committee. In making appointments, every effort will be made to maintain balanced representation on the committees with representation from producers, farm and commodity organizations, processors, traders, and

consumers. Geographical diversity on each committee will also be sought.

Nominations: Nominating a person to serve on any of the committees requires submission of a current resume for the nominee and the USDA AD-755 (Advisory Committee Membership Background Information, OMB Number 0505-0001), available on the internet at: <http://www.fas.usda.gov/trade-advisorycommittees-applying-membership>. A cover letter should also be submitted indicating the specific committee for which the individual is being nominated, why the nominee wants to be a committee member, and his or her qualifications for membership, and how the submitter learned about this call for nominations. The cover letter should also include the statements required below related to Federally Registered Lobbyists and Foreign Firms. If applicable, the application should include a sponsor letter on the non-Federal governmental entity letterhead containing a brief description of the manner in which international trade affects the entity and why the applicant should be considered for membership. Forms may also be requested by sending an email to ATACs@usda.gov, or by phone at (202) 868-7059.

Federally Registered Lobbyists: All nominees must provide a statement confirming their lobbyist status.

Pursuant to the Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions, published by the Office of Management and Budget (OMB) on August 13, 2014, federally registered lobbyists are no longer prohibited from serving on the advisory committees in a representative capacity. OMB's revised guidance clarifies that the eligibility restriction does not apply to advisory committee members who are specifically appointed to represent the interests of a nongovernmental entity, a recognizable group of persons or nongovernmental entities (an industry sector, labor unions, environmental groups, etc.), or state or local governments. The lobbyist prohibition continues to apply to persons serving on advisory committees in their individual capacity (e.g., SGEs).

Foreign Firms: If the nominee is to represent an entity or corporation with ten percent or greater non-U.S. ownership, the nominee must state the extent to which the organization or interest to be represented by the nominee is owned by non-U.S. citizens, organizations, or interests and demonstrate at the time of nomination that this ownership interest does not constitute control and will not adversely

affect his or her ability to serve as an advisor on the U.S. agriculture advisory committee for trade.

Dated: August 15, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024-18692 Filed 8-20-24; 8:45 am]

BILLING CODE 3410-10-P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Issuance of Final Permanent Recreational Shooting Order in the Hyalite Creek Drainage of the Bozeman Ranger District of the Custer Gallatin National Forest

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service (Agency), is issuing a final permanent order prohibiting recreational shooting in the Hyalite Creek Drainage, which covers 34,018 acres in Gallatin County, Montana, on the Bozeman Ranger District of the Custer Gallatin National Forest.

ADDRESSES: The final permanent recreational shooting order, map, justification for the final permanent order, and response to comments on the proposed permanent order are posted on the Custer Gallatin National Forest's web page at <https://www.fs.usda.gov/alerts/custergallatin/alerts-notice>.

FOR FURTHER INFORMATION CONTACT: Corey Lewellen, District Ranger, at 406-522-2531 or corey.lewellen@usda.gov. Individuals who use telecommunications devices for the hearing impaired may call 711 to reach the Telecommunications Relay Service, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: Section 4103 of the John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019 (Pub. L. 116-9, title IV; Sportsmen's Access and Related Matters), hereinafter “the Dingell Act,” requires the Forest Service to provide advance notice and opportunity for public comment before temporarily or permanently closing any National Forest System lands to hunting, fishing, or recreational shooting.

The Forest Service has completed the public notice and comment process required under the Dingell Act for the permanent order prohibiting recreational shooting in the Hyalite Creek Drainage on the Bozeman Ranger

District of the Custer Gallatin National Forest. The Agency is issuing the final permanent order prohibiting recreational shooting. The final permanent recreational shooting order, map, justification for the final permanent recreational shooting order, and the response to comments on the proposed permanent recreational shooting order are posted on the Custer Gallatin National Forest's web page at <https://www.fs.usda.gov/alerts/custergallatin/alerts-notice>.

Dated: August 12, 2024.

Jacqueline Emanuel,
Associate Deputy Chief, National Forest System.

[FR Doc. 2024-18359 Filed 8-20-24; 8:45 am]

BILLING CODE 3411-15-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Briefing of the Hawai'i Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Notice of public briefing.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA), that the Hawai'i Advisory Committee (Committee) to the U.S. Commission on Civil Rights will convene by ZoomGov on Friday, September 13, 2024, from 2:00 p.m. to 4:00 p.m. HST, to collect testimony on their topic "Examining Hawaii's Child Welfare System and the Overrepresentation of Native Hawaiian Children and Families."

DATES: Friday, September 13, 2024, from 2:00 p.m.–4:00 p.m. Hawai'i Standard Time.

ADDRESSES: The briefing will be held via Zoom Webinar.

Registration Link (Audio/Visual):
https://www.zoomgov.com/webinar/register/WN_u-RIF0vQS6iMupn0Vn_Y8Q.

Join by Phone (Audio Only): (833) 435-1820 USA Toll Free; Webinar ID: 161 483 5889.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, Designated Federal Officer (DFO) at kfajota@usccr.gov or (434) 515-2395.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the videoconference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make

a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Closed captions will be provided for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Angelica Trevino, Support Services Specialists, at atrevino@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Kayla Fajota (DFO) at kfajota@usccr.gov.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via www.facadatabase.gov under the Commission on Civil Rights, Hawai'i Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at atrevino@usccr.gov.

Agenda

- I. Welcome and Roll Call
- II. Chairperson Remarks
- III. Panelists Presentations
- IV. Committee Q&A
- V. Public Comment
- VI. Adjournment

Dated: August 16, 2024.

David Mussatt,
Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024-18734 Filed 8-20-24; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S-95-2024]

Foreign-Trade Zone 250; Application for Subzone; Boss Laser, LLC; Sanford, Florida

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by

the Sanford Airport Authority, grantee of FTZ 250, requesting subzone status for the facility of Boss Laser, LLC, located in Sanford Florida. 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 August 15, 2024.

The proposed subzone (4.25 acres) is located at 640 Boss Laser Way, Sanford, Florida. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 250.

In accordance with the FTZ Board's regulations, Kolade Osho 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 September 30, 2024. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 15, 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 Kolade Osho at Kolade.Osho@trade.gov.

Dated: August 16, 2024.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2024-18748 Filed 8-20-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-985]

Xanthan Gum From the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Antidumping Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On July 29, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *Meihua Group International Trading (Hong Kong) Limited v. United States*, Consol.

Court no. 22–00069, sustaining the U.S. Department of Commerce’s (Commerce) second remand review pertaining to the administrative review of the antidumping duty (AD) order on xanthan gum from the People’s Republic of China covering the period of review (POR) July 1, 2019, through June 30, 2020. Commerce is notifying the public that the CIT’s final judgment is not in harmony with Commerce’s final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margins assigned to Meihua Group International Trading (Hong Kong) Limited/Langfang Meihua Biotechnology Co., Ltd./Xinjiang Meihua Amino Acid Co., Ltd (collectively, Meihua), Jianlong Biotechnology Co., Ltd. (formerly, Inner Mongolia Jianlong Biochemical Co., Ltd) (Jianlong), and Deosen Biochemical (Ordos) Ltd.

DATES: Applicable July 29, 2024.

FOR FURTHER INFORMATION CONTACT: Reginald Anadio or Benjamin Blythe, 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) 482–3166 and (202) 482–3457, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 2022, Commerce published its final results in the 2019–2020 AD review of xanthan gum from the People’s Republic of China. Commerce calculated a weighted-

average dumping margin of 154.07 percent for Meihua, a weighted-average dumping margin of 0.00 percent for Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd (collectively, Fufeng), and review-specific average rates of 77.04 percent for Jianlong and Deosen Biochemical (Ordos) Ltd./Deosen Biochemical Ltd (collectively, Deosen).¹

Meihua, Deosen, and Jianlong appealed Commerce’s *Final Results*. On April 19, 2023, the CIT remanded the *Final Results* to Commerce, ordering Commerce to reconsider: (1) the application of adverse facts available (AFA) to Meihua; (2) the calculation of the separate rate; and (3) whether Deosen Biochemical Ltd. and Deosen Biochemical (Ordos) Ltd. should be collapsed into a single entity.²

In its first remand redetermination, issued in June 2023, Commerce found that: (1) its application of AFA to Meihua was appropriate; (2) Commerce’s decision to not rescind its review of Deosen Biochemical Ltd. was proper because it continued to find it to be collapsed with Deosen Biochemical (Ordos) Ltd.; and (3) Commerce did not need to recalculate the separate rate.³ The CIT remanded for a second time, ordering Commerce to reconsider: (1) the application of facts otherwise available and total AFA to Meihua; (2) the calculation of the separate rate; (3) whether Deosen Biochemical Ltd. and Deosen Biochemical (Ordos), Ltd. should be collapsed into a single entity;

and (4) whether the review of Deosen Biochemical Ltd. should be rescinded.⁴ In its final remand redetermination, issued in May 2024, Commerce found that: (1) a rate of zero percent is applicable for Meihua for the POR; (2) the separate rate is now calculated at zero percent for the POR; (3) Deosen Biochemical Ltd. and Deosen Biochemical (Ordos) Ltd. did not comprise a single entity during the POR; and (4) the 2019–2020 administrative review for Deosen Biochemical Ltd. should be rescinded.⁵ The CIT sustained Commerce’s final redetermination.⁶

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s July 29, 2024, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Meihua, Jianlong, and Deosen Biochemical (Ordos) Ltd. as follows:

Exporter	Weighted-average dumping margin (percent)
Meihua Group International Trading (Hong Kong) Limited/Langfang Meihua Biotechnology Co., Ltd./Xinjiang Meihua Amino Acid Co., Ltd	0.00
Review-Specific Average Rate Applicable to the Following Companies:	
Jianlong Biotechnology Co., Ltd. (formerly, Inner Mongolia Jianlong Biochemical Co., Ltd)	0.00
Deosen Biochemical (Ordos) Ltd	0.00

We note that Fufeng’s rate of zero percent remains unchanged from the

Final Results as its rate was not subject to litigation. In addition, the review for

Deosen Biochemical Ltd. is now rescinded.

¹ See *Xanthan Gum From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019–2020*, 87 FR 7104 (February 8, 2022) (*Final Results*).
² See *Meihua Group Int’l Trading (Hong Kong) Ltd. v. United States*, 633 F. Supp. 3d 1203 (CIT 2023).
³ See *Final Results of Redetermination Pursuant to Court Remand, Meihua Group International Trading (Hong Kong) Limited v. United States*,

Consol. Court No. 22–00069 (CIT April 19, 2023), dated June 27, 2023, available at <https://access.trade.gov/resources/remands/23-53.pdf>.
⁴ See *Meihua Group International Trading (Hong Kong) Limited v. United States*, 686 F. Supp. 3d 1359 (CIT 2024).
⁵ See *Final Results of Redetermination Pursuant to Court Remand, Meihua Group International Trading (Hong Kong) Limited v. United States*, Consol. Court No. 22–00069 (CIT April 19, 2023),

dated May 22, 2024, available at <https://access.trade.gov/Resources/remands/23-53.pdf>.
⁶ See *Meihua Group International Trading (Hong Kong) Limited v. United States*, Consol. Court No. 22–00069, Slip Op. 24–86 (CIT July 29, 2024).
⁷ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).
⁸ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Cash Deposit Requirements

Because Meihua, Deosen Biochemical (Ordos) Ltd., and Jianlong have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were produced and/or exported by Meihua, Deosen Biochemical (Ordos) Ltd., and Jianlong and were entered, or withdrawn from warehouse, for consumption during the period July 1, 2019, through June 30, 2020. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by Meihua, Deosen Biochemical (Ordos) Ltd., and Jianlong in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,⁹ we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: August 15, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2024-18719 Filed 8-20-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE200]

Western Pacific Fishery Management Council; Public Meetings

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

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its American Samoa Archipelago Fishery Ecosystem Plan (FEP) Advisory Panel (AP), Mariana Archipelago FEP Commonwealth of the Northern Mariana Islands (CNMI) AP, Fishing Industry Advisory Committee (FIAC), Hawaii Archipelago FEP AP, and the Mariana Archipelago FEP Guam AP to discuss and make recommendations on fishery management issues in the Western Pacific Region.

DATES: The meetings will be held between September 3 and September 7, 2024. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for specific locations of the meetings. Instructions for connecting to the web conference and providing oral public comments will be posted on the Council website at <https://www.wpcouncil.org>. For assistance with the web conference connection, contact the Council office at (808) 522-8220.

Council address: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522-8220.

SUPPLEMENTARY INFORMATION: The American Samoa FEP AP will meet on Tuesday, September 3, 2024, from 5 p.m. to 7 p.m. (Samoa Standard Time); the Mariana Archipelago FEP CNMI AP will meet on Thursday, September 5, 2024, from 6 p.m. to 8 p.m. (Chamorro Standard Time [ChST]); the FIAC will meet on Thursday, September 5, 2024, from 2 p.m. to 5 p.m. (Hawaii Standard Time [HST]); the Hawaii Archipelago FEP AP will meet on Friday, September 6, 2024, from 9 a.m. to 1 p.m. (HST); and the Mariana Archipelago Guam AP will meet on Saturday, September 7, 2024, from 10 a.m. to 1 p.m. (ChST).

Public Comment periods will be provided in the agendas. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Meeting Locations

The Council will hold its American Samoa Archipelago FEP AP, Mariana Archipelago FEP CNMI AP, FIAC, Hawaii Archipelago FEP AP, and the Mariana Archipelago FEP Guam AP

meetings in a hybrid format with in-person and remote participation (Webex) options available for the members and the public.

In-person attendance for the American Samoa Archipelago FEP AP members and public will be hosted at the Tedi of Samoa Suite 208B, P8C6+V2F, Fagotogo Village, AS, 96799.

In-person attendance for Mariana Archipelago FEP CNMI AP members and public will be hosted at BRI Building Suite 205, Kopa Di Oru St., Garapan, Saipan, 96950.

In person attendance for Hawaii Archipelago FEP AP and FIAC members and public will be hosted at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI, 96813.

In-person attendance for Mariana Archipelago FEP Guam AP members and public will be hosted at Cliff Pointe, 304 W O'Brien Drive, Hagatña, GU, 96910.

Schedule and Agenda for the American Samoa Archipelago FEP AP Meeting

Tuesday, September 3, 2024, 5 p.m.–7 p.m. (Samoa Standard Time)

1. Welcome and Introductions
2. Review of the Last Advisory Panel (AP) Recommendation and Meeting
3. Feedback from the Fleet
 - A. Third Quarter Fisher Observation
 - B. Fisheries Issues
4. Council Fisheries Issues
 - A. Options for Hawaii and American Samoa Longline Fisheries Crew Training Requirement
 - B. Review of Cannery Offal Dumping
 - C. Report of Foreign Trade and Tariff Schemes
 - D. Giant Clam Endangered Species Act (ESA) Listing Proposed Rule
5. Report on 2023 Annual Fisher Observation Meeting
6. Fish Flow in American Samoa
7. Updates on the Super Alia Project
8. Funding on Coastal Climate Resiliency Projects
9. Other Business
10. Public Comment
11. Discussion and Recommendations

Schedule and Agenda for the Mariana Archipelago FEP CNMI AP Meeting

Thursday, September 5, 2024, 6 p.m.–8 p.m. (Chamorro Standard Time)

1. Welcome and Introductions
2. Review of the Last AP Recommendation and Meeting
3. Feedback from the Fleet
 - A. Third Quarter Fisher Observation
 - B. Fisheries Issues
4. Council Fisheries Issues
 - A. Commonwealth of the Northern Mariana Islands (CNMI) Bottomfish Review

⁹ See 19 CFR 351.106(c)(2).

- B. Giant Clam ESA Listing Proposed Rule
- 5. Report on 2023 Annual Fisher Observation Meeting
- 6. Contributions of Small Boat Fisheries in CNMI
- 7. Funding on Coastal Climate Resiliency Projects
- 8. Other Business
- 9. Public Comment
- 10. Discussion and Recommendations

Schedule and Agenda for the FIAC Meeting

Thursday, September 5, 2024, 2 p.m.–5 p.m. (Hawaii Standard Time)

- 1. Welcome and Introductions
- 2. Status Report on Previous FIAC Recommendations
- 3. Roundtable update on Fishing/Market Issues/Impacts
- 4. Alternatives for Specifying Main Hawaiian Islands (MHI) Deep 7 Annual Catch Limits (ACL) for 2024–2027
- 5. Options for Hawaii and American Samoa Longline Fisheries Crew Training
- 6. Regulatory Considerations for Electronic Monitoring in U.S. Pacific Longline Fisheries
- 7. 2023 Cost-Earnings Survey of the Hawaii Longline Fisheries
- 8. Update on Super Alia and FIAC Discussion
- 9. Follow-Up on Nearshore and Offshore Hawaii Shortline Fisheries
- 10. Updates on Offshore Energy in the Western Pacific
- 11. Updates on U.S. and Pacific Island Trade Issues
- 12. Western and Central Pacific Fisheries Commission and Inter-American Tropical Tuna Commission Updates
- 13. Other Issues
- 14. Public Comment
- 15. Discussion and Recommendations

Schedule and Agenda for the Hawaii Archipelago FEP AP Meeting

Friday, September 6, 2024, 9 a.m.–1 p.m. (Hawaii Standard Time)

- 1. Welcome and Introductions
- 2. Review of the Last AP Recommendation and Meeting
- 3. Feedback from the Fleet
 - A. Third Quarter Fisher Observation
 - B. Fisheries Issues
- 4. Council Fisheries Issues
 - A. Alternatives for Specifying MHI Deep 7 ACL for 2024–2027
 - B. Options for Hawaii and American Samoa Longline Fisheries Crew Training Requirement
 - C. Report on Hawaii Shortline Fishery
- 5. Updates on Offshore Energy in Hawaii

- 6. Funding on Coastal Climate Resiliency Projects
- 7. Report on 2023 Annual Fisher Observation Meeting
- 8. Other Business
- 9. Public Comment
- 10. Discussion and Recommendations

Schedule and Agenda for the Mariana Archipelago FEP Guam AP Meeting

Saturday, September 7, 2024, 10 a.m.–1 p.m. (Chamorro Standard Time)

- 1. Welcome and Introductions
- 2. Review of the Last AP Recommendation and Meeting
- 3. Feedback from the Fleet
 - A. Third Quarter Fisher Observation
 - B. Fisheries Issues
- 4. Council Fisheries Issues
 - A. Modifying the Guam Rebuilding Plan
 - B. Review of Military Buildup
 - C. Giant Clam ESA Listing Proposed Rule
- 5. Updates on Offshore Energy in Guam
- 6. Contributions of Small Boat Fisheries in Guam
- 7. Report on 2023 Annual Fisher Observation Meeting
- 8. Funding on Coastal Climate Resiliency Projects
- 9. Other Business
- 10. Public Comment
- 11. Discussion and Recommendations

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: August 15, 2024.

Alyssa Weigers,

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

[FR Doc. 2024–18707 Filed 8–20–24; 8:45 am]

BILLING CODE 3510–22–P

ACTION: Notice; request for comments on proposed renewal incidental harassment authorization.

SUMMARY: NMFS received a request from Community Offshore Wind, LLC (COSW) for the renewal of their incidental harassment authorization (IHA) (hereinafter, the “initial IHA”) to take marine mammals incidental to marine site characterization surveys in coastal waters off of New Jersey and New York in the New York Bight, specifically within the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) Lease Area OCS–A 0539 (Lease Area) and associated Export Cable Route (ECR) survey area (ECR Area). Pursuant to the Marine Mammal Protection Act, prior to issuing the initial IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed renewal that were not previously provided during the initial 30-day comment period.

DATES: Comments and information must be received no later than September 5, 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.hilt@noaa.gov.

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. Attachments to comments will be accepted in Microsoft Word, Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (*e.g.*, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

Electronic copies of the initial IHA application, renewal request, and supporting documents, including

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE150]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys in the New York Bight

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

Federal Register notices of the initial proposed and final IHA, the initial IHA, and 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-other-energy-activities-renewable>. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT:

Rachel Hilt, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

The Marine Mammal Protection Act (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 promulgated or, if the taking is limited to harassment, an incidental harassment authorization is issued.

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 such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). NMFS must also prescribe requirements pertaining to monitoring and reporting of such takings. The definition of key terms such as “take,” “harassment,” and “negligible impact” can be found in the MMPA and the NMFS’s implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103).

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed 1 year for each reauthorization. In the notice of proposed IHA for the initial IHA, NMFS described the circumstances under which we would consider issuing a renewal for this activity, and

requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time 1-year renewal of an 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 Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

1. 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).

2. The request for renewal must include the following:

- 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); and
- 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.

3. 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.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/>

incidental-harassment-authorization-renewals. Any comments received on the potential renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested renewal, and agency responses will be summarized in the final notice of our decision.

National Environmental Policy Act

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take 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 determined that the issuance of the initial IHA qualified to be categorically excluded from further National Environmental Policy Act review. NMFS has preliminarily determined that the application of this categorical exclusion remains appropriate for this renewal IHA.

History of Request

On June 30, 2023, NMFS issued an IHA to COSW to take marine mammals incidental to Marine Site Characterization Surveys in the New York Bight, specifically within the BOEM Commercial Lease of Submerged Lands for Renewable Energy Development on the OCS Lease Area and associated ECR Area (88 FR 42322), effective from July 1, 2023, through June 30, 2024. On June 14, 2024, NMFS received an application for the renewal of that initial IHA. COSW has met all the conditions for a renewal. As described in the application for renewal IHA, the activities for which incidental take is requested consist of activities that are covered by the initial authorization but were not completed prior to its expiration. As required, the COSW also provided a preliminary monitoring report which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted. NMFS has

decided to waive the 60 days renewal requirement, recognizing that the renewal IHA, if issued, will expire one year from the expiration date of the initial IHA, on June 30, 2025, and having ensured that COSW understands that there is a lapse in MMPA authorization coverage between the expiration of the initial IHA and the issuance of any renewal.

Description of the Specified Activities and Anticipated Impacts

COSW proposes to conduct marine site characterization surveys with high-resolution geophysical (HRG) surveys and geotechnical sampling from August 6, 2024 through June 30, 2025. Only HRG surveys are expected to have the potential to cause incidental take of small numbers of marine mammals. Specifically, the initial IHA consisted of up to 30,467 kilometers of trackline in waters off the coast of New Jersey and New York in the New York Bight, which is within the BOEM Lease Area OCS-A 0539 and associated ECR Area. Hereafter, both the areas are referred to as the Survey Area. Of note, the trackline was broken down by Lease Area survey and ECR survey area. Approximately 28,290 km was planned for the Lease Area and 2,177 km for the ECR Area. The effort for bottlenose dolphins was differentiated to account for the two stocks present in the Survey Area. In the ECR Area trackline, 400 kilometers is in waters <20 m deep where the Western North Atlantic Migratory Coastal Stock (Coastal Stock) of bottlenose dolphins may be present, whereas the remaining 1,777 km is in waters >20 meters deep where the Western North Atlantic Offshore Stock (Offshore Stock) of bottlenose dolphins may be present. In the Lease Area, all 28,290 km of trackline are in waters >20 meters deep. COSW was unable to complete the full survey effort planned under the initial IHA and, for this renewal, COSW requests authorization for take incidental to completion of the remaining HRG survey tracklines.

The purpose of COSW's proposed surveys is to provide sufficient data to meet BOEM guidelines and support the development of offshore wind facilities in the Survey Area. Specifically, data collected would support site characterization, siting, and engineering design of offshore wind facilities including turbine generators, offshore substations, submarine cables and data necessary for project review requirements. COSW will have a maximum of three vessels surveying concurrently. Underwater sounds produced from sparkers during COSW's surveys have the potential to result in

Level B harassment for 15 species and 16 stocks of marine mammals. With the exception of a slight change in the remaining survey trackline kilometers and reduction in the take estimates, activities proposed for the IHA renewal are identical in scope, effort, potential harassment to marine mammals, and mitigation measures as the final proposed IHA (88 FR 42322 June 30, 2023).

Detailed Description of the Activity

A detailed description of the surveys for which incidental take is proposed here may be found in the **Federal Register** Notices of the initial Proposed IHA (88 FR 24574, April 21, 2023). During the initial IHA, COSW surveyed a total of 11,775 kilometers (120 kilometers of trackline in waters <20 meters deep) of trackline using a 3-sparker array (Applied Acoustics Dura-Spark UHD 400+400). As noted above, COSW was unable to complete the total 30,467 kilometers of tracklines included in the initial IHA, and have requested a renewal to authorize take incidental to the remaining 19,092 kilometers (280 kilometers in waters <20 meters) of tracklines. The location, duration, and nature of the activities, including the types of equipment planned for use, are identical to those described in the previous notices. As a result of a miscommunication, COSW's initial IHA authorized 400 km less trackline than they intended (*i.e.*, 30,467 km versus 30,867 km) and, therefore, COSW asked that the renewal IHA include the 400 km (19,092 km vs. 18,692) of trackline that was inadvertently omitted from the initial IHA. NMFS has determined that this correction to the remaining trackline is a minor change that does not affect the previous analyses, mitigation or monitoring requirements, or take estimates (except, of course, for the reduction in the take estimates). The percent of trackline left to survey and estimated take that may occur has been updated accordingly. The proposed renewal would be effective from the date of issuance through June 30, 2025 (one year after the expiration of the initial IHA).

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the **Federal Register** notice of the proposed IHAs (88 FR 24574, April 21, 2023) for the initial IHA. NMFS has reviewed the monitoring data from the initial IHA, the draft 2023 Stock Assessment Reports (SARs), which

included updates to certain stock abundances since the initial IHA was issued, information on relevant unusual mortality events (UME), and other scientific literature. The draft 2023 SAR updated the population estimate (N_{best}) of North Atlantic right whales from 338 to 340 and annual mortality and serious injury from 31.2 to 27.2. The updated population estimate in the draft 2023 SAR is based upon sighting history through December 2021 (89 FR 5495, January 29, 2024). Total annual average observed North Atlantic right whale mortality during the period 2017–2021 was 7.1 animals and annual average observed fishery mortality was 4.6 animals, however, estimates of 27.2 total mortality and 17.6 fishery mortality account for undetected mortality and serious injury (89 FR 5495, January 29, 2024). In October 2023, NMFS released a technical report identifying that the North Atlantic right whale population size based on sighting history through 2022 was 356 whales, with a 95 percent credible interval ranging from 346 to 363 (Linden, 2023).

The population estimates (N_{best}) also increased for the North Atlantic stock of sperm whales, the Western North Atlantic Offshore stock of common bottlenose dolphins, Western North Atlantic stocks of Risso's dolphins, Atlantic spotted dolphins, and gray seals. However, abundance estimates slightly decreased for the Western North Atlantic stocks of common dolphins and harbor porpoises. NMFS has determined there is no new information that affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which an authorization of incidental take is proposed here may be found in the Notices of the Proposed and Final IHAs for the initial IHA. NMFS has reviewed the monitoring data from the initial IHA, recent draft stock assessment reports, information on relevant UMEs and other scientific literature and determined that there is no new information that affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods and inputs used to estimate take for the

specified activity are found in the **Federal Register** Notice of the Final IHA (88 FR 42322, June 30, 2023) for the initial IHA. Specifically, the source levels, days of operation, and marine mammal density/occurrence data applicable to this authorization remain unchanged from the initial IHA.

To estimate the number of marine mammals predicted to be exposed to sound levels that would result in harassment of the initial IHA, radial distances to predicted isopleths corresponding to Level B harassment thresholds were calculated. The distance (*i.e.*, 141 meters distance associated with both sparker systems) to the Level B harassment criterion and the total length of the survey trackline were then used to calculate the total ensonified area, or harassment zone, around the survey vessel. The number of marine mammals expected to be

incidentally taken during the total survey was then calculated by estimating the number of each species predicted to occur within the ensonified area (animals/km²), incorporating the greatest seasonal estimated marine mammal densities. The product was then rounded to generate an estimate of the total number of instances of harassment expected for each species over the duration of the survey (up to 293 days). A summary of this method is illustrated in the following formula, where the Harassment Zone is multiplied by the highest seasonal mean density (*D*) of each species or stock (animals/km²; except for pilot whales where annual density was used based on data availability).

$$\text{Estimated Take} = \text{Harassment Zone} \times D$$

The number of takes proposed for authorization in this renewal are a subset of the initial authorized takes

that better represent the amount of the remaining activity COSW has left to complete. For all species but bottlenose dolphins, estimated takes were calculated by multiplying the authorized take in the initial IHA by the percent of the initial total trackline considered (30,467 kilometers) represented by the requested remaining trackline (19,092 km), which is 63 percent (see Table 1). As noted above, the effort for bottlenose dolphins was differentiated to account for the two stocks present in the Survey Area. Tracklines in the Survey Area in waters <20 meters and >20 meters deep were differentiated to account for differences in density between the two stocks of bottlenose dolphins, and the appropriate percentages of tracklines (70 and 62, respectively) are also indicated in Table 1.

TABLE 1—PROPOSED NUMBER OF TAKES BY LEVEL B HARASSMENT BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK¹

Species	Scientific name	Stock	Abundance	2023 IHA authorized take	2024 proposed renewal IHA		
					Percentage of trackline requested in renewal	Estimate of take for requested trackline	Max percent population
North Atlantic Right Whale	<i>Eubalaena glacialis</i> .	Western Atlantic	340	24	63	15	² 4.4
Fin whale	<i>Balaenoptera physalus</i> .	Western North Atlantic	6,802	76	63	48	0.7
Sei whale	<i>Balaenoptera borealis</i> .	Nova Scotia	6,292	24	63	15	0.2
Minke whale	<i>Balaenoptera acutorostrata</i> .	Canadian East Coastal	21,968	304	63	192	0.9
Humpback whale	<i>Megaptera novaeangliae</i> .	West Indies DPS	1,396	46	63	29	2.1
Sperm whale	<i>Physeter macrocephalus</i> .	North Atlantic	4,349	10	63	6	0.1
Risso's dolphin	<i>Grampus griseus</i>	Western North Atlantic	35,215	59	63	37	0.1
Long-finned pilot whale	<i>Globicephala melas</i> .	Western North Atlantic	39,215	78	63	49	0.1
Atlantic white-sided dolphin	<i>Lagenorhynchus acutus</i> .	Western North Atlantic	93,233	427	63	269	0.3
Common dolphin	<i>Delphinus delphis</i> .	Western North Atlantic	172,974	5,572	63	3,510	2.0
Atlantic spotted dolphin	<i>Stenella frontalis</i>	Western North Atlantic	39,921	320	63	202	0.5
Common bottlenose dolphin, Off-shore Stock.	<i>Tursiops truncatus</i> .	Western North Atlantic Offshore (occurs within >20 meters deep).	62,851	1,316	62	816	1.3
Common bottlenose dolphin, Northern migratory coastal stock.	<i>Tursiops truncatus</i> .	Western North Atlantic Northern Migratory Coastal (occurs within <20 meters deep).	6,639	115	70	81	1.2
Harbor porpoise	<i>Phocoena phocoena</i> .	Gulf of Maine/Bay of Fundy Stock	95,543	1,912	63	1,205	1.3
Harbor seal	<i>Phoca vitulina</i>	Western North Atlantic	61,336	1,955	63	1,232	2.0
Gray seal ³	<i>Halichoerus grypus</i> .	Western North Atlantic	27,300	1,955	63	1,232	4.5

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

² Based on the 2023 draft marine mammal stock assessment reports (SAR).

³ NMFS's stock abundance estimate (and associated PBR value) applies to the U.S. population only. Total stock abundance (including animals in Canada) is approximately 451,600. The annual mortality/serious injury given is for the total stock.

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring, and reporting measures included as requirements in this proposed IHA are

identical to those included in the **Federal Register** notice announcing the issuance of the initial IHA (88 FR 42322, June 30, 2023) and the discussion of the least practicable adverse impact

determination included in that document remains applicable and accurate.

Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA (88 FR 24574, April 21, 2023) and solicited public comments on both our proposal to issue the initial IHA for marine site characterization surveys in coastal waters off of New Jersey and New York in the New York Bight and on the potential for a renewal IHA, should certain requirements be met.

All public comments were addressed in the notice announcing the issuance of the initial IHA (88 FR 42322, June 30, 2023) and none of the comments specifically pertained to the renewal of the 2024 IHA.

Preliminary Determinations

NMFS proposes to authorize incidental take of small numbers of marine mammals from specified activities that are a subset of, but otherwise identical to, those analyzed in the initial IHA and to require mitigation, monitoring, and reporting measures that are also identical to those in the initial IHA. The number of takes by Level B harassment proposed is less than that authorized in the initial IHA. In the initial IHA, NMFS determined that COSW's specified activities would have a negligible impact on the affected species and/or stocks and the authorized take for each stock would be small relative to individual stock abundance (less than one third).

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. This includes consideration of the estimated abundance of one stock increasing slightly. Specifically, NMFS is proposing to authorize 15 takes of North Atlantic right whales by Level B harassment only, and the impacts resulting from the project's activities are neither reasonably expected nor reasonably likely to adversely affect the stock through effects on annual rates of recruitment or survival. 15 takes of North Atlantic right whales equates to approximately 4.4 percent of the stock abundance, if each incident of take is assumed to accrue to a separate individual whale.

Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized

takes represent small numbers of marine mammals relative to the affected stock abundances; (4) COSW's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

Endangered Species Act

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

NMFS' Office of Protected Resources is proposing to authorize take of four species of marine mammals that are listed under the ESA (*i.e.*, North Atlantic right whale, fin whale, sei whale, and sperm whale) and has determined these activities fall within the scope of activities analyzed in the NMFS Greater Atlantic Regional Fisheries Office programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic renewable energy regions (completed June 29, 2021; revised September 2021).

Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a renewal IHA to COSW for conducting marine site characterization with HRG surveys off the coast of New Jersey and New York in the New York Bight from July 1, 2024, through June 30, 2025, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and final initial IHA can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. We request comment on our analyses, the proposed renewal IHA, and any other aspect of this notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: August 14, 2024.

Catherine Marzin,

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

[FR Doc. 2024-18608 Filed 8-20-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE197]

Pacific Island Fisheries; Western Pacific Stock Assessment Review; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) and NMFS will convene a Western Pacific Stock Assessment Review (WPSAR) of the main Hawaiian Islands *Aprion virescens* (locally known as uku or gray/green jobfish) stock assessment update.

DATES: The WPSAR meeting will be held September 9–10, 2024 from 9 a.m. to 4 p.m. Hawaii Standard Time (HST). See **SUPPLEMENTARY INFORMATION** for meeting dates and times and the daily agenda.

ADDRESSES: The meeting will be open to the public and held at the NOAA Honolulu Service Center at Pier 38, 1139 N. Nimitz Hwy, Suite 220, Honolulu, HI 96817. Audio and visual portions for all of the web conferences can be accessed at: <https://wprfmc.webex.com/wprfmc/j.php?MTID=m984f90622bc0a35cd0ffb038eb5103a5>. Webinar number: 2633 952 7361. Webinar password: ukuWPSAR0909mtg.

FOR FURTHER INFORMATION CONTACT: T. Todd Jones, Director, Pacific Islands Fisheries Science Center (PIFSC) Fisheries Research and Monitoring Division (FRMD), telephone: (808) 725-5713, or todd.jones@noaa.gov.

SUPPLEMENTARY INFORMATION: The NMFS PIFSC developed a single-species stock assessment update of the gray jobfish (uku, *Aprion virescens*) in the main Hawaiian Islands. PIFSC previously conducted a stock assessment for uku in 2020 using the Stock Synthesis (v. 3.30) framework to integrate catch per unit effort indices, size frequency, diver survey, and catch data into a single age-structured model. PIFSC used this integrated model to estimate biomass and stock status

through time, and evaluated stock status against the maximum sustainable yield based reference points described in the Council's Fishery Ecosystem Plan for the Hawaii Archipelago. The 2024 assessment update will provide new information to inform management, including updates on biomass and fishing mortality relative to status determination thresholds to inform recommendations of allowable biological catch and annual catch limits. Consistent with National Standard 2 of the Magnuson-Stevens Fishery Conservation and Management Act, the WPSAR Policy requires a review of the application of recent data, on an as-needed basis, that will be used in the benchmark stock assessment update.

Meeting Agenda for WPSAR Review

The agenda order may change, and the meeting will run as late as necessary to complete scheduled business.

Day 1, Monday, September 9 (9 a.m.–4 p.m., HST)

1. Introductions
2. Review objectives and terms of reference
3. Presentation of stock assessment updates
4. Summary of comments and analysis during desktop phase
5. Questions to presenters
6. Public Comment

Tuesday, September 10, 2024 (9 a.m.–4 p.m., HST)

7. Panel presentation on the review results and recommendations
8. Questions to reviewers
9. Public comment
10. Closing comments and adjourn

Special Accommodations

This meeting is physically accessible to people with disabilities. Please direct requests for sign language interpretation or other auxiliary aids to T. Todd Jones, Director, PIFSC FRMD, telephone: (808) 725–5713, or todd.jones@noaa.gov at least 5 days prior to the meeting date.

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

Dated: August 15, 2024.

Lindsay Fullenkamp,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 2024–18611 Filed 8–20–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE160]

Takes of Marine Mammals Incidental to Specified Activities; Takes of Marine Mammals Incidental to Marine Site Characterization Surveys Off Rhode Island and Massachusetts

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 has received a request from Bay State Wind, LLC (Bay State Wind), for authorization to take marine mammals incidental to marine site characterization surveys off the coast of Rhode Island and Massachusetts in the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) Lease Area OCS–A 0500 and the associated export cable route (ECR) area. 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 the Request for Public Comments section 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 September 20, 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.hilt@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-other-energy-activities-renewable. 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/permit/incidental-take-authorizations-under-marine-mammal-protection-act> 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:

Rachel Hilt, 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.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the 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 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

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

Summary of Request

On October 6, 2022, NMFS issued an IHA (87 FR 61575; October 12, 2022) to Ørsted (parent company of Bay State Wind) to take marine mammals incidental to marine site characterization surveys in Lease Areas OCS–A 0486, 0487, 0500 off the coasts from New York to Massachusetts and along potential ECRs to landfall locations between Raritan Bay (part of the New York Bight) and Falmouth, Massachusetts. On May 26, 2023, NMFS received a request for a renewal of that initial IHA because Ørsted's marine site

characterization surveys under the initial IHA had not yet been completed and more time was required. The Renewal IHA was issued on September 29, 2023, (88 FR 62337; October 5, 2023). Ørsted has complied with all the requirements (*e.g.*, mitigation, monitoring, and reporting) of the previous IHAs in Lease Areas OCS–A 0486, 0487, and 0500 (84 FR 52464, October 2, 2019; 85 FR 63508, October 8, 2020; 87 FR 13975, March 11, 2022).

On March 27, 2024, NMFS received a request from Bay State Wind for an IHA to take marine mammals incidental to conducting marine site characterization surveys off the coast of Rhode Island and Massachusetts only in OCS–A 0500 and the associated ECR area. Following NMFS' review of the application, Bay State Wind submitted a revised version on June 10, 2024. Following NMFS' additional review of the application, Bay State Wind submitted another revised version on July 29, 2024. The application was deemed adequate and complete on August 1, 2024. Bay State Wind's request is for take of 17 species of marine mammals by Level B harassment only. Neither Bay State Wind nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

Bay State Wind proposes to conduct marine site characterization surveys, including high-resolution geophysical (HRG) surveys and geotechnical surveys, in BOEM Lease Area OCS–A 0500, and the associated ECR. The purpose of the marine site characterization surveys is to collect data concerning seabed (geophysical, geotechnical, and geohazard), ecological, and archeological conditions within the footprint of the offshore wind facility development. Surveys are also

conducted to support engineering design and to map unexploded ordnance (UXO). Underwater sound resulting from Bay State Wind's proposed activities, specifically HRG surveys, has the potential to result in incidental take of 17 species, in the form of Level B harassment only.

Dates and Duration

While the exact dates have not yet been established, the proposed activities are planned to begin as soon as possible upon issuance of an IHA, if appropriate. The proposed activity is expected to require up to 350 survey days across a maximum of four vessels operating concurrently over the course of a single year ("survey day" defined as a 24-hour activity period in which the assumed number of line kilometers (km) are surveyed). Vessel days are defined as the number of days any single vessel is in operation regardless of any other vessel operations (*i.e.*, if two vessels are working concurrently within the same 24-hour period, each vessel would be counted as having a vessel day for a total of 2 vessel days even though the activity occurs within a single 24-hour period). The number of anticipated survey days was calculated as the number of days needed to reach the overall level of effort required to meet survey objectives assuming any single vessel covers, on average 70 line km per 24-hour operations.

Specific Geographic Region

The proposed survey activities will occur within the Lease Area and potential ECRs off the coasts of Rhode Island and Massachusetts (figure 1). Water depths in the Lease Area and potential ECRs extend out from shoreline to approximately 90 meters (m).

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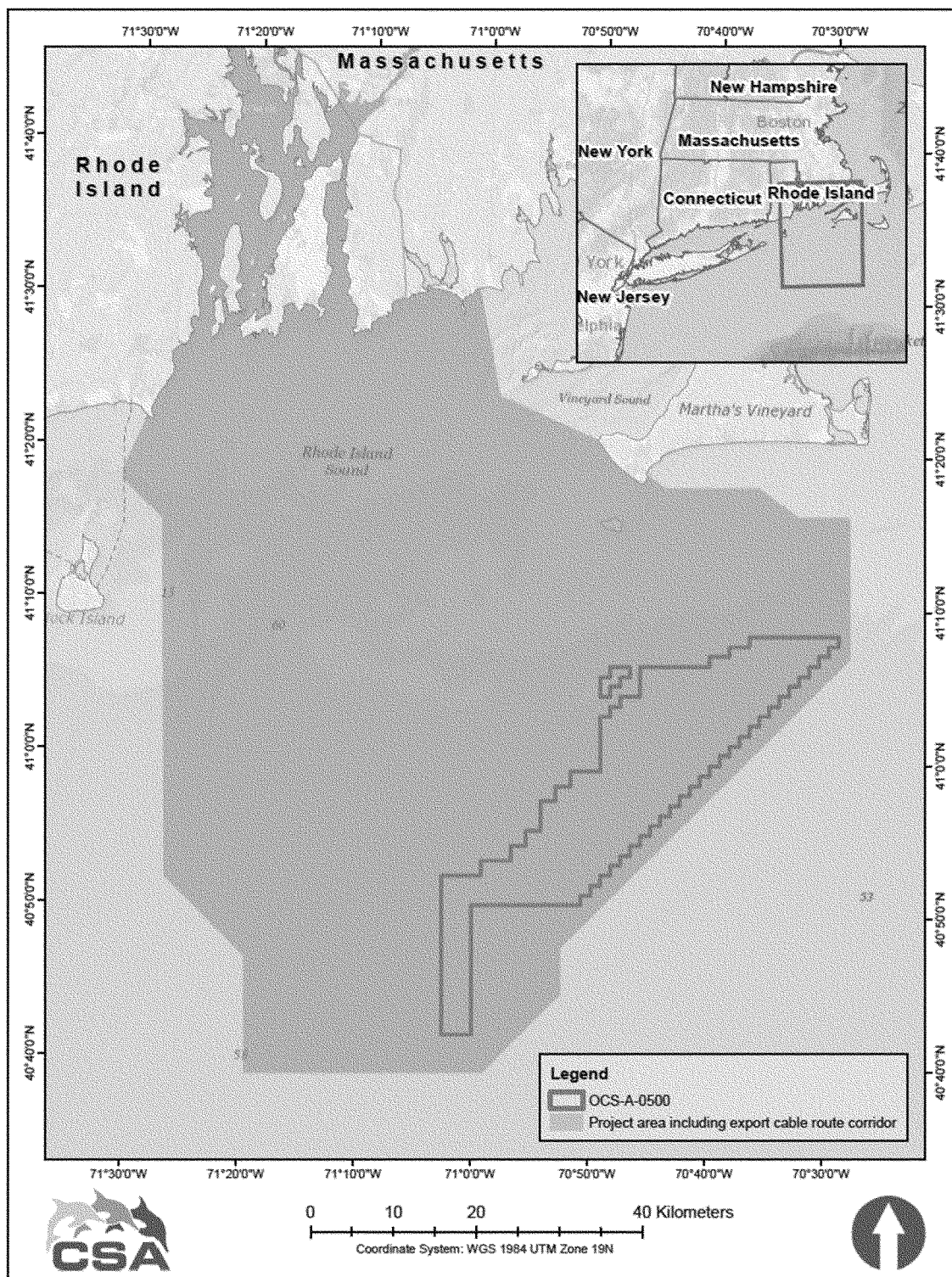


Figure 1. Lease Area and potential ECRs for the site characterization surveys, indicated in gray, which includes the Lease Area and the potential export cable route area.

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Detailed Description of the Specified Activity

Bay State Wind proposes to conduct HRG survey operations, including

multibeam depth sounding, seafloor imaging, and shallow and medium penetration sub-bottom profiling (SBP). The HRG surveys will include the use of seafloor mapping equipment with

operating frequencies above 180 kilohertz (kHz) (e.g., side-scan sonar (SSS), multibeam echosounders (MBES)); magnetometers and gradiometers that have no acoustic output; and shallow- to medium-penetration SBP equipment (e.g., parametric sonars, compressed high-intensity radiated pulses (CHIRPs), boomers, sparkers) with operating frequencies below 180 kHz. No deep-penetration SBP surveys (e.g., airgun or bubble gun surveys) will be conducted. HRG equipment will be deployed from multiple vessels or remotely operated vehicles (ROVs) during the HRG surveys conducted within the Lease Area and potential ECRs. Typically, a survey ROV used for the proposed activities is a tethered platform that carries additional HRG equipment to increase the swath of the survey or the depth at which the equipment can be operated. The equipment deployed from an ROV is identical to the sources deployed from the survey vessel; however, sparker systems are not normally deployed from an ROV due to the power supply required. The extent of ROV usage in this project is unknown at this time, however NMFS expects the use of ROVs to have de minimis impacts relative to the use of vessels given the smaller sources and inherent nature of utilizing an ROV (e.g., much smaller size of an ROV relative to a vessel and less acoustic exposure given location of their use in the water column). For these reasons, our analysis focuses on the acoustic sources themselves and the use of vessels to deploy such sources, rather than the specific use of ROVs to deploy the survey equipment. Therefore, ROVs are not further analyzed in this notice.

Acoustic sources planned for use during HRG survey activities proposed by Bay State Wind for which sound levels have the potential to result in Level B harassment of marine mammals include the following:

- Medium penetration SBPs (boomers) are used to map deeper subsurface stratigraphy as needed. A boomer is a broad-band sound source operating in the 3.5 Hz to 10 kHz frequency range. This system is commonly mounted on a sled and towed behind the vessel. Boomers are impulsive and mobile sources; and,
- Medium penetration SBPs (sparkers) are used to map deeper subsurface stratigraphy as needed. Sparkers create acoustic pulses from 50 Hz to 4 kHz omnidirectionally from the source, and are considered to be impulsive and mobile sources. Sparkers are typically towed behind the vessel with adjacent hydrophone arrays to receive the return signals.

Operation of the following survey equipment types is not reasonably expected to result in take of marine mammals and will not be discussed further beyond the brief summaries provided below:

- Parametric SBPs, also commonly referred to as sediment echosounders, are used to provide high data density in sub-bottom profiles that are typically required for cable routes, very shallow water, and archaeological surveys. Parametric SBPs are typically mounted on a pole, either over the side of the vessel or through a moon pool in the bottom of the hull. Crocker and Fratantonio (2016) does not provide relevant measurements or source data for parametric SBPs, however, some source information is provided by the manufacturer. For the proposed project, the SBP used would generate short, very narrow-beam (1 to 3.5°) sound pulses at relatively high frequencies (generally around 85 to 100 kHz). The narrow beam width significantly reduces the potential for exposure while the high frequencies of the source are rapidly attenuated in seawater. Given the narrow beam width and relatively high frequency, NMFS does not reasonably

expect there to be potential for marine mammals to be exposed to the signal;

- Ultra-short baseline (USBL) positioning systems are used to provide high accuracy ranges by measuring the time between the acoustic pulses transmitted by vessel transceiver and a transponder (or beacon) necessary to produce the acoustic profile. It is a two-component system with a moon-pool- or side-pole-mounted transceiver and one or several transponders mounted on other survey equipment. USBLs are expected to produce extremely small acoustic propagation distances in their typical operating configuration;
- MBES are used to determine water depths and general bottom topography. MBES sonar systems project sonar pulses in several angled beams from a transducer mounted to a ship's hull. The beams radiate out from the transducer in a fan-shaped pattern orthogonally to the ship's direction. All of the proposed MBESs have operating frequencies >180 kHz and, therefore, are outside the general hearing range of marine mammals; and,
- SSSs are used for seabed sediment classification purposes and to identify natural and man-made acoustic targets on the seafloor. The sonar device emits conical or fan-shaped pulses down toward the seafloor in multiple beams at a wide angle, perpendicular to the path of the sensor through the water column. All of the proposed SSSs have operating frequencies >180 kHz and, therefore, are outside the general hearing range of marine mammals.

Table 1 identifies representative survey equipment with the expected potential to result in exposure of marine mammals and thus potentially result in take. The make and model of the listed geophysical equipment may vary depending on availability and the final equipment choices will vary depending upon the final survey design, vessel availability, and survey contractor selection.

TABLE 1—SUMMARY OF REPRESENTATIVE HRG SURVEY EQUIPMENT

Representative equipment type	Operating frequency ranges (kHz)	SL (SPL dB re 1μPa m)	SL (SEL dB re 1μPa² m² s)	SL (PK dB re 1μPa m)	Beamwidth ranges (degree)	Pulse duration (width) (millisecond)	Repetition rate (Hz)
Impulsive, Medium Sub-Bottom Profilers (Sparkers & Boomers)							
AA, Dura-spark UHD Sparker (400 tips, 500 J) ¹	0.3–1.2	203	174	211	180	1.1	4
AA, Dura-spark UHD Sparker Model 400 × 400 ¹	0.3–1.2	203	174	211	180	1.1	4
GeoMarine, Dual 400 Sparker, Model GeoSource 800 ^{1,2}	0.4–5	203	174	211	180	1.1	2
GeoMarine Sparker, Model GeoSource 200–400 ^{1,2}	0.3–1.2	203	174	211	180	1.1	4
GeoMarine Sparker, Model GeoSource 200 Light-weight ^{1,2}	0.3–1.2	203	174	211	180	1.1	4

TABLE 1—SUMMARY OF REPRESENTATIVE HRG SURVEY EQUIPMENT—Continued

Representative equipment type	Operating frequency ranges (kHz)	SL (SPL dB re 1μPa m)	SL (SEL dB re 1μPa ² m ² s)	SL (PK dB re 1μPa m)	Beamwidth ranges (degree)	Pulse duration (width) (millisecond)	Repetition rate (Hz)
AA, triple plate SBoom (700–1,000 J) ³	0.1–5	205	172	211	80	0.6	4

¹ The Dura-spark measurements and specifications provided in Crocker and Fratantonio (2016) were used for all sparker systems proposed for the survey. The data provided in Crocker and Fratantonio (2016) represent the most applicable data for similar sparker systems with comparable operating methods and settings when manufacturer or other reliable measurements are not available. Bay State Wind expects all equipment to operate at a comparable Joule-to-tip ratio as the 400 tip 500 J Dura-spark measured by Crocker and Fratantonio (2016) such that the proxy source levels provided in table 3 are realistically representative of sound levels that may be produced during sparker operations for the proposed survey.

² The AA Dura-spark (500 J, 400 tips) was used as a proxy source for all proposed sparkers to represent the highest potential source level anticipated during the proposed survey. Though the power settings and number of tips may vary among of the sparker systems, all systems will operate with a comparable Joule-to-tip ratio which, as discussed above in section 1.3 of the Application, influences the source levels more than just power setting. Additionally, the survey would not utilize higher-powered sparker systems operating at ≥2,000 J so Dura-spark (500 J, 400 tips) is considered the best available proxy for source levels for these equipment.

³ Crocker and Fratantonio (2016) provide S-Boom measurements using two different power sources (CSP–D700 and CSP–N). The CSP–D700 power source was used in the 700 J measurements but not in the 1,000 J measurements. The CSP–N source was measured for both 700 J and 1,000 J operations but resulted in a lower SL; therefore, the single maximum SL value was used for both operational levels of the S-Boom.

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

Description of Marine Mammals in the Area of Specified Activities

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

behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

Table 2 lists all species or stocks for which take is expected and proposed to be authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the

status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic and Gulf of Mexico SARs. All values presented in table 2 are the most recent available at the time of publication, including, as applicable, from the draft 2023 SARs (available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>).

TABLE 2—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES ¹

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
N Atlantic Right Whale	<i>Eubalaena glacialis</i>	Western Atlantic	E, D, Y	340 (0, 337, 2021) ⁵	0.7	27.2
Humpback Whale	<i>Megaptera novaeangliae</i>	Gulf of Maine	-, -, N	1,396 (0, 1380, 2016)	22	12.15
Fin Whale	<i>Balaenoptera physalus</i>	Western North Atlantic	E, D, Y	6,802 (0.24, 5,573, 2021)	11	2.05
Sei Whale	<i>Balaenoptera borealis</i>	Nova Scotia	E, D, Y	6,292 (1.02, 3,098, 2021)	6.2	0.6
Minke Whale	<i>Balaenoptera acutorostrata</i>	Canadian Eastern Coastal	-, -, N	21,968 (0.31, 17,002, 2021)	170	9.4
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Sperm Whale	<i>Physeter macrocephalus</i>	North Atlantic	E, D, Y	5,895 (0.29, 4,639, 2021)	9.28	0.2
Long-Finned Pilot Whale ⁶	<i>Globicephala melas</i>	Western North Atlantic	-, -, N	39,215 (0.30, 30,627, 2021)	306	5.7
Striped Dolphin	<i>Stenella coeruleoalba</i>	Western North Atlantic	-, -, N	48,274 (0.29, 38,040, 2021)	529	0
Atlantic White-Sided Dolphin	<i>Lagenorhynchus acutus</i>	Western North Atlantic	-, -, N	93,233 (0.71, 54,443, 2021)	544	28
Bottlenose Dolphin	<i>Tursiops truncatus</i>	Western North Atlantic Off-shore	-, -, N	64,587 (0.24, 52,801, 2021) ⁷	507	28
Common Dolphin	<i>Delphinus delphis</i>	Western North Atlantic	-, -, N	93,100 (0.56, 59,897, 2021)	1,452	414
Atlantic Spotted Dolphin	<i>Stenella frontalis</i>	Western North Atlantic	-, -, N	31,506 (0.28, 25,042, 2021)	250	0
Risso's Dolphin	<i>Grampus griseus</i>	Western North Atlantic	-, -, N	44,067 (0.19, 30,662, 2021)	307	18
White-Beaked Dolphin	<i>Lagenorhynchus albirostris</i>	Western North Atlantic	-, -, N	536,016 (0.31, 415,344, 2016)	4,153	0
Harbor Porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy	-, -, N	85,765 (0.53, 56,420, 2021)	649	145
Order Carnivora—Superfamily Pinnipedia						
Harbor Seal	<i>Phoca vitulina</i>	Western North Atlantic	-, -, N	61,336 (0.08, 57,637, 2018)	1,729	339

TABLE 2—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES¹—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Gray Seal ⁸	<i>Halichoerus grypus</i>	Western North Atlantic	- , - , N	27,911 (0.20, 23,624, 2021)	1,512	4,570

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

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

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

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

⁵ The current SAR includes an estimated population (N_{best} 340) based on sighting history through December 2021 (NMFS, 2024). In October 2023, NMFS released a technical report identifying that the North Atlantic right whale population size based on sighting history through 2022 was 356 whales, with a 95 percent credible interval ranging from 346 to 363 (Linden, 2023). Total annual average observed North Atlantic right whale mortality during the period 2017–2021 was 7.1 animals and annual average observed fishery mortality was 4.6 animals. Numbers presented in this table (27.2 total mortality and 17.6 fishery mortality) are 2016–2020 estimated annual means, accounting for undetected mortality and serious injury.

⁶ Key uncertainties exist in the population size estimate for this species, including uncertain separation between short-finned and long-finned pilot whales, small negative bias due to lack of abundance estimate in the region between US and the Newfoundland/Labrador survey area, and uncertainty due to unknown precision and accuracy of the availability bias correction factor that was applied.

⁷ Estimates may include sightings of the coastal form.

⁸ NMFS' stock abundance estimate (and associated PBR value) applies to the U.S. population only. Total stock abundance (including animals in Canada) is approximately 394,311. The annual M/SI value given is for the total stock.

As indicated above, all 17 species in table 2 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 areas are included in table 5 of the IHA application. While the blue whale (*Balaenoptera musculus*), short-finned pilot whale (*Globicephala macrorhynchus*), common bottlenose dolphin (western North Atlantic, northern migratory coastal stock; *Tursiops truncatus*), dwarf sperm whale (*Kogia sima*), killer whale (*Orcinus orca*), pygmy killer whale (*Feresa attenuata*), false killer whale (*Pseudorca crassidens*), northern bottlenose whale (*Hyperoodon ampullatus*), Cuvier's beaked whale (*Ziphius cavirostris*), Blainville's beaked whale (*Mesoplodon densirostris*), Gervais beaked whale (*Mesoplodon europaeus*), Sowerby's beaked whale (*Mesoplodon bidens*), True's beaked whale (*Mesoplodon mirus*), Melon-headed whale (*Peponocephala electra*), Pantropical spotted dolphin (*Stenella attenuata*), Fraser's dolphin (*Lagenodelphis hosei*), rough toothed dolphin (*Steno bredanensis*), Clymene dolphin (*Stenella clymene*), spinner dolphin (*Stenella longirostris*), harp seal (*Pagophilus groenlandica*), and hooded seal (*Cystophora cristata*) have been reported in the area, the temporal and/or spatial occurrence of these species is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here.

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance,

status, distribution, and hearing, may be found in the **Federal Register** notice of the proposed IHA for the 2022 IHA (87 FR 52515, August 26, 2022) addressing Lease Areas OCS-A 0486, 0487, and 0500. Significant new information is addressed below.

In addition, Bay State Wind is newly requesting authorization to take white-beaked dolphin. The white-beaked dolphin is considered rare in the Lease Area and potential ECRs, but two protected species observer (PSO) monitoring reports have reported the sighting of the species in the Rhode Island-Massachusetts Wind Energy Area (RI-MA WEA) where the Project Lease Area is located (EPI Group, 2021; RPS, 2021). Therefore, it is reasonable to anticipate take for this animal may occur and the take of the animal has been proposed for authorization accordingly. A detailed description of the white-beaked dolphin's status and trends, distribution and habitat preferences, and behavior and life history can be found in section 4.2.9 of the application.

North Atlantic Right Whale

In January 2024, NMFS released its draft 2023 SARs which updated the population estimate (N_{best}) of North Atlantic right whales to 340 individuals; the annual mortality and serious injury (M/SI) value dropped from the final 2022 SAR of 31.2 to 27.2 in the draft 2023 SAR. Beginning in the 2022 SARs, the M/SI for North Atlantic right whale included the addition of estimated undetected mortality and serious injury, which had not been previously included in the SAR. The current population estimate is equal to the North Atlantic

Right Whale Consortium's 2022 Annual Report Card, which identifies the population estimate as 340 individuals (Pettis *et al.* 2023).

Elevated North Atlantic right whale mortalities have occurred since June 7, 2017, along the U.S. and Canadian coast, with the leading category for the cause of death for this unusual mortality event (UME) determined to be "human interaction," specifically from entanglements or vessel strikes. As of July 30, 2024, there have been 41 confirmed mortalities (dead, stranded, or floaters), 1 pending mortality, and 36 seriously injured free-swimming whales for a total of 78 whales. The UME also considers animals with sublethal injury or illness (called "morbidity"; $n = 65$) bringing the total number of whales in the UME to 142. More information about the North Atlantic right whale UME is available online at: <https://www.fisheries.noaa.gov/national/marine-life-distress/active-and-closed-unusual-mortality-events>.

The proposed survey area is within a migratory corridor Biologically Important Area (BIA) for NARWs that extends from Massachusetts to Florida (LeBrecque *et al.* 2015). There is possible migratory behavior that could occur in this area between November and April. Right whale migration is not expected to be impacted by the proposed survey due to the very small size of the Lease Area and potential ECRs project area relative to the spatial extent of the available migratory habitat in the BIA.

Humpback Whale

Since January 2016, elevated humpback whale mortalities along the

Atlantic coast from Maine to Florida led to the declaration of a UME. As of May 17, 2023, 227 humpback whales have stranded as part of this UME. Partial or full necropsy examinations have been conducted on approximately 90 of the known cases. Of the whales examined, about 40 percent had evidence of human interaction, either ship strike or entanglement. While a portion of the whales have shown evidence of pre-mortem vessel strike, this finding is not consistent across all whales examined and more research is needed. More information is available at: <https://www.fisheries.noaa.gov/national/marine-life-distress/active-and-closed-unusual-mortality-events>.

Since December 1, 2022, the number of humpback strandings along the mid-Atlantic coast, from North Carolina to New York, has been elevated. In some cases, the cause of death is not yet known; in others, vessel strike has been deemed the cause of death. As the humpback whale population has grown, they are seen more often in the Mid-Atlantic. These whales may be following their prey (small fish) which were reportedly close to shore in the 2022–2023 winter. Changing

distributions of prey impact larger marine species that depend on them, and result in changing distribution of whales and other marine life. These prey also attract fish that are targeted by recreational and commercial fishermen, which increases the number of boats and amount of fishing gear in these areas. This nearshore movement increases the potential for anthropogenic interactions, particularly.

The Lease Area and potential ECRs do not overlap any ESA-designated critical habitat, BIAs, or other important areas for the humpback whales. A humpback whale feeding BIA extends throughout the Gulf of Maine, Stellwagen Bank, and Great South Channel from May through December, annually (LaBrecque et al. 2015). However, this BIA is located further east and north of, and thus, does not overlap, the project area.

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 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS
[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, <i>Cephalorhynchid</i> , <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).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.* 2006; Kastelein *et al.* 2009; Reichmuth *et al.* 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

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.

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is proposed here may be found in the **Federal**

Register notice of the proposed IHA for the initial authorization proposed (87 FR 52515, August 26, 2022). NMFS has reviewed information on relevant Unusual Mortality Events, updated SARs, and other scientific literature and data, and preliminarily determined that there is no new information that affects our initial analysis of impacts on marine mammals and their habitat.

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 NMFS' consideration of "small numbers," the negligible impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities.

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines “harassment” as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to certain HRG sources. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.*, shutdown measures, vessel strike avoidance procedures) discussed in detail below in the Proposed Mitigation section, Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the proposed take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will likely 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 permanent threshold shift (PTS) of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.*, frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.*, bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.*, Southall *et al.* 2007, 2021; Ellison *et al.* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (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 temporary threshold shift (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.

Bay State Wind’s proposed activity includes the use of impulsive (*i.e.*, boomers and sparkers) and non-impulsive (*i.e.*, CHIRP SBPs) sources,

and therefore the RMS SPL thresholds of 160 dB re 1 μ Pa is applicable.

Level A Harassment—NMFS’ Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0; Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive).

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>.

On May 3, 2024, NMFS published (89 FR 36762) and solicited public comment on its draft Updated Technical Guidance, which includes updated thresholds and weighting functions to inform auditory injury estimates, and is intended to replace the 2018 Technical Guidance referenced above, once finalized. The public comment period ended on June 17, 2024, and although the Updated Technical Guidance is not final, we expect the Updated Technical Guidance to represent the best available science once it is.

Bay State Wind’s HRG surveys include the use of impulsive (*i.e.*, boomers and sparkers) and non-impulsive (*i.e.*, CHIRP SBPs). However, as discussed above, NMFS has concluded that Level A harassment is not a reasonably likely outcome for marine mammals exposed to noise from the sources proposed for use here, and the potential for Level A harassment is not evaluated further in this document. The pending update to the Technical Guidance would not change NMFS’ determination regarding the likelihood of take by Level A harassment. Please see Bay State Wind’s application (section 1.4) for details of a quantitative exposure analysis exercise, (*i.e.*, calculated Level A harassment isopleths and estimated Level A harassment exposures). No take by Level A harassment is anticipated or proposed for authorization by NMFS.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	Cell 2: $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	Cell 3: $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	Cell 4: $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	Cell 5: $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	Cell 6: $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	Cell 8: $L_{E,PW,24h}$: 201 dB.
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 (American National Standards Institute, 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.

NMFS has developed a user-friendly methodology for determining the rms sound pressure level at the 160-dB isopleth for the purpose of estimating the extent of Level B harassment isopleths associated with HRG survey equipment (NMFS, 2020). This methodology incorporates frequency and some directionality to refine estimated ensonified zones. Bay State Wind used NMFS’s methodology, using the source level and operation mode of the equipment planned for use during the proposed survey, to estimate the maximum ensonified area over a 24-hour period, also referred to as the harassment area (table 5). Potential takes by Level B harassment are estimated within the ensonified area (*i.e.*, harassment area) as an SPL exceeding 160 dB re 1 μ Pa for impulsive sources (*e.g.*, sparkers, boomers) within an average day of activity.

The harassment zone is a representation of the maximum extent of the ensonified area around a sound source over a 24-hour period. The harassment zone was calculated for mobile sound sources per the following formula:

$$\text{Harassment Zone} = (\text{Distance}/\text{day} \times 2r) + \pi r^2$$

where r is the linear distance from the source to the isopleth for Level A or Level B thresholds and day = 1 (*i.e.*, 24 hours).

The estimated potential daily active survey distance of 70 km was used as the estimated areal coverage over a 24-

hour period. This distance accounts for the vessel traveling at roughly 4 knots (kn) and only for periods during which survey equipment that may result in take of marine mammals is in operation. A vessel traveling 4 kn can cover approximately 110 km per day; however, based on data from 2017, 2018, and 2019 surveys, survey coverage over a 24-hour period is closer to 70 km per day. For daylight only vessels, the distance is reduced to 35 km per day; however, to maintain the potential for 24-hour surveys, the corresponding Level B harassment zones provided in table 5 were calculated for each source category based on the Level B threshold distances in table 4 with a 24-hour (70 km) operational period.

NMFS considers the data provided by Crocker and Fratantonio (2016) to represent the best available information on source levels associated with HRG equipment and, therefore, recommends that source levels provided by Crocker and Fratantonio (2016) be incorporated in the method described above to estimate isopleth distances to harassment thresholds. In cases, when the source level for a specific type of HRG equipment is not provided in Crocker and Fratantonio (2016), NMFS recommends that either the source levels provided by the manufacturer be used, or, in instances where source levels provided by the manufacturer are unavailable or unreliable, a proxy from Crocker and Fratantonio (2016) be used instead. Table 2 shows the HRG equipment types that may be used during the proposed surveys and the source levels associated with those HRG equipment types.

Based upon modeling results, of the HRG survey equipment planned for use by Bay State Wind that has the potential

to result in Level B harassment of marine mammals, the Applied Acoustics Dura-Spark UHD and GeoMarine Geo-Source sparkers would produce the largest Level B harassment isopleth (141 m) or Harassment Zone. Estimated distances to Level B harassment isopleths for all sources evaluated here, including the sparkers, are provided in table 5. Although Bay State Wind does not expect to use sparker sources on all planned survey days, Bay State Wind proposes to assume for purposes of analysis that the sparker would be used on all survey days. This is a conservative approach, as the actual sources used on individual survey days may produce smaller harassment distances.

TABLE 5—DISTANCE TO LEVEL B HARASSMENT THRESHOLDS
[160 dB rms]

Source	Distance to Level B harassment threshold (m)
Boomers	76
Sparkers	141

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 density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.* 2016, 2023) represent the best available information regarding marine mammal densities in the Lease Area and potential ECRs. The density data presented by Roberts *et al.* (2016, 2023) incorporate aerial and

shipboard line-transect data from NMFS and other organizations and incorporate data from 8 physiographic and 16 dynamic oceanographic and biological covariates, and control for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting. These density models were originally developed for all cetacean taxa in the U.S. Atlantic (Roberts *et al.* 2016). In subsequent years, certain models have been updated based on additional data as well as certain methodological improvements. More information is available online at <https://seamap.env.duke.edu/models/Duke/EC>. Marine mammal density estimates in the Lease Area and potential ECRs (animals/km²) were obtained using the most recent model results for all taxa (Roberts *et al.* 2023). The updated models incorporate sighting data, including sightings from NOAA's Atlantic Marine Assessment Program for Protected Species (AMAPPS) surveys.

For exposure analysis, density data from Roberts *et al.* (2023) were mapped using a geographic information system (GIS). Density grid cells that included any portion of the proposed Lease Area and potential ECRs were selected for all survey months (see figure 4 of Bay State Wind's application). The densities for each species as reported by Roberts *et al.* (2023) for each of the Lease Area and ECR were averaged by month; those values were then used to calculate the mean annual density for each species within the Lease Area and potential ECRs. Estimated mean monthly and annual densities (animals per km²) of all marine mammal species that may be taken by the proposed survey are shown in table 7 of Bay State Wind's application. Please see table 6 for density values used in the exposure estimation process.

Due to limited data availability and difficulties identifying individuals to species level during visual surveys, individual densities are not able to be provided for all species and they are instead grouped into "guilds" (Roberts *et al.* 2023). These guilds include pilot whales, common bottlenose dolphins, and seals.

Long- and short-finned pilot whales are difficult to distinguish during shipboard surveys so individual habitat models were not able to be developed. However, as discussed in section 4.2.3 of Bay State Wind's application, all pilot whales in the Lease Area and potential ECRs are assumed to be long-finned pilot whales, so the densities and subsequent takes would apply only to this species.

The density models do not distinguish between common bottlenose dolphin stocks due to limited data regarding distributions of these stocks. As discussed in section 4.2.7 of Bay State Wind's application, only the western North Atlantic offshore stock is expected to occur in the Lease Area and potential ECRs. Therefore, the densities in table 6 and subsequent take calculations would only apply to this stock of bottlenose dolphins.

Gray seals and harbor seals are reasonably identifiable during shipboard visual surveys; therefore, it is expected that some sightings will be assigned to species rather than to the generalized seal guild. Additionally, seals tend to occur in very small numbers when away from haul out areas; therefore, sighting events are not likely to constitute large numbers of animals. For these reasons, the seal guild density was split evenly between both gray and harbor seal species.

TABLE 6—AVERAGE ANNUAL MARINE MAMMAL DENSITY ESTIMATES

Species	Average annual density (km ²)
Low-frequency Cetaceans	
Fin whale	0.0022
Sei whale	0.0006
Minke whale	0.0056
Humpback whale	0.0014
North Atlantic right whale	0.0022
Mid-frequency cetaceans	
Sperm whale	0.0002
Atlantic white-sided dolphin ..	0.0143
Atlantic spotted dolphin	0.0006
Common bottlenose dolphin (Offshore)	0.0093

TABLE 6—AVERAGE ANNUAL MARINE MAMMAL DENSITY ESTIMATES—Continued

Species	Average annual density (km ²)
Long-finned pilot whale	0.0016
Risso's dolphin	0.0006
Common dolphin	0.0846
Striped dolphin	0.0000
White-beaked dolphin	0.0000

High-frequency Cetaceans

Harbor porpoise	0.0423

Pinnipeds¹

Gray seal	0.0845
Harbor seal	0.0845

¹ Seal species are not separated in the Roberts (2022) data therefore densities were evenly split between the two species expected to occur in the Lease Area and potential ECRs.

Take Estimation

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.

Level B harassment events were estimated by multiplying the average annual density of each species within the Lease Area and potential ECRs (table 6) by the largest harassment zone (141 m; table 5). That result was then multiplied by the number of survey days in that Lease Area or ECR (350 survey days), and rounded to the nearest whole number to arrive at estimated take. This final number equals the instances of take for the entire operational period. It was assumed the sparker systems were operating all 350 survey days as it is the sound source expected to produce the largest harassment zone. A summary of this method is illustrated in the following formula with the resulting proposed take of marine mammals is shown below in table 7:

$$\text{Estimated take} = \text{Species Density} \times \text{Harassment Zone} \times \# \text{ of survey days}$$

TABLE 7—TOTAL ESTIMATED AND REQUESTED TAKE NUMBERS

[By Level B harassment only]

Species	Abundance	Estimated Level B takes	Requested Level B takes	Max percent population
Low-frequency Cetaceans				
Fin whale	6,802	15	15	0.22
Sei whale	6,292	4	4	0.06

TABLE 7—TOTAL ESTIMATED AND REQUESTED TAKE NUMBERS—Continued
[By Level B harassment only]

Species	Abundance	Estimated Level B takes	Requested Level B takes	Max percent population
Minke whale	21,968	39	39	0.18
Humpback whale	1,396	10	10	0.72
North Atlantic right whale	340	15	15	4.41
Mid-frequency Cetaceans				
Sperm whale	5,895	2	2	0.03
Atlantic white-sided dolphin	93,233	99	99	0.11
Atlantic spotted dolphin	31,506	4	4	0.01
Common bottlenose dolphin (offshore stock)	64,587	65	65	0.10
Long-finned pilot whale	39,215	11	11	0.03
Risso's dolphin	44,067	4	4 (14)	0.03
Common dolphin	93,100	586	586 (1,485)	1.60
Striped dolphin	48,274	0	0 (46)	0.10
White-beaked dolphin	536,016	0	0 (12)	0.00
High-frequency Cetaceans				
Harbor porpoise	85,765	293	293	0.34
Pinnipeds				
Seals:				
Gray seal	27,911	586	586	2.10
Harbor seal	61,336	586	586	0.96

Additional data regarding average group sizes from survey effort in the region was considered to ensure adequate take estimates are evaluated. Take estimates for several species were adjusted based upon observed group sizes in the area. The adjusted take estimates for these species are indicated in bold in table 7. These calculated take estimates were adjusted for these species as follows:

- *Striped dolphin*: No takes were calculated for this species (table 7), but data from AMAPPS data indicate this species was observed in the RI-MA WEA (Palka *et al.* 2017) where this Project Lease Area is located. Therefore, 1 group of 46 was added to the requested takes, based on a sighting of 1 group of 46 from AMAPPS data (Palka *et al.* 2017).

- *Risso's dolphin*: Only 4 takes were calculated but based on 2 reported detections with a total of 14 individuals of this species in PSO monitoring reports for projects in the RI-MA WEA where this Project Lease Area is located (Bay State Wind, 2019; Smultea Environmental Sciences, 2020), the take number was increased to 14.

- *Common dolphin*: The Applicant requested to increase their take numbers from 586 to 1,485 based on PSO data where 4,457 individuals were observed in the estimated Level B harassment zone over a total of 1,300 survey days (Smultea Environmental Sciences,

2020). The proposed survey is only 350 survey days which is approximately $\frac{1}{3}$ of the survey days considered in the PSO data, so the number of takes has been recalculated to $\frac{1}{3}$ of the 4,457 detections which equates to 1,485.

- *White-beaked dolphin*: no takes were calculated but based on reported detections of this species in 2 PSO monitoring reports for projects in the RI-MA WEA where this Project Lease Area is located (EPI Group, 2021; RPS, 2021), 1 group of 12 was added to the requested takes.

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 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, impact on operations.

NMFS proposes the following mitigation measures be implemented during Bay State Wind's proposed marine site characterization surveys. Pursuant to section 7 of the ESA, Bay State Wind would also be required to adhere to relevant Project Design Criteria (PDC) of the NMFS' Greater

Atlantic Regional Fisheries Office (GARFO) programmatic consultation (specifically PDCs 4, 5, and 7) regarding geophysical surveys along the U.S. Atlantic coast (<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#offshore-wind-site-assessment-and-site-characterization-activities-programmatic-consultation>).

Marine Mammal Shutdown Zones

Marine mammal shutdown zones would be established around impulsive HRG survey equipment (e.g., sparkers and boomers) for all marine mammals. Shutdown zones would be monitored by PSOs based upon the radial distance from the acoustic source rather than being based around the vessel itself. An immediate shutdown of impulsive HRG survey equipment will be required if a whale is sighted at or within the corresponding marine mammal shutdown zones to minimize noise impacts on the animals. If a shutdown is required, a PSO will notify the survey crew immediately. Vessel operators and crews will comply immediately with any call for shutdown. The shutdown zone may or may not encompass the Level B harassment zone. Shutdown zone distances are as follows:

- A 500 m shutdown zone for North Atlantic right whales for use of impulsive acoustic sources (e.g., boomers and/or sparkers) and non-impulsive, non-parametric sub-bottom profilers; and
- A 100-m shutdown zone for use of impulsive acoustic sources for all other marine mammals, with the exception of small delphinids, i.e., those belonging to the genera *Delphinus*, *Lagenorhynchus*, *Stenella*, or *Tursiops*, and pinnipeds.

Shutdown will remain in effect until the minimum separation distances (detailed above) between the animal and noise source are re-established. If a marine mammal enters the respective shutdown zone during a shutdown period, the equipment may not restart until that animal is confirmed outside the clearance zone as stated previously in the pre-start clearance procedures. These stated requirements will be included in the site-specific training to be provided to the survey team.

Pre-Start Clearance

Marine mammal clearance zones would be established at the following distances around the HRG survey equipment and monitored by PSOs:

- 500 m for NARWs and all other ESA-listed whales;
- 100 m for non-ESA listed large whales; and

- 50 m for dolphins, seals, and porpoises.

Bay State Wind would implement a 30-minute pre-start clearance period prior to the initiation of ramp-up of specified HRG equipment. During this period, clearance zones will be monitored by PSOs, using the appropriate visual technology. Ramp-up may not be initiated if any marine mammal(s) is within its respective clearance zone. If a marine mammal is observed within a clearance zone during the pre-start clearance period, ramp-up may not begin until the animal(s) has been observed exiting its respective exclusion zone or until an additional time period has elapsed with no further sighting (i.e., 15 minutes for small odontocetes and seals, and 30 minutes for all other species). Monitoring would be conducted throughout all pre-clearance and shutdown zones as well as all visible waters surrounding the sound sources and the vessel. All marine mammals detected will be recorded as described in the Proposed Monitoring and Reporting section.

Ramp-Up of Survey Equipment

A ramp-up procedure, involving a gradual increase in source level output, is required at all times as part of the activation of the acoustic source when technically feasible. The ramp-up procedure would be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the Lease Area and potential ECRs by allowing them to vacate the area prior to the commencement of survey equipment operation at full power. Operators should ramp-up sources to half power for 5 minutes and then proceed to full power.

The ramp-up procedure will not be initiated (i.e., equipment will not be started) during periods of inclement conditions when the marine mammal pre-start clearance zone cannot be adequately monitored by the PSOs for a 30 minute period using the appropriate visual technology. If any marine mammal enters the clearance zone, ramp-up will not be initiated until the animal is confirmed outside the marine mammal clearance zone, or until the appropriate time (30 minutes for whales, 15 minutes for dolphins, porpoises, and seals) has elapsed since the last sighting of the animal in the clearance zone.

Shutdown, pre-start clearance, and ramp-up procedures are not required during HRG survey operations using only non-impulsive sources (e.g., echosounders) other than non-

parametric sub-bottom profilers (e.g., CHIRPs).

Vessel Strike Avoidance

Bay State Wind must adhere to the following measures except in the 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 protected species and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any protected species. A visual observer aboard the vessel must monitor a vessel strike avoidance zone based on the appropriate separation distance around the vessel (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 protected species from other phenomena, and (2) broadly identify a marine mammal as a right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammal;

a. All survey vessels, regardless of size, must observe a 10-kn speed restriction in specified areas designated by NMFS for the protection of North Atlantic right whales from vessel strikes including seasonal management areas (SMAs) and dynamic management areas (DMAs) when in effect;

b. Members of the monitoring team will consult NMFS North Atlantic right whale reporting system and Whale Alert, as able, for the presence of North Atlantic right whales throughout survey operations, and for the establishment of a DMA. If NMFS should establish a DMA in the Lease Area and potential ECRs during the survey, the vessels will abide by speed restrictions in the DMA;

c. All vessels greater than or equal to 19.8 m in overall length operating from November 1 through April 30 will operate at speeds of 10 kn (5.1 m/second) or less at all times;

d. All vessels must reduce their speed to 10 kn (5.1 m/second) or less when mother/calf pairs, pods, or large assemblages of any species of cetaceans is observed near a vessel;

e. All vessels must maintain a minimum separation distance of 500 m from right whales and other ESA-listed large whales;

f. If a whale is observed but cannot be confirmed as a species other than a right

whale or other ESA-listed large whale, the vessel operator must assume that it is a right whale and take appropriate action;

g. All vessels must maintain a minimum separation distance of 100 m from non-ESA listed 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.

Project-specific training will be conducted for all vessel crew prior to the start of a survey and during any changes in crew such that all survey personnel are fully aware and understand the mitigation, monitoring, and reporting requirements.

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

Proposed Monitoring and Reporting

In order to issue an 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.

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.

Proposed Monitoring Measures

Visual monitoring will be performed by qualified, NMFS-approved PSOs, the resumes of whom will be provided to NMFS for review and approval prior to the start of survey activities. Bay State Wind would employ independent, dedicated, trained PSOs, meaning that the PSOs must (1) be employed by a third-party observer provider, (2) have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and (3) have successfully completed an approved PSO training course appropriate for their designated task. On a case-by-case basis, non-independent observers may be approved by NMFS for limited, specified duties in support of approved, independent PSOs on smaller vessels with limited crew operating in nearshore waters.

The PSOs will be responsible for monitoring the waters surrounding each

survey vessel to the farthest extent permitted by sighting conditions, including shutdown and pre-clearance zones, during all HRG survey operations. PSOs will visually monitor and identify marine mammals, including those approaching or entering the established shutdown and pre-clearance zones during survey activities. It will be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

During all HRG survey operations (*e.g.*, any day on which use of an HRG source is planned to occur), a minimum of one PSO must be on duty during daylight operations on each survey vessel, conducting visual observations at all times on all active survey vessels during daylight hours (*i.e.*, from 30 minutes prior to sunrise through 30 minutes following sunset). Two PSOs will be on watch during nighttime operations. The PSO(s) would ensure 360-degree visual coverage around the vessel from the most appropriate observation posts and would conduct visual observations using binoculars and/or night vision goggles and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observations per 24-hour period. In cases where multiple vessels are surveying concurrently, any observations of marine mammals would be communicated to PSOs on all nearby survey vessels.

PSOs must be equipped with binoculars and have the ability to estimate distance and bearing to detect marine mammals, particularly in proximity to exclusion zones. Reticulated binoculars must also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine mammals. During nighttime operations, night-vision goggles with thermal clip-ons and infrared technology would be used. Position data would be recorded using hand-held or vessel GPS units for each sighting.

During good conditions (*e.g.*, daylight hours; Beaufort sea state (BSS) 3 or less), to the maximum extent practicable, PSOs would also conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the active acoustic sources. Any

observations of marine mammals by crew members aboard any vessel associated with the survey would be relayed to the PSO team. Data on all PSO observations would be recorded based on standard PSO collection requirements. This would include dates, times, and locations of survey operations; dates and times of observations, location and weather, details of marine mammal sightings (e.g., species, numbers, behaviors); and details of any observed marine mammal behavior that occurs (e.g., notes behavioral disturbances). For more detail on the proposed monitoring requirements, see condition 5 of the draft IHA.

Proposed Reporting Measures

Within 90 days after completion of survey activities or expiration of this IHA, whichever comes sooner, a draft comprehensive report will be provided to NMFS that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, summarizes the number of marine mammals observed during survey activities (by species, when known), summarizes the mitigation actions taken during surveys including what type of mitigation and the species and number of animals that prompted the mitigation action, when known), and provides an interpretation of the results and effectiveness of all mitigation and monitoring. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS. A final report must be submitted within 30 days following any comments on the draft report. All draft and final marine mammal and acoustic monitoring reports must be submitted to PR.ITP.MonitoringReports@noaa.gov and ITP.Hilt@noaa.gov. The report must contain at minimum, the following:

- PSO names and affiliations;
 - a. Dates of departures and returns to port with port names;
 - b. Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
 - c. Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts;
 - d. Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
 - e. Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, BSS, Beaufort wind force, swell height, weather conditions,

cloud cover, sun glare, and overall visibility to the horizon;

- Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (e.g., vessel traffic, equipment malfunctions); and

- Survey activity information, such as type of survey equipment in operation, acoustic source power output while in operation, and any other notes of significance (i.e., pre-clearance survey, ramp-up, shutdown, end of operations, etc.).

- Survey activity information (and changes thereof), including at minimum the general specifications of all acoustic sources, power output of all sparkers and boomers while in operation, number of operational sparker tips for all sparkers, tow depth(s) of all towed acoustic sources, and any other notes of significance (i.e., pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.).

- If a marine mammal is sighted, the following information should be recorded:

- a. Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- b. PSO who sighted the animal;
- c. Time of sighting;
- d. Vessel location at time of sighting;
- e. Water depth;
- f. Direction of vessel's travel (compass direction);
- g. Direction of animal's travel relative to the vessel;
- h. Pace of the animal;
- i. Estimated distance to the animal and its heading relative to vessel at initial sighting;

- Identification of the animal (e.g., genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;

- a. Estimated number of animals (high/low/best);
- b. Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);
- c. 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, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);

- a. Animal's closest point of approach and/or closest distance from the center point of the acoustic source;

- Platform activity at time of sighting (e.g., deploying, recovering, testing, data acquisition, other); and

- Description of any actions implemented in response to the sighting (e.g., delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

If a North Atlantic right whale is observed at any time by PSOs or personnel on any project vessels, during surveys or during vessel transit, Bay State Wind must immediately report sighting information to the NMFS North Atlantic Right Whale Sighting Advisory System: (866) 755-6622. North Atlantic right whale sightings in any location may also be reported to the U.S. Coast Guard via channel 16.

In the event that Bay State Wind personnel discover an injured or dead marine mammal, Bay State Wind will report the incident to the NMFS Office of Protected Resources (OPR) and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:

- a. Species identification (if known) or description of the animal(s) involved;
- b. Condition of the animal(s) (including carcass condition if the animal is dead);
- c. Observed behaviors of the animal(s), if alive;
- d. If available, photographs or video footage of the animal(s); and
- e. General circumstances under which the animal was discovered;
- f. Time;
- g. Date; and
- h. location (latitude/longitude) of the first discovery (and updated location information if known and applicable).

In the unanticipated event of a ship strike of a marine mammal by any vessel involved in this activities covered by the IHA, Bay State Wind would report the incident to NMFS OPR and the NMFS New/England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:

- a. Time, date, and location (latitude/longitude) of the incident;
- b. Species identification (if known) or description of the animal(s) involved;
- c. Vessel's speed during and leading up to the incident;
- d. Vessel's course/heading and what operations were being conducted (if applicable);
- e. Status of all sound sources in use;
- f. Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
- g. Environmental conditions (e.g., wind speed and direction, BSS, cloud

cover, visibility) immediately preceding the strike;

h. Estimated size and length of animal that was struck;

i. Description of the behavior of the marine mammal immediately preceding and following the strike;

j. If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;

k. 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

l. 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 2, 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 as—is the case of the North Atlantic right whale—they are included as separate subsections below. NMFS does not anticipate that serious injury or mortality would occur as a result from HRG surveys, 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, non-auditory physical effects and vessel strike are not expected to occur. NMFS expects that all potential takes would be in the form of Level B harassment in the form of 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, 2021). As described above, Level A harassment is not expected to occur given the nature of the operations and the estimated small size of the Level A harassment zones.

In addition to being temporary, the maximum expected harassment zone around the survey vessel is 141 m. Therefore, the ensounded area surrounding each vessel is relatively small compared to the overall distribution of the 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 Lease Area and potential ECRs; 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 temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

There are no rookeries, mating or calving grounds known to be biologically important to marine mammals within the proposed Lease Area and potential ECRs. Two harbor and gray seal breeding and pupping grounds have been identified on Nantucket Sound at Monomoy and Muskeget Island. As the acoustic footprint of the proposed HRG activities is relatively small and these areas occur outside the Lease Area and potential ECRs, hauled seals are not expected to be impacted by these activities.

North Atlantic Right Whale

The status of the North Atlantic right whale (NARW) population is of heightened concern and therefore, merits additional analysis. As noted previously, elevated NARW mortalities began in June 2017 and there is an active UME. Overall, preliminary findings support human interactions, specifically vessel strikes and entanglements, as the cause of death for the majority of right whales. The proposed Lease Area and potential ECRs overlaps with a migratory corridor biologically important area (BIA) for North Atlantic right whales (effective March–April; November–December) that extends from Massachusetts to Florida and, off the coast of NY and RI, from the coast to beyond the shelf break (LaBrecque *et al.* 2015). Right whale migration is not expected to be impacted by the proposed survey due to the very small size of the Lease Area and potential ECRs relative to the spatial extent of the available migratory habitat in the BIA. The proposed Lease Area and potential ECRs also overlap with the Block Island SMA, active from November 1 to April 30. NARWs may be feeding or migrating within the SMA. Required vessel strike avoidance measures and following the speed restrictions of the SMA will decrease the risk of ship strike during NARW migration; no ship strike is expected to occur during Bay State Wind’s proposed activities. For reasons as described above, minimal impacts are expected to prey availability and feeding success. Additionally, HRG survey operations are required to maintain a 500 distance and shutdown if a NARW is sighted at or within 500 m. The 500-m shutdown zone for right whales is conservative, considering the Level B harassment isopleth for the most impactful sources (*i.e.*, GeoMarine Sparkers, AA Dura-spark UHD Sparkers, AA Triple plate S-Boom) is estimated to be 141 m, and thereby minimizes the potential for behavioral harassment of this species. Therefore only very limited take by Level B harassment of NARW has been requested and is being proposed for authorization by NMFS. As noted previously, Level A harassment is not expected, nor authorized, due to the small PTS zones associated with HRG equipment types proposed for use. NMFS does not anticipate NARW takes that result from the proposed survey activities would impact annual rates of recruitment or survival. Thus, any takes that occur would not result in population level impacts.

On August 1, 2022, NMFS announced proposed changes to the existing North

Atlantic right whale vessel speed regulations to further reduce the likelihood of mortalities and serious injuries to endangered right whales from vessel collisions, which are a leading cause of the species' decline and a primary factor in an ongoing Unusual Mortality Event (87 FR 46921, September 9, 2022). Should a final vessel speed rule be issued and become effective during the effective period of this IHA (or any other MMPA incidental take authorization), the authorization holder would be required to comply with any and all applicable requirements contained within the final rule. Specifically, where measures in any final vessel speed rule are more protective or restrictive than those in this or any other MMPA authorization, authorization holders would be required to comply with the requirements of the rule. Alternatively, where measures in this or any other MMPA authorization are more restrictive or protective than those in any final vessel speed rule, the measures in the MMPA authorization would remain in place. These changes would become effective immediately upon the effective date of any final vessel speed rule and would not require any further action on NMFS's part.

Other Marine Mammals With Active UMEs

As noted previously, there are several active UMEs occurring in the vicinity of Bay State Wind's proposed Lease Area and potential ECRs. Elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida since January 2016. Of the cases examined, approximately half had evidence of human interaction (ship strike or entanglement). The UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or distinct population segment) remains stable at approximately 12,000 individuals.

Beginning in January 2017, elevated minke whale strandings have occurred along the Atlantic coast from Maine through South Carolina, with highest numbers in Massachusetts, Maine, and New York. This event does not provide cause for concern regarding population level impacts, as the likely population abundance is greater than 20,000 whales.

The required mitigation measures are expected to reduce the number and/or severity of proposed takes for all species listed in table 2, including those with active UMEs, to the level of least practicable adverse impact. In

particular, they would provide animals the opportunity to move away from the sound source before HRG survey equipment reaches full energy, thus preventing them from being exposed to more severe Level B harassment. No Level A harassment is anticipated, even in the absence of mitigation measures, or proposed for authorization.

NMFS expects that takes would be in the form of short-term Level B behavioral harassment by way of brief startling reactions and/or temporary vacating of the area, or decreased foraging in the area (if such activity was occurring)—reactions that (at the scale and intensity anticipated here) are considered to be of low severity, with no lasting biological consequences. Since both the sources and marine mammals are mobile, animals would only be exposed briefly to a small ensonified area that might result in take. Required mitigation measures, such as shutdown zones and ramp up, would further reduce exposure to sound that could result in more severe behavioral 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 stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- No Level A harassment (PTS) is anticipated, even in the absence of mitigation measures or proposed for authorization;
- Foraging success is not likely to be significantly impacted as effects on species that serve as prey species for marine mammals from the survey are expected to be minimal;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the ensonified area during the planned surveys to avoid exposure to sounds from the activity;
- Take is anticipated to be of Level B behavioral harassment only consisting of brief startling reactions and/or temporary avoidance of the ensonified area;
- While the Lease Area and potential ECRs is within areas noted as a migratory BIA and SMA for North Atlantic right whales, the activities would occur in such a comparatively small area such that any avoidance of the ensonified area due to activities would not affect migration. In addition, mitigation measures require shutdown at 500 m (almost four times the size of the Level B harassment isopleth (141

m), which minimizes the effects of the take on the species; and

- The proposed mitigation measures, including visual monitoring and shutdowns, are expected to minimize potential impacts to marine mammals.

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

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS proposes to authorize is below one-third of the estimated stock abundance for all species (in fact, take of individuals is less than 5 percent of the abundance of the affected stocks for these species, see table 7). The figures presented in table 7 are likely conservative estimates as they assume all takes are of different individual animals which is likely not to be the case. Some individuals may return multiple times in a day, but PSOs would count them as separate takes if they cannot be individually identified.

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

Unmitigable Adverse Impact Analysis and Determination

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

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (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 OPR consults internally whenever we propose to authorize take for endangered or threatened species.

NMFS OPR is proposing to authorize the incidental take of four species of marine mammals which are listed under the ESA, including the North Atlantic right, fin, sei, and sperm whale, and has determined that these activities fall within the scope of activities analyzed in GARFO's programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic Renewable Energy Regions (completed June 29, 2021; revised September 2021).

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Bay State Wind for conducting site characterization surveys off the coast of Rhode Island and Massachusetts from October 6, 2024, to October 5, 2025, 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-other-energy-activities-renewable>.

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 HRG surveys. 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:

- 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); and

- 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; and

- 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: August 15, 2024.

Kimberly Damon-Randall,

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

[FR Doc. 2024-18694 Filed 8-20-24; 8:45 am]

BILLING CODE 3510-22-P

U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

[DFC-018]

Submission for OMB Review; Comments Request

AGENCY: U.S. International Development Finance Corporation (DFC).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is creating a new information collection for OMB review and approval and requests public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received by October 21, 2024.

ADDRESSES: Comments and requests for copies of the subject information collection may be sent by any of the following methods:

- **Mail:** Deborah Papadopoulos, Agency Submitting Officer, U.S. International Development Finance Corporation, 1100 New York Avenue NW, Washington, DC 20527.

- **Email:** fedreg@opic.gov.

Instructions: All submissions received must include the agency name and agency form number or OMB form number for this information collection. Electronic submissions must include the agency form number in the subject line to ensure proper routing. Please note that all written comments received in response to this notice will be considered public records.

FOR FURTHER INFORMATION CONTACT:

Agency Submitting Officer: Deborah Papadopoulos, (202) 357-3979.

SUPPLEMENTARY INFORMATION: This notice informs the public that DFC will submit to OMB a request for approval of the following information collection.

Summary Form Under Review

Title of Collection: Consultation Request Form.

Type of Review: New information collection.

Agency Form Number: DFC-018.

OMB Form Number: Not assigned, new information collection.

Frequency: Once per investor per project.

Affected Public: Business or other for-profit; not-for-profit institutions; individuals.

Total Estimated Number of Annual Number of Respondents: 700–1000.

Estimated Time Per Respondent: 15 minutes/0.25 hour.

Total Estimated Number of Annual Burden Hours: 250 hours.

Abstract: The Consultation Request Form will serve as the public's first point-of-contact with a DFC business development (BD) representative, replacing the current inefficient email-based system of processing inbound queries, and will:

- streamline communications, improving the agency's responsiveness and the customer service experience;
- equip BD representatives to more quickly screen ineligible/non-viable projects and educate the public on eligibility criteria, thereby sourcing more quality leads in less time;
- improve data tracking on cold inquiries and proposals, helping to inform market interest, anticipate pipeline gaps, and proactively shape BD strategy.

Lisa Wischkaemper,

Administrative Counsel, Office of the General Counsel.

[FR Doc. 2024–18621 Filed 8–20–24; 8:45 am]

BILLING CODE 3210–02–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Federal Advisory Committee Meeting—Defense Business Board

AGENCY: Department of Defense (DoD).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Business Board (“the Board”) will take place.

DATES: Open to the public Tuesday, September 10, 2024 from 3:00 p.m. to 4:30 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be conducted virtually by Zoom. To participate in the meeting, see the Meeting Accessibility section for instructions.

FOR FURTHER INFORMATION CONTACT: Ms. Cara Allison Marshall, Designated Federal Officer (DFO) of the Board in writing at Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155; or by email at cara.l.allisonmarshall.civ@mail.mil; or by phone at 703–614–1834.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5, United States Code (U.S.C.) (commonly known as the “Federal Advisory Committee Act” or “FACA”); 5 U.S.C. 552b of title (commonly known as the “Government in the Sunshine Act”); and 41 Code of Federal Regulation (CFR) 102–3.140 and 102–3.150.

Purpose of the Meeting: The mission of the Board is to examine and advise the Secretary and Deputy Secretary of Defense on overall DoD management and governance. The Board provides independent, strategic-level, private sector and academic advice and counsel on enterprise-wide business management approaches and best practices for business operations and achieving National Defense goals.

Agenda: The Board meeting will begin September 10 at 3:00 p.m. with opening remarks by the Board DFO, Ms. Cara Allison Marshall, followed by a welcome by the Board Chair. The Board will receive a presentation on the study, *Communicating In Large Organizations* from Mr. Matthew Daniel, Chair, Talent Management, Culture & Diversity Subcommittee. During this session, the Subcommittee will brief the Board on its findings, observations, and recommendations it compiled as part of a recent study on best practices to effectively communicate in large organizations. The DFO will adjourn the open session. The latest version of the agenda is available on the Board's website at: <https://dbb.dod.afpims.mil/Meetings/Meeting-September-2024/>.

Meeting Accessibility: Pursuant to section 5 U.S.C. 1009(a)(1) and 41 CFR 102–3.140, the meeting on September 10 from 3:00 p.m. to 4:30 p.m. is open to the public virtually. Persons desiring to attend the public sessions are required to register. To attend the public sessions, submit your name, affiliation/organization, telephone number, and email contact information to the Board at osd.pentagon.odam.mbx.defense-business-board@mail.mil. Requests to attend the public sessions must be received no later than 4:00 p.m. on Friday, September 6, 2024. Upon receipt of this information, the Board will provide further instructions for virtually attending the meeting.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and 5 U.S.C. 1009(a)(3) of the FACA, the public or interested organizations may submit written comments or statements to the Board in response to the stated agenda of the meeting or regarding the Board's mission in general. Written comments

or statements should be submitted to Ms. Cara Allison Marshall, the DFO, via electronic mail (the preferred mode of submission) at the address listed in the **FOR FURTHER INFORMATION CONTACT** section above. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The DFO must receive written comments or statements submitted in response to the agenda set forth in this notice by Friday, September 6, 2024, to be considered by the Board. The DFO will review all timely submitted written comments or statements with the Board Chair and ensure the comments are provided to all members of the Board before the meeting. Written comments or statements received after this date may not be provided to the Board until its next scheduled meeting. Please note that all submitted comments and statements will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's website.

Dated: August 16, 2024.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–18756 Filed 8–20–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 22–71]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

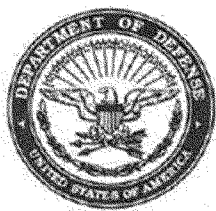
FOR FURTHER INFORMATION CONTACT: Neil Hedlund at neil.g.hedlund.civ@mail.mil or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 22–71, Policy Justification, and Sensitivity of Technology.

Dated: August 16, 2024.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

December 6, 2022

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 22-71, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Poland for defense articles and services estimated to cost \$3.75 billion. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
James A. Hursch
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 22-71

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Republic of Poland

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$3.25 billion
Other	\$0.50 billion

TOTAL	\$3.75 billion

Funding Source: National Funds and Foreign Military Financing (FMF)

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

One hundred sixteen (116) M1A1 Abrams Main Battle Tanks
Twelve (12) M88A2 HERCULES Combat Recovery Vehicles
Eight (8) M1110 Joint Assault Bridges
Six (6) M577A3 Command Vehicles
Twenty-six (26) M1152A1 High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs)
Twenty-six (26) M1279A1 Joint Light Tactical Vehicles (JLTV)

One hundred sixteen (116) M2 .50 Caliber Machine Guns
Two hundred thirty-two (232) M240 7.62mm Machine Guns
Six (6) AGT1500 Gas Turbine Engines
Thirty thousand nine hundred twenty-eight (30,928) 120mm M865 Target Practice; Cone Stabilized, Discarding Sabot—Tracer (TPCSDS-T) Cartridges
Twenty thousand eight hundred twenty-three (20,823) 120mm M1002 Target Practice Multipurpose Tracer (TPMP-T) Projectiles
Sixty thousand (60,000) 120mm M829A4 Armor Piercing, Fin

Stabilized, Discarding Sabot-Tracer (APFSDS-T) Cartridges
 Two thousand (2,000) 120mm M829A3 Armor Piercing, Fin Stabilized, Discarding Sabot-Tracer (APFSDS-T) Cartridges
 Fifty thousand (50,000) 120mm M829A2 Armor Piercing, Fin Stabilized, Discarding Sabot-Tracer (APFSDS-T) Cartridges
 Ten thousand (10,000) 120mm M830A1 High Explosive Anti-Tank (HEAT) TP-T Cartridges
 Sixty thousand (60,000) 120mm M908 High Explosive Obstacle Reduction-Tracer (HE-OR-T) Cartridges
 Seventy thousand (70,000) 120mm M1147 High Explosive Advanced Multipurpose Round Cartridges

Non-MDE:

Also included are Forward Repair Systems; Next Generation (NG) Shop Equipment Maintenance Contact (SECM) shelters; communications equipment; GPS receivers; ammunition; Spare and Repair Parts; Special Tools and Test Equipment (STTE); technical manuals and publications; new equipment training; U.S. Government and contractor technical engineering, logistics, and personnel services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (PL-B-UEC, PL-B-UED, PL-B-UEE)

(v) *Prior Related Cases, if any:* PL-B-UDT

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* December 6, 2022

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Poland—M1A1 Abrams Main Battle Tanks

The Government of Poland has requested to buy one hundred sixteen (116) M1A1 Abrams Main Battle Tanks; twelve (12) M88A2 HERCULES Combat Recovery Vehicles; eight (8) M1110 Joint Assault Bridges; six (6) M577A3 Command Vehicles; twenty-six (26) M1152A1 High Mobility Multi-purpose Wheeled Vehicles (HMMWV); twenty-six (26) M1279A1 Joint Light Tactical Vehicles (JLTV); one hundred sixteen (116) M2 .50 caliber machine guns; two hundred thirty-two (232) M240 7.62mm machine guns; six (6) AGT1500 gas turbine engines; thirty thousand nine hundred twenty-eight (30,928) 120mm

M865 Target Practice, Cone Stabilized, Discarding Sabot—Tracer (TPCSDS-T) cartridges; twenty thousand eight hundred twenty-three (20,823) 120mm M1002 Target Practice Multipurpose Tracer (TPMP-T) projectiles; sixty thousand (60,000) 120mm M829A4 Armor Piercing, Fin Stabilized, Discarding Sabot-Tracer (APFSDS-T) cartridges; two thousand (2,000) 120mm M829A3 Armor Piercing, Fin Stabilized, Discarding Sabot-Tracer (APFSDS-T) cartridges; fifty thousand (50,000) 120mm M829A2 Armor Piercing, Fin Stabilized, Discarding Sabot-Tracer (APFSDS-T) Cartridges; ten thousand (10,000) 120mm M830A1 High Explosive Anti-Tank (HEAT) TP-T cartridges; sixty thousand (60,000) 120mm M908 High Explosive Obstacle Reduction-Tracer (HE-OR-T) cartridges; and seventy thousand (70,000) 120mm M1147 High Explosive Advanced Multipurpose Round cartridges. Also included are Forward Repair Systems; Next Generation (NG) Shop Equipment Maintenance Contact (SECM) shelters; communications equipment; GPS receivers; ammunition; Spare and Repair Parts; Special Tools and Test Equipment (STTE); technical manuals and publications; new equipment training; U.S. Government and contractor technical engineering, logistics, and personnel services; and other related elements of logistics and program support. The total estimated program cost is \$3.75 billion.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve Poland's capability to meet current and future threats by providing a credible force that is capable of deterring adversaries and participating in NATO operations. Poland will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor(s) will be AAR, Wood Dale, IL; Allison Transmissions, Birmingham, AL; Anniston Army Depot, Anniston, AL; BAE Systems, Sterling Heights, MI; General Dynamics Land Systems (GDLS), Sterling Heights, MI; Honeywell, Phoenix, AZ; L3Harris, Melbourne, FL; Leonardo DRS, West Plains, MO; Lockheed Martin, Bethesda, MD; Palomar, Rancho Santa Margarita, CA; Pearson Engineering, Phoenix, AZ; and US Ordnance, McCarran, NV. There are no known offset agreements

proposed in connection with this potential sale.

Implementation of this proposed sale will require temporary duty travel of three to five U.S. Government and contractor representatives to Poland for a duration of up to five years to support equipment fielding and training.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 22-71

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. M1A1 Abrams Main Battle Tank: The M1A1 Abrams is a first-generation American main battle tank, produced by General Dynamics Land Systems (GDLS) and named for General Creighton Abrams. M1A1 Abrams tank components are as follows:

a. Fire Enhancement Program (FEP): The FEP is the USMC M1A1 tank equivalent to the US Army domestic 2nd GEN FLIR. The main difference between the two is in the switch-ology, with the FEP having four (4) Search/Stare options as opposed to the six (6) available on the 2nd GEN FLIR. The FEP provides lethality upgrades to increase the M1A1 tank crew's ability to detect, recognize, and identify targets. It hosts a second-generation thermal sight (Abrams Integrated Display and Targeting System-AIDATS), a North Finding Module/Far Target Location capability displayed in sight (providing up to 50x digital magnification), and Embedded diagnostics to help troubleshoot the system. The FEP increases all-weather engagement ranges, crew situational awareness and target location accuracy.

b. Inertial Reference Unit (IRU) 9181E: The IRU is an inertial navigation system that provides accurate vehicle heading, attitude, position, elevation and navigation information to the host vehicle prime system and operators, both stationary and when moving under all operating conditions.

The Inertial Reference Unit (IRU) can be configured as a navigator (NavPAC) or as a pointing device (North Finding Module, NFM). In either configuration, the IRU contains a GPS receiver that provides vehicle location and velocities as well as satellite tracking status. These GPS observations are used by the IRU's Kalman filter to improve and enhance its performance. The GPS unit is a Ground-Based GPS Receiver Application Module (GB-GRAM)

provided by Rockwell-Collins. The Miniature PLGR Engine-SAASM (MPE-S), when keyed, provides the Precise Positioning System (PPS) GPS data inputs to the system. The system is a Selective Availability/Anti-Spoofing Module (SAASM) based PPS GPS. The SAASM encapsulates all classified data and signal processing into one tamper-proof module. The SAASM provides jamming and spoofing protection for US and allied forces operating in hostile environments.

c. 120mm Main Gun (Cannon) & M256 Gun Barrel: The Abrams 120mm main gun system is composed of a 120 millimeter (mm) smoothbore gun (cannon) also referred to as the M256 gun barrel; armor-piercing, fin stabilized, discarded sabot (APFSDS) and other warheads; and combustible cartridge case ammunition.

d. AGT-1500 Gas Turbine Propulsion System: The use of AGT-1500 gas turbine propulsion system in the M1A1 is a unique application of armored vehicle power pack technology.

e. Stabilized Commander's Weapon Station—(SCWS): The SCWS provides day/night remote operation of the stabilized Commander's machine gun in closed hatch mode while enhancing Situational Awareness (provides CITV-like capability to the Tank Commander Lethality). The SCWS uses a Remote Thermal Sight (RTS) and the Abrams Integrated Display and Targeting System (AIDATS) color display to generate motorized azimuth and elevation variables.

Abrams Integrated Display and Targeting System (AIDATS) operates in conjunction with the Tank Commander Single Handle and slew-to-cue capabilities to maximize accuracy, range, and lethality on the battlefield while decreasing enemy engagement time by half. The AIDATS provides an upgraded thermal and day sight on the SCWS via a high-definition camera and permanently mounted color display.

f. Driver Vision Enhancer—Abrams (DVE-A) AN/VAS-5 and Rear-View Sensor System (RVSS): The AN/VAS-5 Driver Vision Enhancer—Abrams (DVE-A) and Rear-View Sensor System (RVSS) are thermal imaging systems developed for use while driving combat vehicles and tactical wheeled vehicles. The DVE-A provides night vision capability for the Abrams tank driver. RVSS provides a rear-view camera for the Abrams tank.

DVE-A and RVSS allow for tactical vehicle movement in support of operational missions in all environmental conditions (day/night and all weather) and provides enhanced driving capability during limited

visibility conditions (darkness, smoke, dust, fog, etc.).

g. Global Positioning System (GPS) AN/PSN-13 Defense Advanced GPS Receiver (DAGR): Global Positioning System (GPS) capability is currently provided to Abrams tanks using the DAGR. The DAGR is a handheld GPS receiver, which utilizes Selective Availability Anti-Spoofing Module (SAASM) security. It is used for the Abrams tank, the M88A2 HERCULES Recovery Vehicle and the Joint Assault Bridge.

h. Handheld Communication Radio AN/PRC-158: The AN/PRC-158 is a Very High Frequency/Ultra High Frequency (VHF/UHF) multiband multi-channel (dual channel) radio. It is a portable, compact, tactical software-defined combat-net radio manufactured by L3/Harris Corporation. The AN/PRC-158 includes Type 1 encryption and a Selective Availability Anti-Spoofing Module (SAASM) Global Positioning System (GPS) receiver.

i. Battle Management System (BMS): The BMS for the Poland M1A1 tank will consist of a Data Distribution Unit—Expandable (DDUx), a transceiver, and commercial software called Sitaware. It equips soldiers with secure data encryption and advanced logistics. It includes an intuitive interface with features like touch-to-zoom maps and drag-and-drop icons.

j. AN/PVS-14, Night Vision Goggles: The AN/PVS-14 Night Vision Goggle (NVG) is a lightweight, head-mounted self-contained night vision system. It is used in starlight and moonlight by individual soldiers for walking, driving vehicles, weapon firing, short-range surveillance, and such manual tasks as map reading, vehicle maintenance and administering medical aid. Each NVG consists of an objective lens assembly, image intensifier tube assembly and two eyepiece assemblies integrated into a housing. The housing is affixed to a head mount, which is held by head straps to a user's head. The assembly incorporates an infrared (IR) emitting light source, which provides illumination, when required, for close-up viewing. Eyepiece diopter adjustment is provided so the device may be worn without corrective lens.

2. M88A2 HERCULES Recovery Vehicle: The primary role of the M88A2 Heavy Equipment Recovery Combat Utility Lifting Extraction System (HERCULES) Combat Recovery Vehicle is recovery of the Abrams M1 Main Battle Tank. The 70-ton M88A2 Recovery Combat Vehicle is standard equipment to de-process, recover, and sustain the Abrams M1 Tank. The vehicle's role is to extricate combat

vehicles that have become bogged down or entangled; and to repair or replace damaged parts in fighting vehicles while under fire. The M88A2 main winch is capable of 70-ton single line recovery; and a 140-ton 2:1 recovery when used with a 140-ton pulley. The A-frame boom of the M88A2 can lift 35 tons when used in conjunction with the spade down. The spade can be used for light earth moving and to anchor the vehicle when using the main winch. The M88A2 employs an Auxiliary Power Unit (APU) to provide auxiliary electrical and hydraulic power when the main engine is not in operation, the APU can also be used to slave start other vehicles.

a. AVDS-1790-8CR Engine Propulsion System is a unique modification to the standard piston engine family in the M60 series and the base M88A1.

b. Driver's Vision Enhancer (DVE-CV M88) is an un-cooled thermal imaging system developed for use while driving Combat Vehicles (CVs) and Tactical Wheeled Vehicles (TWVs). It allows for tactical vehicle movement in support of operational missions in all environmental conditions (day/night and all weather) and provides enhanced driving capability during limited visibility conditions (darkness, smoke, dust, fog, etc.). The DVE provides night vision targeting capabilities for armored vehicles and long-range night vision reconnaissance capability to the warfighter.

c. Handheld Communication Radio AN/PRC-158 is a multiband handheld radio. It is a portable, compact, tactical software-defined combat-net radio manufactured by L3/Harris Corporation.

3. M1110 Joint Assault Bridge: The M1110 Joint Assault Bridge (JAB) is a fully tracked armor engineer vehicle specifically designed to replace the M48/M60 AVLB, M104 Wolverine HAB and provide assault bridging capabilities to armored forces. The JAB System consists of an M1A1 Abrams chassis (with A2 heavy suspension) and a hydraulic bridge launch mechanism that will launch and retrieve the Heavy Assault Scissor Bridge MLC-115 Normal and MLC-124 Caution.

4. Joint Light Tactical Vehicles (JLTV): The Joint Light Tactical Vehicle (JLTV) program is a light tactical vehicle designed to replace the U.S. Military's aging High Mobility Multipurpose Wheeled Vehicle fleet. It was designed to close the existing gap in payload, performance, and protection to our adversaries during multi-domain operations. It has been an operationally optimal choice for the light tactical vehicle mission spectrum anywhere in

the world. All JLTV mission variants include a strong balance of protection, maneuverability, speed, reliability, and combat support/combat service support capability that far surpasses any similar vehicle developed in its weight class today.

a. The JLTV is designed to be a system of system. System of systems is a “set or arrangement of systems that results when independent and useful systems are integrated into a larger system that delivers unique capabilities. The Joint Light Tactical Vehicle allows material and equipment from authorized contractors or industrial facilities used by U.S. forces in tactical operations and managed by other Program Offices that may have considered a type of classification. Other than its classified armor and ballistic protection, the JLTV is considered an unclassified tactical system. When adding integration C4ISR systems (installed or mounted), electronic countermeasures jamming devices, navigation systems or battle management systems to the JLTV, these integrated or installed system will increase the over security classification to the vehicle.

b. The JLTV’s A/B Armor protection technical and test data of armor coupon, ballistic hull exploitation, Behind Armor Debris (BAD) and Full Up System Level (FUSL) Live Fire test data and protection levels to include Under Body (UB) blast, Under Wheel (UW) blast, Under Body (UB) IED, side attack (SA) IED, direct fire, and artillery enhancements are all classified technical information. The JLTV has inherent armor built into the base vehicle. It is what the US Government (USG) calls A-Kit armor. This A-Kit Inherent armor provides both opaque and transparent armor solutions to provide a 360-degree azimuthal (*i.e.*, all around) to include an elevated fire level

of protection from a spectrum of kinetic energy/small arms fire threats with survivability enhancements to include Automatic Fire Extinguishing Protection (AFES) and structural rollover protection of 150% of the vehicle Ground Vehicle Weight Rating (GVWR). The B-kit includes: (1) a combined underbody deflector plate and Energy Absorbent (EA) seat mechanisms to mitigate occupant incapacity (per Annex Q) for both anti-tank land mine blast and Improvised Explosive Device (IED) blast and fragmentation kill mechanisms, (2) a design that provides a higher level protection against significantly larger Under Wheel (UW) blast threats that also leverages vehicle frontal and rear tear-away structural design lessons learned from OEF and OIF, (3) a direct fire B-kit that adds on to the Inherent armor/A-Kit to defeat a higher level all-around direct fire threat, side attack IED attack blast and fragmentation kill mechanisms, with additional roof armor for top attack threats that include direct fire and artillery enhancements.

c. C4ISR systems (installed or mounted), electronic countermeasures jamming devices, navigation systems or battle management systems that are integrated or installed system in the JLTV will follow the same security guidelines based on their program security classification guide.

5. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

6. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

7. A determination has been made that Poland will provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

8. All defense articles and services listed in this transmittal have been authorized for release and export to the Republic of Poland.

[FR Doc. 2024–18762 Filed 8–20–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 22–0S]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at neil.g.hedlund.civ@mail.mil or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(5)(C) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 22–0S.

Dated: August 16, 2024.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.



DEFENSE SECURITY COOPERATION AGENCY

2800 Defense Pentagon
Washington, DC 20301-2800

December 5, 2022

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 22-0S. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 20-77 of October 21, 2020.

Sincerely,

A handwritten signature in black ink, reading "James A. Hursch".

James A. Hursch
Director

Enclosures:

1. Transmittal

Transmittal No. 22-0S

*REPORT OF ENHANCEMENT OR
UPGRADE OF SENSITIVITY OF
TECHNOLOGY OR CAPABILITY (SEC.
36(B)(5)(C), AECA)*

(i) *Purchaser:* Taipei Economic and Cultural Representative Office in the United States (TECRO)

(ii) *Sec. 36(b)(1), AECA Transmittal No.: 20-77*

Date: October 21, 2020

Military Department: Army

Funding Source: National Funds

(iii) *Description:* On October 21, 2020, Congress was notified by Congressional certification transmittal number 20-77, of the possible sale, under Section 36(b)(1) of the Arms Export Control Act,

of eleven (11) High Mobility Artillery Rocket Systems (HIMARS) M142 Launchers; sixty-four (64) Army Tactical Missile Systems (ATACMS) M57 Unitary Missiles; seven (7) M1152A1 High Mobility Multipurpose Wheeled Vehicles (HMMWVs); eleven (11) M240B Machine Guns, 7.62MM; and seventeen (17) International Field Artillery Tactical Data Systems (IFATDS). Also included were fifty-four (54) M28A2 Low Cost Reduced Range Practice Rocket Pods (LCRRPR); eleven (11) M2A1 machine guns, .50 caliber; twenty-two (22) AN/NRC-92E dual radio systems; seven (7) AN/NRC-92E dual radio ground stations; fifteen (15) AN/VRC-90E single radio systems; eleven (11) M1084A2 cargo Family of

Medium Tactical Vehicles (FMTV) Resupply Vehicles (RSV); two (2) M1089A2 cargo wrecker FMTV RSV; eleven (11) M1095 trailer cargo FMTV, 5-ton; support equipment; communications equipment; spare and repair parts; test sets; laptop computers; training and training equipment; publication; systems integration support; technical data; Stockpile Reliability Program (SRP); Quality Assurance and Technical Assistance Teams; U.S. Government and contractor technical, engineering, and logistics support services; and other related elements of logistical and program support. The estimated total cost was \$436.1 million. Major Defense

Equipment (MDE) constituted \$357.5 million of this total.

This transmittal notifies the inclusion of the following MDE items: an additional eighteen (18) High Mobility Artillery Rocket Systems; twenty (20) Army Tactical Missile Systems Pods; eleven (11) M1152A1 High Mobility Multipurpose Wheeled Vehicles integrated with C2 shelter; four (4) M1152A1 HMMWVs integrated with SECM shelter; and one hundred forty-four (144) M31A2 Guided Multiple Launch Rocket System (GMLRS) Unitary High Explosive (HE) Pods with Insensitive Munitions Propulsion System (IMPS). Also included are additional 5-ton M1084A2 cargo Family of Medium Tactical Vehicle (FMTV) Resupply Vehicles (RSV) without winch; 5-ton M1089A2 with winch wreckers; 5-ton M1095 trailers with resupply kits; Intercom Systems to support the HIMARS Launcher; radio/communication mounts; machine gun mounts; battle management system Vehicle Integration Kit; wheel guards; ruggedized laptops; training; training equipment; publications for HIMARS; and munitions, spares, services, and other support equipment. The estimated total value of the additional items is \$520 million. The total estimated MDE value will increase by \$430 million to \$787.5 million, resulting in an estimated total case value of \$956.1 million.

(iv) *Significance*: The proposed sale will improve the recipient's military goals of updating capability while further enhancing interoperability with

the United States and other allies. The recipient intends to use these defense articles and services to modernize its armed forces and expand its capability to strengthen its homeland defense and deter regional threats.

(v) *Justification*: This proposed sale serves U.S. national, economic, and security interests by supporting the recipient's continuing efforts to modernize its armed forces and to maintain a credible defensive capability. The proposed sale will help improve the security of the recipient and assist in maintaining political stability, military balance, and economic progress in the region.

(vi) *Sensitivity of Technology*:

The M31A2 GMLRS Unitary HE with IMPS is the Army's primary munition for units fielding the M142 HIMARS and M270 Multiple Launcher Rocket System (MLRS) Launchers. The GMLRS Unitary is a solid propellant artillery rocket that uses Global Positioning System/Precise Positioning Service (GPS/PPS)-aided inertial guidance to accurately and quickly deliver a single high-explosive blast fragmentation warhead to targets at ranges from 15–70 kilometers. The rockets are fired from a launch pod container that also serves as the storage and transportation container for the rockets. Each rocket pod holds six (6) total rockets.

The Sensitivity of Technology Statement contained in the original notification applies to remaining items reported here.

The highest level of classification of defense articles, components, and

services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress*: December 5, 2022

[FR Doc. 2024–18763 Filed 8–20–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 22–66]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

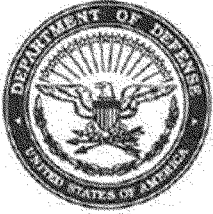
SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at neil.g.hedlund.civ@mail.mil or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 22–66, Policy Justification, and Sensitivity of Technology.

Dated: August 16, 2024.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

December 6, 2022

The Honorable Nancy Pelosi
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 22-66, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost \$1.5 billion. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

James A. Hursch
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 22-66

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Republic of Korea

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$1.0 billion
Other	\$0.5 billion
TOTAL	\$1.5 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
 Eighteen (18) CH-47F Helicopters
 Forty-two (42) T55-GA-714A Engines (36 installed, 6 spares)
 Twenty-two (22) Common Missile Warning Systems (CMWS) (18 installed, 4 spares)
 Forty-four (44) secure radios, RT-1987 (36 installed, 8 spares)
Non-MDE:

Also included are AN/APR-39 Radar Warning Systems; AN/ARC-220 HF Airborne Communications Systems; AN/APX-123A IFF transponders; AN/ARN-147; AN/ARN-153; AN/APN-209; secure radios; U.S. Government and contractor engineering, technical and logistics support services; repair and return; storage; and other related elements of logistical and program support.

(iv) *Military Department: Army (KS–B–ZJG)*
 (v) *Prior Related Cases, if any: None*
 (vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None*
 (vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services*
Proposed to be Sold: See Attached Annex
 (viii) *Date Report Delivered to Congress: December 6, 2022*
 * As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Korea—CH–47F Chinook Helicopters

The Republic of Korea (ROK) has requested to buy eighteen (18) CH–47F helicopters; forty-two (42) T55–GA–714A engines (36 installed, 6 spares); twenty-two (22) Common Missile Warning Systems (CMWS) (18 installed, 4 spares); and forty-four (44) secure radios, RT–1987 (36 installed, 8 spares). Also included are AN/APR–39 Radar Warning Systems; AN/ARC–220 HF Airborne Communications Systems; AN/APX–123A IFF transponders; AN/ARN–147; AN/ARN–153; AN/APN–209; secure radios; U.S. Government and contractor engineering, technical and logistics support services; repair and return; storage; and other related elements of logistical and program support. The estimated total program cost is \$1.5 billion.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a major ally that is a force for political stability and economic progress in the Asia-Pacific region.

The proposed sale will improve the ROK's capability to meet current and future threats by strengthening its Army heavy lift capability. The CH–47F will allow the ROK to conduct missions in support of bilateral operational plans which include, but are not limited to, medical evacuation, search and rescue, parachute drops, and disaster relief. The ROK will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Boeing, Ridley Park, PA. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to ROK.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 22–66

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The CH–47F Chinook Cargo Helicopter is a medium lift aircraft which includes two T55–GA–714A Engines and an advanced cockpit that features five multi function displays, four-axis coupled flight director, digital map, and Dual Embedded Global Positioning System/Inertial Navigation System (GPS/INS) (EGI).

a. The AN/APR–39 Radar Warning System is a lightweight radar receiver(s) for aircraft applications that provide warning of radar-detected threats to allow appropriate evasive maneuvers and deployment of countermeasures. The system has the capability of detecting all pulse radars normally associated with hostile surface-to-air missiles, airborne intercepts, and anti-aircraft weapon systems.

b. The AN/AAR–57 Common Missile Warning System (CMWS) is an integrated infrared (IR) countermeasures suite utilizing five ultraviolet (UV) sensors to display accurate threat location and dispense decoys/countermeasures either automatically or under pilot/crew control to defeat incoming missile threats.

c. The AN/ARC–220 HF airborne communications system provides embedded Automatic Link Establishment (ALE), serial tone data modem, text messaging and GPS position reporting functions.

d. The AN/APX–123A, Identification Friend or Foe (IFF) Transponder, is a space diversity transponder and is installed on various military platforms. It provides identification, altitude, and surveillance reporting in response to interrogations from airborne, ground-based and/or surface interrogators.

e. The AN/ARN–147 combines all VHF Omni Ranging/Instrument Landing System (VOR/ILS) functions into one compact, lightweight, VHF navigation receiver.

f. The AN/ARN–153 is an airborne receiver-transmitter component of the Tactical Airborne Navigation (TACAN) avionics system. The AN/ARN–153(V) supports four modes of operation modes; receive, transmit, air-to-air receive, air-to-air transmit-receive.

g. The AN/APN–209 is a pulse type, absolute (radar) altimeter that provides an accurate indication of aircraft altitude over all types or terrain surfaces

such as foliage, deep snow, water, and land.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that the Republic of Korea can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Republic of Korea.

[FR Doc. 2024–18764 Filed 8–20–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness (USD (P&R)), Department of Defense (DoD).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce the following Federal Advisory Committee meeting of the Reserve Forces Policy Board (RFPB) will occur.

DATES: The RFPB will hold an open meeting to the public on Wednesday, September 11, 2024, from 12:30 p.m. to 4:45 p.m.

ADDRESSES: The in-person meeting will be held at the RFPB office located at 5109 Leesburg Pike, Suite 501, Falls Church, Virginia 22041. The meeting will also be held via videoconference. Participant access information will be provided after registering. Pre-meeting registration is required. See guidance in **SUPPLEMENTARY INFORMATION**, “Meeting Accessibility.”

FOR FURTHER INFORMATION CONTACT: Eric Flowers, Designated Federal Officer (DFO) at eric.p.flowers2.civ@mail.mil or 703–697–1795. The mailing address is

Reserve Forces Policy Board, 5109 Leesburg Pike, Suite 501, Falls Church, Virginia 22041. The most up-to-date changes to the meeting agenda can be found on the website: <https://rfpb.defense.gov/>.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5, United States Code (U.S.C.) (commonly known as the “Federal Advisory Committee Act” or “FACA”), title 5, U.S.C., section 552b (commonly known as the “Government in the Sunshine Act”), and title 41, Code of Federal Regulations, section 102–3.140 and section 102–3.155.

Purpose of the Meeting: The purpose of the meeting is to obtain, review, and evaluate relevant information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, effectiveness, and accessibility of the Reserve Component (RC).

Agenda: The RFPB will hold an open meeting to the public from 12:30 p.m. to 4:45 p.m. on Wednesday, September 11, 2024. The RFPB will begin the meeting at 12:30 p.m. with opening and introductory remarks by Mr. Eric Flowers, the DFO, Major General Vanessa Dornhoefer, United States Air Force Reserve, the RFPB’s Military Executive and the RFPB Chairperson, the Honorable Lisa Disbrow. After the introductory remarks, the RFPB will receive updates from its three subcommittees. Starting at 12:40 p.m. the Integration of Total Force Personnel Policy subcommittee will provide an update on its significant events since the last board meeting. Subcommittee member Sergeant Major (SGM) Stuart Coupe will provide the update. SGM Coupe’s presentation will focus on the subcommittee’s progress on assessing the viability of various workforce permeability options and an overview of the subcommittee’s initial research findings concerning relevant implications of future strategic depth matters associated with the RC. At approximately 12:50 p.m., the RCs’ Role in Homeland Defense and Support to Civil Authorities subcommittee will provide a ten-minute update on its recently submitted *Reserve Component Support for Homeland Defense Report*. The Honorable Paul Stockton, subcommittee chair, will provide the update. He will highlight subcommittee recommendations on specific Homeland Defense (HD) policy initiatives, ways to supplement mobilization authorities and other measures to strengthen the DoD’s ability to use the RC in achieving HD priorities in the 2022 National

Defense Strategy (NDS). At approximately 1:00 p.m., the Total Force Integration subcommittee will then provide an update on its research and analysis efforts on the Reserve Force of 2040 concept. Dr. Stacie Pettyjohn, the subcommittee chair, will provide the update. Dr. Pettyjohn will provide a status of the subcommittee’s work on developing recommendations on operational and structural considerations for the RC in a future strategic environment. The recommendations will be based on NDS projections of RC mission sets and organizational structures between the present day and 2040. The update will be inclusive of the subcommittee’s progress in seeking resources to fund a study that will shape those recommendations. After the subcommittees’ updates, at approximately 1:10 p.m., the RFPB will receive a sixty-minute, RC-oriented brief on the future of Army RC preparation and utilization opportunities in consideration of the Reserve Force of 2040 concept. Dr. Jacob Barton, Deputy Director of Intelligence for US Army Futures Command, will make a presentation on US Army Futures Command priorities in relation to the projected operating environment of 2040. This projection is based on current trend analyses and open-source intelligence data used to inform Army-related aspects of the Reserve Force of 2040 concept. After the Army Futures Command presentation, participants will conduct a 15-minute break from 2:10 p.m. to 2:25 p.m. At approximately 2:25 p.m., the RFPB will receive a sixty-minute, RC-oriented brief on the future of Navy RC preparation and utilization opportunities in consideration of the Reserve Force of 2040 concept. Mr. Alex Trempe, Deputy Director, from the Strategy and Concepts Division on the Chief of Naval Operations’ staff will make a presentation on the US Navy’s holistic outlook on the future status of US naval forces, inclusive of Naval Reserve Component assets and capabilities. After Mr. Trempe’s presentation, participants will conduct a 15-minute break from 3:25 p.m. to 3:40 p.m. At approximately 3:40 p.m., the RFPB will receive a sixty-minute, RC-oriented brief on the future of US Air Force RC preparation and utilization opportunities in consideration of the Reserve Force of 2040 concept. Mr. Brian Coppersmith, a Futures Officer from the Air Force Chief of Staff’s Concepts and Futures Division will make a presentation on the US Air Force’s holistic outlook on the future status of US air capabilities, inclusive of

Air Force Reserve Component assets and force structure. At the conclusion of Mr. Coppersmith’s presentation, at approximately 4:40 p.m. the Honorable Disbrow will offer closing remarks and adjourn the meeting at approximately 4:45 p.m.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 1 and 41 CFR. 102–3.140 through 102–3.150, and subject to the availability of space, this meeting is open to the public from 12:30 p.m. to 4:45 p.m. on September 11, 2024. The meeting will be held in-person and via videoconference. The number of participants for the in-person session and videoconference is limited and is on a first-come basis. All members of the public who wish to attend the in-person session or participate in the videoconference must register by contacting the RFPB DFO, Eric Flowers, at eric.p.flowers2.civ@mail.mil or, osd.pentagon.ousd-p-r.mbx.rfpb@mail.mil or, (703) 697–1795 no later than Monday, September 9, 2024 (by 5:00 p.m. Eastern Standard Time).

Individuals that may require physical meeting or electronic meeting accommodations should submit their request to the RFPB DFO, Eric Flowers, at eric.p.flowers2.civ@mail.mil or, osd.pentagon.ousd-p-r.mbx.rfpb@mail.mil or, (703) 697–1795. Once registered, the web address and audio number will be provided to those members of the public planning to participate in the videoconference. For those members of the public who successfully register for in-person attendance, the meeting will be held in the RFPB large conference room at the RFPB office. The RFPB office is located on the 5th floor, in suite 501 in the Skyline 6 office building located at 5109 Leesburg Pike, Falls Church, Virginia. Instructions for on-site parking will be provided after a member of the public successfully registers with the DFO to attend the in-person session.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and section 10(a)(3) of the FACA, the public and interested parties may submit written statements to the RFPB at any time about its approved agenda or at any time on the RFPB’s mission. Written statements should be submitted to the RFPB’s DFO at the address or email listed in the **FOR FURTHER INFORMATION** section. If statements pertain to a specific topic being discussed at the planned meeting, then these statements must be submitted no later than one (1) business day prior to the scheduled meeting date. Written statements received after this date may not be provided to or considered by the RFPB until its next scheduled meeting. The DFO will review all timely

submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice. Please note that all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, in accordance with the provisions outlined in the Freedom of Information Act, including, but not limited to, being posted on the RFPB's website.

Dated: August 16, 2024.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.

[FR Doc. 2024-18757 Filed 8-20-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 22-55]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at neil.g.hedlund.civ@mail.mil or (703) 697-9214.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 22-55 and Policy Justification.

Dated: August 16, 2024.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

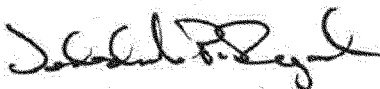
AUG 25 2022

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 20-0M. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 15-51 of November 4, 2015.

Sincerely,


for James A. Hursch
Director

Enclosures:

1. Transmittal
2. Regional Balance (Classified document provided under separate cover)



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

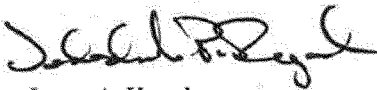
AUG 25 2022

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 20-0M. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 15-51 of November 4, 2015.

Sincerely,

for 
James A. Hursch
Director

Enclosures:

1. Transmittal
2. Regional Balance (Classified document provided under separate cover)



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

December 6, 2022

The Honorable Nancy Pelosi
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 22-55, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Taipei Economic and Cultural Representative Office in the United States (TECRO) for defense articles and services estimated to cost \$330 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

James A. Hursch
 James A. Hursch
 Director

Enclosures:

1. Transmittal
2. Policy Justification

Transmittal No. 22-55

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Taipei Economic and Cultural Representative Office in the United States (TECRO)

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 0 million
Other	\$330 million

TOTAL	\$330 million

Funding Source: National Funds
 (iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

None

Non-MDE:

Included is the expansion of the Cooperative Logistics Supply Support Arrangement for stock replenishment supply of standard spare parts, consumables, and

accessories, and repair and replacement support for the F-16, C-130, Indigenous Defense Fighter (IDF), and all other aircraft and systems or subsystems of U.S. origin, as well as other related elements of logistics and program support.

(iv) *Military Department:* Air Force (TW-D-KDV)

(v) *Prior Related Cases, if any:* TW-D-KDT, TW-D-KDR, TW-D-KDS

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: None

(viii) *Date Report Delivered to Congress*: December 6, 2022

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Taipei Economic and Cultural Representative Office in the United States—Aircraft Standard Spare Parts

The Taipei Economic and Cultural Representative Office in the United States (TECRO) has requested to buy the expansion of the Cooperative Logistics Supply Support Arrangement for stock replenishment supply of standard spare parts, consumables, and accessories, and repair and replacement support for the F-16, C-130, Indigenous Defense Fighter (IDF), and all other aircraft and systems or subsystems of U.S. origin, as well as other related elements of logistics and program support. The estimated total cost is \$330 million.

This proposed sale is consistent with U.S. law and policy as expressed in Public Law 96–8.

This proposed sale serves U.S. national, economic, and security interests by supporting the recipient's

continuing efforts to maintain a credible defensive capability. The proposed sale will help improve the security of the recipient and assist in maintaining political stability, military balance, and economic progress in the region.

The proposed sale will contribute to the sustainment of the recipient's aerial fleet, enhancing its ability to meet current and future threats while providing defensive and transport capabilities critical to regional security. The proposed sale will contribute to the recipient's goal of maintaining its military capability while further enhancing interoperability with the United States and other allies. The recipient will have no difficulty absorbing this equipment and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

There are no principal contractors involved with this potential sale. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the permanent assignment of any U.S. Government or contractor representatives to recipient.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2024–18761 Filed 8–20–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 22–56]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at neil.g.hedlund.civ@mail.mil or (703) 697–9214.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 22–56 and Policy Justification.

Dated: August 16, 2024.

Patricia L. Toppings,

*OSD Federal Register Liaison Officer,
Department of Defense.*

BILLING CODE 6001–FR–P



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

December 6, 2022

The Honorable Nancy Pelosi
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 22-56, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Taipei Economic and Cultural Representative Office in the United States (TECRO) for defense articles and services estimated to cost \$98 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

James A. Hursch
 Director

Enclosures:

1. Transmittal
2. Policy Justification

Transmittal No. 22-56

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Taipei Economic and Cultural Representative Office in the United States (TECRO)

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 0 million
Other	\$98 million

TOTAL	\$98 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
 None

Non-MDE:

Included is an expansion of the Cooperative Logistics Supply Support Arrangement for stock replenishment supply of non-standard spare parts, consumables, and accessories, and repair and replacement support for the F-16, C-130, Indigenous Defense Fighter (IDF), and all other aircraft and systems or subsystems of U.S.

origin, as well as other related elements of logistics and program support.

(iv) *Military Department:* Air Force (TW-D-RAQ)

(v) *Prior Related Cases, if any:* TW-D-RAP

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress*: December 6, 2022

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Taipei Economic and Cultural Representative Office in the United States—Aircraft Non-Standard Spare Parts

The Taipei Economic and Cultural Representative Office in the United States (TECRO) has requested to buy an expansion of the Cooperative Logistics Supply Support Arrangement for stock replenishment supply of non-standard spare parts, consumables, and accessories, and repair and replacement support for the F-16, C-130, Indigenous Defense Fighter (IDF), and all other aircraft and systems or subsystems of U.S. origin, as well as other related elements of logistics and program support. The estimated total cost is \$98 million.

This proposed sale is consistent with U.S. law and policy as expressed in Public Law 96-8.

This proposed sale serves U.S. national, economic, and security interests by supporting the recipient's continuing efforts to maintain a credible defensive capability. The proposed sale will help improve the security of the recipient and assist in maintaining political stability, military balance, and economic progress in the region.

The proposed sale will contribute to the sustainment of the recipient's aerial fleet, enhancing its ability to meet current and future threats while providing defensive and transport capabilities critical to regional security. The proposed sale will contribute to the recipient's goal of maintaining its military capability while further enhancing interoperability with the United States and other allies. The recipient will have no difficulty absorbing this equipment and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

There are no principal contractors involved with this potential sale. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the permanent assignment of any U.S. Government or contractor representatives to recipient.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2024-18760 Filed 8-20-24; 8:45 am]

BILLING CODE 6001-FR-C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD) will take place.

DATES: Tuesday, September 17, 2024—Open to the public from 12:00 p.m. to 4:30 p.m. All times are Eastern Daylight Time (EDT).

ADDRESSES: This meeting is being held virtually. For virtual access to the meeting, email your request along with your name and contact information to the DAC-IPAD public email at whs.pentagon.em.mbx.dacipad@mail.mil.

FOR FURTHER INFORMATION CONTACT: Dwight Sullivan, 703-695-1055 (Voice), dwight.h.sullivan.civ@mail.mil (Email). Mailing address is DACIPAD, One Liberty Center, 875 N Randolph Street, Suite 150, Arlington, Virginia 22203. Website: <https://dacipad.whs.mil/>. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5 (formerly known as the Federal Advisory Committee Act of 1972 or "FACA"), the Government in the Sunshine Act of 1976 (5 United States Code (U.S.C.) 552b, as amended), and 41 Code of Federal Regulations (CFR) 102-3.140 and 102-3.50.

Purpose of the Meeting: In section 546 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 (Public Law (Pub. L.) No. 113-291), as modified by section 537 of the NDAA for FY 2016 (Pub. L. 114-92), Congress tasked the DAC-IPAD to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, sexual assault, and other sexual misconduct involving members of the Armed Forces. This will be the thirty-seventh public meeting held by the DAC-IPAD. For its first session, the DAC-IPAD will deliberate proposed findings and recommendations regarding provisions

under Article 6b, Uniform Code of Military Justice, for enforcing victims' rights. After lunch the DAC-IPAD will deliberate and discuss the DAC-IPAD's recent military installation site visits to identify possible areas of future studies. Next, the DAC-IPAD will hear comments from the public, then receive updates from the DAC-IPAD subcommittees. After a brief meeting wrap-up, the public meeting will adjourn.

Agenda:

12:00 p.m.–12:05 p.m. Welcome and Introduction to Public Meeting;

12:05 p.m.–1:15 p.m. DAC-IPAD Deliberations on Recommendations for Enforcing Victims' Article 6b Rights;

1:15 p.m.–2:00 p.m. Lunch;

2:00 p.m.–3:00 p.m. DAC-IPAD Deliberations on Emerging Issues Identified on Military Installation Site Visits;

3:00 p.m.–3:10 p.m. Break;

3:10 p.m.–3:30 p.m. DAC-IPAD Deliberations on Emerging Issues Identified on Military Installation Site Visits (continued);

3:30 p.m.–4:00 p.m. Public Comment;

4:00 p.m.–4:30 p.m. DAC-IPAD Subcommittee Updates and Meeting Wrap up;

4:30 p.m. Public Meeting Adjourned.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165, this meeting is open to the public from 12:00 p.m. to 4:30 p.m. on September 17, 2024. All members of the public who wish to participate virtually must register by contacting DAC-IPAD at whs.pentagon.em.mbx.dacipad@mail.mil or by contacting Mr. Pete Yob at (703) 693-3857 no later than 11 a.m., Tuesday, September 17, 2024. Once registered, the web address and/or audio number will be provided.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Mr. Pete Yob at (703) 693-3857 no later than September 10, 2024, so that appropriate arrangements can be made.

Written Statements: Pursuant to 41 CFR 102-3.140 and 5 U.S.C. 10(a)(3) of the FACA, the public or interested organizations may submit written comments to the DAC-IPAD about its mission and topics pertaining to this public session. Written comments must be received by the DAC-IPAD at least five (5) business days prior to the meeting date so that they may be made available to the DAC-IPAD members for their consideration prior to the meeting. Written comments not received by the DAC-IPAD at least five (5) business days prior to the meeting date, or after,

will be provided to the Chair of the DAC-IPAD for consideration. Written comments may be submitted via email to the DAC-IPAD at whs.pentagon.em.mbx.dacipad@mail.mil in the following formats: Adobe Acrobat or Microsoft Word. Written comments may also be mailed to the address listed in **FOR FURTHER INFORMATION CONTACT**. Please note that since the DAC-IPAD operates under the provisions of the FACA, all written comments received will be treated as public documents and will be made available for public inspection.

Oral public comments: Individuals may submit a request to make an oral public comment at the September 17, 2024 meeting. Advance copy of oral public comments must be sent via email at whs.pentagon.em.mbx.dacipad@mail.mil with the subject line “DAC-IPAD: Request to Speak <insert the issue and question>” no later than 11:59 p.m. EDT on Tuesday, September 10, 2024. Submissions received after the deadline will not be considered for oral public comment but will be provided to the Chair of the DAC-IPAD for consideration. All submitted oral comments become government property and may be published as part of the meeting record. Registration for oral public comment is on a first-come, first-served basis. Comments are limited to five (5) minutes or less per person. After the maximum number of speakers is exceeded, individuals registered to provide oral comment will be placed on a wait list and notified should an opening become available. Should time expire for oral public comments those not presented will be provided to the Chair of the DAC-IPAD for consideration. You will be notified via email no later than September 17, 2024 if you have been identified to provide in-person public comment.

Dated: August 16, 2024.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.

[FR Doc. 2024-18755 Filed 8-20-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare a Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement for Pacific Surveillance Towed Array Sensor System Low Frequency Active Sonar Training and Testing

AGENCY: Department of the Navy (DoN), Department of Defense (DoD).

ACTION: Notice.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, and regulations implemented by the Council on Environmental Quality, the Department of the Navy (Navy) announces its intent to prepare the Pacific Surveillance Towed Array Sensor System Low Frequency Active Sonar Training and Testing (PAC SURTASS LFA) Supplemental Environmental Impact Statement/Overseas EIS (SEIS/OEIS). The PAC SURTASS LFA SEIS/OEIS will include an analysis of training activities, as well as research, development, testing, and evaluation activities (hereafter referred to as “testing”) that will be conducted in the PAC SURTASS LFA Study Area. The Navy is initiating a 30-day public scoping process to receive comments on the scope of the SEIS/OEIS including identification of potential alternatives and environmental concerns, information and analyses relevant to the Proposed Action, and issues the public would like to see addressed in the SEIS/OEIS.

DATES: The 30-day public scoping period begins on August 21, 2024 and extends to September 19, 2024. Comments must be postmarked or submitted electronically via the website no later than 11:59 p.m. Pacific Time on September 19, 2024 for consideration in the Draft SEIS/OEIS.

FOR FURTHER INFORMATION CONTACT: U.S. Pacific Fleet Command, Attn: Ms. Heather Paynter, Environmental Public Affairs Specialist, by telephone (808-471-3769) or email (CPF-Environmental-PA@us.navy.mil), or visit the project website: <https://www.nepa.navy.mil/surtass-lfa/>.

SUPPLEMENTARY INFORMATION: SEIS-007-17-USN-1723661233. Commander, U.S. Pacific Fleet is the Navy’s lead action proponent, with Naval Sea Systems Command acting as an additional Navy action proponent.

In continuance of the Navy’s commitment to responsible stewardship of the marine environment and building upon analyses and information included

in the Navy’s 2001 Final Environmental Impact Statement (EIS)/OEIS, 2007 Final SEIS, 2012 Final SEIS/Supplemental OEIS (SOEIS), 2015 Final SEIS/SOEIS, and 2019 Final SEIS/SOEIS, the Navy intends to prepare an updated supplemental assessment of the environmental effects associated with the continued employment of SURTASS LFA sonar systems. The SEIS/OEIS and associated analysis will be used to support consultations associated with expiring regulatory permits and authorizations in 2026.

The PAC SURTASS LFA Study Area (hereafter referred to as the (“Study Area”) is comprised of the western North Pacific and Indian Oceans. For the purposes of analyzing the impacts of SURTASS LFA sonar systems on marine mammals, fifteen representative locations were considered for acoustic modeling.

The Navy proposes to continue employing up to four SURTASS LFA sonar systems onboard U.S. Navy surveillance ships for routine training and testing in the Study Area with certain geographical restrictions and other preventive measures designed to mitigate adverse effects on the marine environment. As part of the SEIS/OEIS analyses, the Navy will continue to assess potential impacts of SURTASS LFA sonar systems to offshore biologically important areas (OBIsAs). Effectiveness of the mitigation measures that are the foundation of the Navy’s operation of SURTASS LFA sonar will also be re-assessed in the context of new technologies and methodologies as well as operational practicability.

The Navy has identified two preliminary action alternatives to carry forward for analysis in the SEIS/OEIS along with the No Action Alternative. Alternative 1 reflects the minimum number of SURTASS LFA sonar transmission hours per year needed to meet the Navy’s purpose and need, while Alternative 2 reflects the number of hours accounting for the possible need to deploy two additional SURTASS LFA-equipped vessels (increase from four vessels to six). As required by NEPA for the purpose of establishing a baseline for analysis, a No Action Alternative will be evaluated which represents a scenario where training and testing with SURTASS LFA sonar would not be conducted in the Study Area.

Environmental resources that are determined to be potentially affected are carried forward for full analysis. Resources to be evaluated include, but are not limited to, biological resources (including marine mammals, reptiles, fishes, and habitats), sediments and

water quality, air quality, and socioeconomic resources. Some other environmental resources have been analyzed in previous SURTASS LFA NEPA/E.O. 12114 documents and are incorporated by reference moving forward. The SEIS/OEIS will also analyze measures that would avoid, minimize, or mitigate environmental effects. The Navy will conduct all coordination and consultation activities required by the Marine Mammal Protection Act (MMPA), Endangered Species Act (ESA), and other laws and regulations determined to be applicable to the project. As part of this process, the Navy will seek the issuance of regulatory permits and authorizations under MMPA and ESA to support at-sea mission readiness activities within the Study Area, beginning in August 2026.

Pursuant to 40 CFR 1501.8, the Navy invited the National Marine Fisheries Service to be a cooperating agency in preparation of the SEIS/OEIS. On August 7, 2024 National Marine Fisheries Service agreed to be a cooperating agency.

The scoping process invites comments on the scope of the SEIS/OEIS including identification of potential alternatives, information and analyses relevant to the Proposed Action, identification of environmental concerns, and issues the public would like to see addressed in the SEIS/OEIS. Federal agencies, state agencies, local agencies, Tribal Organizations, the public, and interested persons are encouraged to provide comments.

Comments must be postmarked or submitted electronically via the website no later than 11:59 p.m. Pacific Time on September 19, 2024 for consideration during the development of the Draft SEIS/OEIS. Comments can be submitted electronically via the project website at <https://www.nepa.navy.mil/surtass-lfa/>.

After the scoping period, Navy will coordinate with participating and cooperating agencies to develop a Draft SEIS/OEIS. The Navy intends to release the Draft SEIS/OEIS in the spring of 2025, release the Final SEIS/OEIS in the winter of 2026, and sign a Record of Decision following the 30-day Final SEIS/OEIS wait period.

Dated: August 14, 2024.

A.J. Gioiello,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2024-18573 Filed 8-20-24; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24-972-000.

Applicants: Algonquin Gas Transmission, LLC.

Description: 4(d) Rate Filing: Negotiated Rates—Yankee Gas to Emera Energy eff 8-15-24 to be effective 8/15/2024.

Filed Date: 8/15/24.

Accession Number: 20240815-5023.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: RP24-973-000.

Applicants: North Baja Pipeline, LLC.

Description: 4(d) Rate Filing: Administrative Housekeeping Filing to be effective 9/15/2024.

Filed Date: 8/15/24.

Accession Number: 20240815-5054.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: RP24-974-000.

Applicants: Algonquin Gas Transmission, LLC.

Description: 4(d) Rate Filing: Negotiated Rates—Yankee Gas to Emera Energy eff 8-16-24 to be effective 8/16/2024.

Filed Date: 8/15/24.

Accession Number: 20240815-5060.

Comment Date: 5 p.m. ET 8/27/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

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: August 15, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-18729 Filed 8-20-24; 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: ER10-1511-010; ER10-2231-008.

Applicants: Kentucky Utilities Company, Louisville Gas and Electric Company.

Description: Supplement to 06/30/2023, Triennial Market Power Analysis for Southeast Region of Louisville Gas and Electric Company et al.

Filed Date: 8/9/24.

Accession Number: 20240809-5187.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER24-2052-002.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 4225 Algodon Solar Energy & SPS Facilities Service Agreement to be effective 7/16/2024.

Filed Date: 8/14/24.

Accession Number: 20240814-5129.

Comment Date: 5 p.m. ET 9/4/24.

Docket Numbers: ER24-2477-001.

Applicants: American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: Tariff Amendment: American Electric Power Service Corporation submits tariff filing per 35.17(b): Amendment to Attachment 1 of ILDSA SA No. 1679 to be effective 11/1/2024.

Filed Date: 8/15/24.

Accession Number: 20240815-5044.

Comment Date: 5 p.m. ET 9/5/24.

Docket Numbers: ER24-2781-000.

Applicants: Midcontinent

Independent System Operator, Inc.
Description: 205(d) Rate Filing: 2024-08-15_SA 4320 MEC-MEC GIA (J1532) to be effective 8/5/2024.

Filed Date: 8/15/24.

Accession Number: 20240815–5011.

Comment Date: 5 p.m. ET 9/5/24.

Docket Numbers: ER24–2782–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 1 to be effective 10/15/2024.

Filed Date: 8/15/24.

Accession Number: 20240815–5073.

Comment Date: 5 p.m. ET 9/5/24.

Docket Numbers: ER24–2783–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amended ISA, Service Agreement No. 6753; AD2–022/AD2–023 to be effective 10/15/2024.

Filed Date: 8/15/24.

Accession Number: 20240815–5078.

Comment Date: 5 p.m. ET 9/5/24.

Docket Numbers: ER24–2784–000.

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): Hester Hill Solar LGIA Filing to be effective 8/6/2024.

Filed Date: 8/15/24.

Accession Number: 20240815–5080.

Comment Date: 5 p.m. ET 9/5/24.

Docket Numbers: ER24–2785–000.

Applicants: NorthWestern Corporation.

Description: 205(d) Rate Filing: SA 683 2nd Rev—Control Center Services Agreement with MATL to be effective 8/1/2024.

Filed Date: 8/15/24.

Accession Number: 20240815–5087.

Comment Date: 5 p.m. ET 9/5/24.

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: August 15, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18730 Filed 8–20–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF24–8–000]

Southeastern Power Administration; Filing

Take notice that on August 6, 2024, Southeastern Power Administration submitted a tariff filing: Notice of Cancellation of JW–2–F Rate Schedule to be effective 10/6/2024.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Comment Date: 5:00 p.m. Eastern Time on September 5, 2024.

Dated: August 14, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18645 Filed 8–20–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–455–001]

Freeport LNG Development, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3, LLC; Notice of Request for Extension of Time

Take notice that on August 8, 2024, Freeport LNG Development, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3, LLC (together, Freeport LNG) requested that the Commission grant an extension of time, until March 21, 2025, to construct and place into service its Noble Gas Project (Project) located in Brazoria County, Texas as authorized in the Order Granting Authorization Under Section 3 of the Natural Gas Act issued on June 21, 2021 (Order).¹ The Order required Freeport LNG to complete construction of the Project and make it available for service within three years of the date of the Order, or by June 21, 2024.

Freeport LNG states that the only jurisdictional construction activity of the Project that remains to be completed is the ongoing Phase 3 firewater work. Freeport LNG explains that it has not been able to complete and place the Project in-service by the deadline due to third-party delays with the non-jurisdictional Helium Plant, which is being constructed by Linde Global

¹ Freeport LNG Development, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC & FLNG Liquefaction 3, LLC, 175 FERC ¶ 61,237 (2021).

Helium (Linde) and is outside of Freeport LNG's control.² Freeport LNG reiterates that its final work on the jurisdictional facilities cannot be completed until the Helium Plant is ready to receive the boil-off gas from Freeport LNG. Therefore, Freeport LNG requests a nine-month extension of time to construct and place its Project in-service by no later than March 21, 2025.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Freeport LNG's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (NGA) (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension requests that are contested,³ the Commission will aim to issue an order acting on the request within 45 days.⁴ The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.⁵ The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act (NEPA).⁶ At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission

will not re-litigate their issuance.⁷ The Director of the Office of Energy Projects, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

The Commission strongly encourages electronic filings of comments in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Comment Date: 5:00 p.m. Eastern Time on August 30, 2024.

Dated: August 15, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-18728 Filed 8-20-24; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2015-0341; FRL-12182-01-OAR]

Notice of Availability of One Updated Chapter in the Environmental Protection Agency's Air Pollution Control Cost Manual—Fabric Filters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice that one chapter of the current EPA Air Pollution Control Cost Manual (Control Cost Manual) has been updated. The EPA is requesting comment on: Chapter 1, Section 6, "Fabric Filters." This Control Cost Manual chapter covers control measures for particulate matter (PM), including fine particulate (PM_{2.5}) emissions.

DATES: Comments must be received on or before November 19, 2024. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on submitting comments on the provided data.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2015-0341, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.

- **Mail:** U.S. Environmental Protection Agency, EPA Docket Center, Docket No. EPA-HQ-OAR-2015-0341, Office of Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- **Hand Delivery or Courier:** EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday through Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this action. 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

² Freeport LNG states that Linde's progress has been affected by the market availability of certain equipment, having to make engineering changes based on newly received data, and Hurricane Beryl. Additionally, Linde has indicated that it anticipates placing the non-jurisdictional facilities in-service by the end of 2024.

³ Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1).

⁴ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

⁵ *Id.* at P 40.

⁶ Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

⁷ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

“Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Larry Sorrels, Health and Environmental Impacts Division, Office of Air Quality Planning and Standards, Environmental Protection Agency, C439-02, 109 T.W. Alexander Drive, Research Triangle Park, NC 27709; telephone number: (919) 541-5041; email address: sorrels.larry@epa.gov.

SUPPLEMENTARY INFORMATION: The EPA is requesting comment on the specific Control Cost Manual chapter included in this notice.

Written Comments: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2015-0341, 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.

I. General Information

A. What should I consider as I prepare my comments for the EPA?

1. *Submitting CBI.* Do not submit this information to the EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to the EPA docket office, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment

that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulation (CFR) part 2.

2. *Tips for Preparing your Comments.* When submitting comments, remember to: Identify the notification by docket number and other identifying information (subject heading, **Federal Register** date and page number).

- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.

- Explain why you agree or disagree; suggest alternatives and substitute language/data for your requested changes.

- Describe any assumptions and provide any technical information and/or data that you used.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

- Make sure to submit your comments by the comment period deadline identified.

II. Information Available for Public Comment

The EPA is requesting comment on one updated chapter of the EPA Air Pollution Control Cost Manual. The Control Cost Manual contains individual chapters on control measures, including data and equations to aid users in estimating capital costs for installation and annual costs for operation and maintenance of these measures, and data concerning the percentage of pollutant emissions that control measures can reduce. The Control Cost Manual is used by the EPA for estimating the impacts of rulemakings and serves as a basis for sources to estimate costs of controls that are Best Available Control Technology (BACT) under the New Source Review Program, the Regional Haze Program, Reasonably Achievable Control Technology (RACT) for State Implementation Plans (SIPs) and for other programs.

The one updated Control Cost Manual chapter is: Chapter 1, Section 6, “Fabric Filters.” This revised Control Cost Manual chapter can be found in the docket for the Control Cost Manual update (Docket ID No. EPA-HQ-OAR-

2015-0341). The current Control Cost Manual version (sixth edition) including the current fabric filters chapter is available at <http://epa.gov/ttn/catc/products.html#cccinfo>, and last updated in 2003.

The Consolidated Appropriations Act of 2014 requested that the EPA begin development of a seventh edition of the Control Cost Manual. The EPA has met with state, local, and Tribal officials to discuss plans for the Control Cost Manual update as called for under the Consolidated Appropriations Act of 2014. The EPA has met with other groups as well at their request. The EPA has updated the selective non-catalytic reduction (SNCR) and selective catalytic reduction (SCR) chapters, the first two chapters (Chapter 1, Section 4; Chapter 2, Section 4, respectively) completed for the seventh edition of the Control Cost Manual and made them available to the public in May 2016 (81 FR 38702, June 14, 2016) and also updated these chapters again in May 2019. In addition, the EPA has updated the Refrigerated Condensers (Chapter 1, Section 3 and Section 3.1) and Incinerators (Chapter 2, Section 3, Section 3.2, now Incinerators/Oxidizers) chapters in November 2017, the Cost Estimation: Concepts and Methodology chapter (Chapter 2, Section 1) as of November 2017, the Carbon Adsorbers (Chapter 1, Section 3, Section 3.1) and Flares (Chapter 1, Section 3, Section 3.2) chapters in October 2018, and the Gas Absorbers (now Wet and Dry Scrubbers for Acid Gas, Chapter 1, Section 5) chapter in May 2021.

To help focus review of the Fabric Filters chapter, we offer the following list of questions that the EPA is particularly interested in addressing in the updated chapter. Regardless of the topics that are covered in this list of questions, commenters are welcome to address any aspects of this chapter. Please provide supporting data for responses to these questions and for other comments on the chapter.

For the Fabric Filters chapter:

(1) What is a reasonable and up-to-date estimate of equipment life (defined as design or operational life) for fabric filters—that is, an entire fabric filter system, not just the filter bags or cages? Please provide data, if possible, on accurate estimates of equipment life.

(2) Are the descriptions of and technical background on fabric filters complete, up to date, and accurate with regard to control of PM (including PM_{2.5})? Please provide information, if possible, on descriptions of and background on control of PM by fabric filters if you do not believe that the

descriptions in the draft chapter are complete, up to date, and accurate.

(3) Is the applicability of fabric filters to various types of emissions sources complete, up to date, and accurate?

(4) Are the estimates of PM (including PM_{2.5}) removal or control efficiency for fabric filters accurate and up-to-date? If not, what are more accurate estimates? Please provide data, if possible, to address inaccuracies.

(5) Is the information accurate on how fabric filters operate in tandem with control technologies such as dry sorbent injection (DSI) to reduce sulfur dioxide and activated carbon injection (ACI) to reduce mercury? Please provide data, if possible, to address inaccuracies.

(6) Are the capital cost correlations, factors, and equations for fabric filters applied to various types of emissions sources and industries accurate and up to date? Are the annual costs (such as operating and maintenance costs) for fabric filters applied to various types of emissions sources and industries accurate and up-to-date? If not, how should they be revised? Please provide data, if possible, to address inaccuracies.

(7) This revised Control Cost Manual chapter lists test methods used to measure the performance of fabric media. Is the list of test methods accurate and up-to-date?

Erika N. Sasser,

Director, Health and Environmental Impacts Division.

[FR Doc. 2024-18721 Filed 8-20-24; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064-0028; -0109; -0124; -0134]

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below (OMB Control No. 3064-0028; -0109; -0124 and -0134).

DATES: Comments must be submitted on or before October 21, 2024.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- **Agency Website:** <https://www.fdic.gov/resources/regulations/federal-register-publications/>.
- **Email:** comments@fdic.gov. Include the name and number of the collection in the subject line of the message.
- **Mail:** Manny Cabeza (202-898-3767), Regulatory Counsel, MB-3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• **Hand Delivery:** Comments may be hand-delivered to the guard station at

the rear of the 17th Street NW building (located on F Street NW), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Manny Cabeza, Regulatory Counsel, 202-898-3767, mcabeza@fdic.gov, MB-3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collection of information:

1. **Title:** Recordkeeping and Confirmation Requirements for Securities Transactions.

OMB Number: 3064-0028.

Form Number: None.

Affected Public: FDIC-Insured Institutions and Certain Employees of the FDIC-Insured Institutions.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064-0028]

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Maintain Securities Trading Policies and Procedures, 12 CFR 344.8 (Mandatory).	Recordkeeping (On Occasion)	632	1	1:00	632
2. Officer/Employee Filing of Reports of Personal Securities Trading, 12 CFR 344.9 (Mandatory).	Third Party Disclosure (On Occasion).	1,896	4	1:00	7,584
Total Annual Burden (Hours): .....	.....	.....	.....	.....	8,216

Source: FDIC.

General Description of Collection: The collection of information requirements is contained in 12 CFR part 344. The purpose of the regulation is to ensure that purchasers of securities in transactions affected by insured state nonmember banks are provided with adequate records concerning the transactions. The regulation is also designed to ensure that insured State nonmember banks maintain adequate

records and controls with respect to the securities transactions they effect. Finally, this regulation requires officers and employees of FDIC-supervised institutions to report to the FDIC-supervised institution certain personal securities trading activity. There is no change in the methodology or substance of this information collection. The decrease in total estimated annual burden from 8,583 hours in 2021 to

8,216 hours currently is due to a decrease in estimated number of respondents.

2. **Title:** Notice of Branch Closure.

OMB Number: 3064-0109.

Form Number: None.

Affected Public: FDIC-insured depository institutions.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN
[OMB No. 3064–0109]

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Notice of Branch Closure to FDIC, 12 U.S.C. 1831r–(a) (Mandatory).	Reporting (On Occasion)	276	2.99	00:30	413
2. Notice of Branch Closure to Customers, 12 U.S.C. 1831r–(b) (Mandatory).	Disclosure (On Occasion)	276	2.99	1:30	1,238
3. Adoption of Branch Closure Policy, 12 U.S.C. 1831r–1 (Mandatory).	Recordkeeping (Annual)	18	1	08:00	144
Total Annual Burden (Hours): .....	.....	.....	.....	.....	1,795

Source: FDIC.

General Description of Collection:
Section 42 of the Federal Deposit Insurance Act mandates that an insured depository institution closing a branch notify its primary federal regulator not later than 90 days prior to the closing. The statute also provides that a notice be posted on the premises of the branch for the 30-day period immediately prior to the closing and that the customers be

notified in a mailing at least 90 days prior to the closing. Each insured depository institution that has one or more branches is required to adopt a written policy for branch closings. There is no change in the methodology or substance of this information collection. The increase in total estimated annual burden from 1,738 hours in 2021 to 1,795 hours currently

is due to an increase in estimated number or respondents.

3. *Title:* Notice of Branch Closure.

OMB Number: 3064–0124.

Form Number: None.

Affected Public: Insured depository institutions.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN
[OMB No. 3064–0124]

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
Certification of Assumption of Deposit Liabilities 12 CFR 307.2 (Mandatory).	Reporting (On occasion)	162	1	1:00	162
Notice to Depositors 12 CFR 307.3 (Mandatory)	Disclosure (On occasion)	12	1	2:00	24
Total Annual Burden (Hours): .....	.....	.....	.....	.....	186

Source: FDIC.

General Description of Collection:
This information collection consists of two parts: (1) a certification that insured depository institutions provide the FDIC when all deposit liabilities from one insured depository institution are assumed from another insured depository institution, with the latter institution responsible for providing the certification; and (2) a notification that an insured depository institution provides to its depositors when it seeks to voluntarily terminate its insured status. The certification is necessary to implement the provisions of section 8(q) of the Federal Deposit Insurance Act, 12 U.S.C. 1818(q), regarding termination of

the insured status of the transferring institution and termination of the separate deposit insurance coverage provided on deposit accounts assumed by the assuming institution. The depositor notification is required by section 8(a)(6) of the Federal Deposit Insurance Act, 12 U.S.C. 1818(a)(6). This provision ensures that the institution's depositors receive appropriate information regarding the institution's intent to terminate its insured status and that, prior to the termination of the institution's insured status, depositors receive appropriate information concerning federal deposit insurance coverage of their accounts

once the institution's insured status is terminated. There is no change in the methodology or substance of this information collection. The decrease in total estimated annual burden from 256 in 2021 to 186 currently is due to a change in the estimated number or respondents.

4. *Title:* Extension without change of a currently approved collection.

OMB Number: 3064–0134.

Form Number: 6422/04; 6422/11; 6422/15.

Affected Public: Individuals, Households, Business or Financial Institutions.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN
[OMB No. 3064–0134]

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Customer Assistance Form (6422/04) (Voluntary)	Reporting (On Occasion)	8,566	1	00:15	2,142
2. Business Assistance Form (6422/11) (Voluntary)	Reporting (On Occasion)	1,191	1	00:15	298
3. FDIC Deposit Insurance Form (6422/15) (Voluntary)	Reporting (On Occasion)	1,465	1	00:15	366
Total Annual Burden (Hours): .....	.....	.....	.....	.....	2,806

Source: FDIC.

General Description of Collection:

This collection facilitates the collection of information from customers of financial institutions that have inquiries or complaints about service. Customers or businesses may document their complaints or inquiries to the FDIC using a letter or optional forms (Form 6422/04; Form 6422/11; Form 6422/15). The forms are used to facilitate online completion and submission of the complaints or inquiries and to shorten FDIC response times by making it easier to identify the nature of the complaint and to route the customer or business inquiry to the appropriate FDIC contact. There is no change in the methodology or substance of this information collection. The increase in total estimated annual burden from 1,468 in 2021 to 2,806 currently is due to an increase in the estimated number of respondents.

Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on August 15, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024-18711 Filed 8-20-24; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM**Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company**

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as

other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than September 4, 2024.

A. Federal Reserve Bank of Dallas (Karen Smith, Director, Mergers & Acquisitions) 2200 North Pearl Street, Dallas, Texas 75201-2272. Comments can also be sent electronically to Comments.applications@dal.frb.org:

1. *Russell Shearn Moody, League City, Texas; Frances Moody-Dahlberg, Dallas, Texas; Moody Children's 2018 Gift Trust, Galveston, Texas, Ross Rankin Moody, as trustee, Austin, Texas; Russell Shearn Moody Three R Voting Trust, Galveston, Texas, Russell Shearn Moody, as trustee; Ross Rankin Moody Three R Voting Trust, Galveston, Texas, Ross Rankin Moody, as trustee; Frances Moody-Dahlberg Three R Voting Trust, Galveston, Texas, Frances Moody-Dahlberg, as trustee; and Robert L. Moody, Jr. Three R Voting Trust, Irwin M. Herz, Jr., as trustee, both of Galveston, Texas; to join the Moody Control Group, a group acting in concert, to retain voting shares of Moody Bancshares, Inc., Galveston, Texas, and Moody Bank Holding Company, Reno, Nevada, and thereby indirectly retain voting shares of Moody National Bank, Galveston, Texas.*

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024-18665 Filed 8-20-24; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**Notice of Board Meeting**

DATES: August 27, 2024 at 10:00 a.m. EDT.

ADDRESSES: Telephonic. Dial-in (listen only) information: Number: 1-202-599-1426, Code: 202 098 496 #; or via web: https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDMxZDRkODktMGZjZS00ZDQ3LWJkNmMtNzRjMDA4ZThkMDQ1%40thread.v2/0?context=%7b%22Tid%22%3a%223f6323b7-3fd-4f35-b43d-1a7afae5910d%22%2c%22Oid%22%3a%221a441fb8-5318-4ad0-995b-f28a737f4128%22%7d.

FOR FURTHER INFORMATION CONTACT: Kimberly Weaver, Director, Office of External Affairs, (202) 942-1640.

SUPPLEMENTARY INFORMATION: Board Meeting Agenda

Open Session

1. Approval of the July 23, 2024, Board Meeting Minutes
2. Monthly Reports
 - (a) Participant Report
 - (b) Investment Report
 - (c) Legislative Report
3. Quarterly Reports
 - (d) Metrics
4. Enterprise Risk Management Report
5. Internal Audit Update
6. FY2024 FISMA Report
7. FY2025 Budget Proposal

Closed Session

8. Information covered under 5 U.S.C. 552b(c)(9)(B) and (c)(10).

Authority: 5 U.S.C. 552b(e)(1).

Dated: August 15, 2024.

Dharmesh Vashee,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2024-18652 Filed 8-20-24; 8:45 am]

BILLING CODE 6760-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10307 and CMS–R–263]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by September 20, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/>

PaperworkReductionActof1995/PRA-Listing.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medical Necessity and Claims Denial Disclosures under MHPAEA; *Use:* The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Pub. L. 110–343) generally requires that group health plans and group health insurance issuers offering both medical and surgical (med/surg) and mental health or substance use disorder (MH/SUD) benefits do not apply any more restrictive financial requirements (e.g., co-pays, deductibles) and/or treatment limitations (e.g., visit limits) to MH/SUD benefits than those requirements and/or limitations as applied to med/surg benefits. The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010, Public Law 111–152, was enacted on March 30, 2010. These statutes are collectively known as the "Affordable Care Act" (ACA). The ACA extended MHPAEA to apply to the individual health insurance market. Additionally, the Department of Health and Human Services (HHS) final regulation regarding essential health benefits (EHB) requires health insurance issuers offering non-grandfathered health insurance coverage in the individual and small group markets, through an Exchange or outside of an

Exchange, to comply with the requirements of the MHPAEA regulations in order to satisfy the requirement to cover EHB (45 CFR 147.150 and 156.115).

Medical Necessity Disclosure Under MHPAEA

MHPAEA specifically amends the Public Health Service (PHS) Act to require plan administrators or health insurance issuers to provide, upon request, the criteria for medical necessity determinations made with respect to MH/SUD benefits to current or potential participants, beneficiaries, or contracting providers. The Final Rules under MHPAEA set forth rules for providing criteria for medical necessity determinations. CMS administers MHPAEA with respect to self-insured non-Federal governmental plans in all States, and health insurance issuers in two States.

Claims Denial Disclosure Under MHPAEA

MHPAEA specifically amends the PHS Act to require plan administrators or health insurance issuers to provide, upon request, the reason for any denial or reimbursement of payment for MH/SUD services to the participant or beneficiary involved in the case. The Final Rules under MHPAEA at 45 CFR 146.136(d)(2) implement MHPAEA. CMS administers MHPAEA with respect to self-insured non-Federal governmental plans in all States and health insurance issuers in two States, and the regulation provides a safe harbor such that non-Federal governmental plans (and issuers offering coverage in connection with such plans) are deemed to comply with requirements of paragraph (d)(2) of 45 CFR 146.136 if they provide the reason for claims denial in a form and manner consistent with ERISA requirements found in 29 CFR 2560.503–1. Section 146.136(d)(3) clarifies that PHS Act section 2719 governing internal claims and appeals and external review as implemented by 45 CFR 147.136, covers MHPAEA claims denials and requires that, when a non-quantitative treatment limitation (NQTL) is the basis for a claims denial, that a non-grandfathered plan or issuer must provide the processes, strategies, evidentiary standard, and other factors used in developing and applying the NQTL with respect to med/surg benefits and MH/SUD benefits.

Disclosure Request Form

Group health plan participants, beneficiaries, covered individuals in the individual market, or persons acting on

their behalf, may use this optional model form to request information from plans regarding the medical necessity and claims denials disclosures referenced above. *Form Number:* CMS-10307 (OMB control number: 0938-1080); *Frequency:* Occasionally; *Affected Public:* State, Local, or Tribal Governments, Private Sector, Individuals; *Number of Respondents:* 282,657; *Total Annual Responses:* 1,125,558; *Total Annual Hours:* 93,797. (For policy questions regarding this collection contact Erik Gomez at 667-414-0682.)

2. Type of Information Collection

Request: Revision of a currently approved collection; *Title of Information Collection:* On-Site Inspection for Durable Medical Equipment (DME) Supplier Location and Supporting Regulations in 42 CFR, Section 424.57; *Use:* CMS is mandated to identify and implement measures to prevent fraud and abuse in the Medicare program. To meet this challenge, CMS has moved forward to improve the quality of the process for enrolling suppliers into the Medicare program by establishing a uniform application for enumerating suppliers of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). Implementation of enhanced procedures for verifying the enrollment information has also improved the enrollment process. As part of this process, verification of compliance with supplier standards is necessary. The site investigation form has been used in the past to aid the Medicare contractor (the National Supplier Clearinghouse and/or its subcontractors) in verifying compliance with the required supplier standards found in 42 CFR 424.57(c). The primary function of the site investigation form is to provide a standardized, uniform tool to gather information from a DMEPOS supplier that tells us whether it meets certain qualifications to be a DMEPOS supplier (as found in 42 CFR 424.57(c)) and where it practices or renders its services. *Form Number:* CMS-R-263 (OMB control number: 0938-0749); *Frequency:* Yearly; *Affected Public:* Private sector, Business or other for-profits; *Number of Respondents:* 48,087; *Number of Responses:* 48,087; *Total Annual Hours:* 48,087. (For policy questions regarding this collection

contact Alisha Sanders at 410-786-0671.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024-18745 Filed 8-20-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-7076-N]

Announcement of the Advisory Panel on Outreach and Education (APOE) In-Person Meeting

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

ACTION: Notice.

SUMMARY: This notice announces the next meeting of the APOE (the Panel) in accordance with the Federal Advisory Committee Act. The Panel advises and makes recommendations to the Secretary of the U.S. Department of Health and Human Services (HHS) (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on opportunities to enhance the effectiveness of consumer education strategies concerning the Health Insurance Marketplace¹, Medicare, Medicaid, and the Children's Health Insurance Program (CHIP). This meeting is open to the public.

DATES:

Meeting Date: Thursday, September 19, 2024, from 8:30 a.m. to 4 p.m. eastern daylight time (e.d.t).

Deadline for Meeting Registration, Presentations, Special Accommodations, and Comments: Thursday, September 5, 2024, 5 p.m. (e.d.t).

ADDRESSES:

Meeting Location: U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201.

Presentations and Written Comments: Presentations and written comments should be submitted to: Walt Gutowski, Designated Federal Official (DFO), Office of Communications, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S1-04-08, Baltimore, MD 21244-1850, 410-786-

6818, or via email at APOE@cms.hhs.gov.

Registration: Persons wishing to attend this meeting must register at the website <https://CMS-APOE-September2024.rsvpify.com> or by contacting the DFO listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, by the date listed in the **DATES** section of this notice. Individuals requiring sign language interpretation or other special accommodations should contact the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Walt Gutowski, Designated Federal Official, Office of Communications, 7500 Security Boulevard, Mailstop S1-04-08, Baltimore, MD 21244-1850, 410-786-6818, or via email at APOE@cms.hhs.gov.

Additional information about the APOE is available at: <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/APOE>. Press inquiries are handled through the CMS Press Office at (202) 690-6145.

SUPPLEMENTARY INFORMATION:

I. Background and Charter Renewal Information

A. Background

The Advisory Panel for Outreach and Education (APOE) (the Panel) is governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92-463), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of federal advisory committees. The Panel is authorized by section 1114(f) of the Social Security Act (the Act) (42 U.S.C. 1314(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a).

The Panel, which was first chartered in 1999, advises and makes recommendations to the Secretary of the U.S. Department of Health and Human Services (the Department) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on the effective implementation of national Medicare, Medicaid, Children's Health Insurance Program (CHIP) and Health Insurance Marketplace¹ outreach and education programs.

The APOE has focused on a variety of laws, including the Medicare Modernization Act of 2003 (Pub. L. 108-173), and the Affordable Care Act (Patient Protection and Affordable Care Act, (Pub. L. 111-148) and Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152)).

The APOE helps the Department determine the best communication

¹ Health Insurance Marketplace[®] is a registered service mark of the U.S. Department of Health & Human Services.

channels and tactics for various programs and priorities, as well as new rules and laws. In the coming years, we anticipate the American Rescue Plan, the Inflation Reduction Act, and the SUPPORT Act will be some of the topics the Panel will discuss. The Panel will provide feedback to CMS staff on outreach and education strategies, communication tools and messages and how to best reach minority, vulnerable and Limited English Proficiency populations.

B. Charter Renewal

The Panel's charter was renewed on January 19, 2023, and will terminate on January 19, 2025, unless renewed by appropriate action. The Charter can be found at <https://www.cms.gov/regulations-and-guidance/guidance/faca/apoe>.

In accordance with the renewed charter, the APOE will advise the Secretary and the CMS Administrator concerning optimal strategies for the following:

- Developing and implementing education and outreach programs for individuals enrolled in, or eligible for, Medicare, Medicaid, the CHIP, and coverage available through the Health Insurance Marketplace® and other CMS programs.
- Enhancing the federal government's effectiveness in informing Medicare, Medicaid, CHIP, or the Health Insurance Marketplace® consumers, issuers, providers, and stakeholders, pursuant to education and outreach programs regarding these programs, including public-private partnerships to leverage the resources of the private sector in educating beneficiaries, providers, partners and stakeholders.
- Expanding outreach to minority and underserved communities, including racial and ethnic minorities, in the context of Medicare, Medicaid, CHIP, and the Health Insurance Marketplace® education programs and other CMS programs as designated.
- Assembling and sharing an information base of "best practices" for helping consumers evaluate health coverage options.
- Building and leveraging existing community infrastructure for information, counseling, and assistance.
- Drawing the program link between outreach and education, promoting consumer understanding of health care coverage choices, and facilitating consumer selection/enrollment, which in turn support the overarching goal of improved access to quality care, including prevention services, envisioned under the Affordable Care Act.

The current members of the Panel as of April 18, 2024, are as follows:

- Mitchell Balk, President, The Mt. Sinai Health Foundation.
- Paula Campbell, Director of Health Equity and Emergency Response, Illinois Primary Care Association.
- Dr. Matthew Fullen, Associate Professor of Counselor Education, Virginia Tech.
- Justin Gust, Vice President of Community Engagement, El Centro, Inc.
- Andrea Haynes, MD, Family Medicine Physician, PPC Austin Family Health Center.
- Lydia Isaac, Vice President for Health Equity and Policy, National Urban League.
- Vacheria Keys, Director of Policy and Regulatory Affairs, National Association of Community Health Centers.
- Daisy Kim, Assistant Director for Government Relations and Legislative Analysis, University of California System.
- Lynn Kimball, Executive Director, Aging and Long-Term Care of Eastern Washington.
- Erin Loubier, Senior Director for Health and Legal Integration and Payment Innovation, Whitman-Walker Health.
- Dr. Alister Martin, Physician and Assistant Professor, Harvard Medical School and Harvard Kennedy School.
- Neil Meltzer, President and CEO, LifeBridge Health.
- Dr. Carol Podgorski, Professor of Psychiatry, Associate Chair of Academic Affairs, University of Rochester Medical Center.
- Melanie Prince, CEO MAPYourWay, LLC; Immediate Past President, Case Management Society of America.
- Carrie Rogers, Associate Director, Community Catalyst.
- Tricia Sandiego, Senior Advisor, Caregiving and Health Team, AARP.
- Marsha Schofield, President, Marsha Schofield & Associates LLC.
- Mina Schultz, Health Policy and Advocacy Manager, Young Invincibles.
- Daniel Spirn, Vice President, Government Relations, Utilization Review Accreditation Commission.
- Emily Whicheloe, Director of Education, Medicare Rights Center.

II. Meeting Format and Agenda

In accordance with section 10(a) of the FACA, this notice announces a meeting of the APOE. The agenda for the September 19, 2024, meeting will include the following:

- Welcome and opening remarks from CMS leadership.
- Recap of the previous (April 18, 2024) meeting.

- Presentations on CMS programs, initiatives, and priorities; discussion of panel recommendations.
- An opportunity for public comment.

- Meeting adjourned.

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. The number of oral presentations may be limited by the time available. Individuals not wishing to make an oral presentation may submit written comments to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

III. Meeting Participation

The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register at the following weblink <https://CMS-APOE-September2024.rsvpify.com> or by contacting the DFO at the address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date specified in the **DATES** section of this notice.

IV. Security, Building, and Parking Guidelines

This meeting will be held in a federal government building, the Hubert H. Humphrey (HHH) Building; therefore, federal security measures are applicable.

The REAL ID Act of 2005 (Pub. L. 109–13) establishes minimum standards for the issuance of state-issued driver's licenses and identification (ID) cards. It prohibits federal agencies from accepting an official driver's license or ID card from a state for any official purpose unless the Secretary of the Department of Homeland Security determines that the state meets these standards. Beginning October 2015, photo IDs (such as a valid driver's license) issued by a state or territory not in compliance with the Real ID Act will not be accepted as identification to enter federal buildings. Visitors from these states/territories will need to provide alternative proof of identification (such as a valid passport) to gain entrance into federal buildings. The current list of states from which a federal agency may accept driver's licenses for an official purpose is found at <http://www.dhs.gov/real-id-enforcement-brief>.

We recommend that confirmed registrants arrive reasonably early, but no earlier than 45 minutes prior to the start of the meeting, to allow additional

time to clear security. Security measures include the following:

- Presentation of a government-issued photographic identification to the Federal Protective Service or Guard Service personnel.
- Inspection, via metal detector or other applicable means, of all persons entering the building. We note that all items brought into the HHH Building, whether personal or for the purpose of presentation or to support a presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set up, safety, or timely arrival of any personal belongings or items used for presentation or to support a presentation.

Note: Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting.

V. Collection of Information

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Chyana Woodyard, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Chyana Woodyard,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2024-18691 Filed 8-20-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Supplemental Award; Pediatric Mental Health Care Access Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of supplemental award.

SUMMARY: HRSA is announcing supplemental funding to expand existing Pediatric Mental Health Care Access Program (PMHCA) activities. The recipients of the supplemental awards will enhance workforce capacity in pediatric primary care, school settings, and emergency departments to address growing behavioral health needs among children and adolescents.

FOR FURTHER INFORMATION CONTACT: Lauren Ramos, Maternal and Child Health Bureau, HRSA, at LRamos@hrsa.gov or 301-443-6091.

SUPPLEMENTARY INFORMATION:

Intended Recipient(s) of the Awards: Fifty-four PMHCA award recipients will receive supplemental funding awards to continue to address behavioral health needs of children and adolescents. Funds are provided from the Bipartisan Safer Communities Act (BSCA) (Pub. L. 117-159) and PMHCA program annual appropriations. HRSA is providing supplemental funding for all PMHCA current award recipients in a manner that will ensure that, as a result of all PMHCA funding provided over the past two fiscal years (FY), all award recipients will be offered consistent funding over a consistent timeframe.

Number of Award Recipients, Project Periods, and Amount of Non-Competitive Award Offered:

- FY 2021 and FY 2022 awards (HRSA-21-122 and HRSA-22-121) have 29 award recipients:
 - FY 2021 award project period: September 30, 2021, to September

29, 2026

- FY 2022 award project period: September 30, 2022, to September 29, 2026
- \$4,582,000 supplemental budget offered (U4A grant numbers). This is \$158,000 for each of the 29 award recipients. The project period will be July 31, 2024, to September 29, 2025.
- FY 2023 awards (HRSA-23-081) have 25 award recipients:
 - FY 2023 award project period: September 30, 2023, to September 29, 2026
 - \$3,950,000 supplemental budget offered (U4C grant numbers). This is \$158,000 for each award recipient. Funds will be awarded on or before September 30, 2024.
- FY 2021 and FY 2022 awards (HRSA-21-122 and HRSA-22-121) have 19 award recipients:
 - FY 2021 award project period: September 30, 2021, to September 29, 2026
 - FY 2022 award project period: September 30, 2022, to September 29, 2026
 - \$4,845,000 supplemental budget offered (U4A grant numbers). This is \$255,000 for each award recipient that did not receive these supplemental funds in FY 2023. The project period will be July 31, 2024, to September 29, 2025.

Supplemental funding for similar activities may be considered in future years, subject to the availability of funding for the activity and the satisfactory performance of the recipient. A statutory requirement at 42 U.S.C. 254c-19(f) (§ 330M(f) of the Public Health Service Act) requires that PMHCA award recipients match federal funding with a 20 percent non-federal match.

Assistance Listing (CFDA) Number: 93.110.

Award Instrument: Supplements for Services.

Authority: 42 U.S.C. 254c-19 (§ 330M of the Public Health Service Act).

TABLE 1—ACTION 1: 29 U4A RECIPIENTS AND SUPPLEMENTAL AWARD AMOUNT

Original Award No. (supplements will be issued on new awards)	Organization name	Supplement/increase to base for all 29 U4A PMHCA awardees
U4AMC45817	My Health Resources of Tarrant County	\$158,000
U4AMC44236	Government of the District of Columbia	158,000
U4AMC44241	Kentucky Cabinet for Health & Family Services	158,000
U4AMC44256	West Virginia Department of Health and Human Resources	158,000
U4AMC44237	Florida Department of Health	158,000
U4AMC44247	New Mexico Department of Health	158,000
U4AMC44240	Indiana Family and Social Services Administration	158,000
U4AMC44246	Republic Of Palau	158,000
U4AMC44234	Regents of the University of California, San Francisco	158,000
U4AMC44235	Connecticut Department of Children and Families	158,000

TABLE 1—ACTION 1: 29 U4A RECIPIENTS AND SUPPLEMENTAL AWARD AMOUNT—Continued

Original Award No. (supplements will be issued on new awards)	Organization name	Supplement/increase to base for all 29 U4A PMHCA awardees
U4AMC44248	Health Research, Inc	158,000
U4AMC44245	Red Lake Band of Chippewa Indians	158,000
U4AMC44253	Virgin Islands Department of Health Group	158,000
U4AMC45819	University of Arkansas System	158,000
U4AMC45818	Illinois Department of Public Health	158,000
U4AMC45815	Commonwealth Healthcare Corporation	158,000
U4AMC44255	Washington State Department of Health	158,000
U4AMC44250	Oklahoma Department of Mental Health and Substance Abuse Services	158,000
U4AMC44244	Minnesota Department of Health	158,000
U4AMC44243	Massachusetts Department of Public Health	158,000
U4AMC44239	Hawaii Department of Health	158,000
U4AMC44249	Chickasaw Nation	158,000
U4AMC44254	Vermont Agency of Human Services	158,000
U4AMC44251	South Carolina Department of Mental Health	158,000
U4AMC44252	Tennessee Department of Health	158,000
U4AMC44242	Louisiana Department of Health	158,000
U4AMC44257	Wyoming Department of Health	158,000
U4AMC44238	Department of Behavioral Health and Developmental Disabilities (GA)	158,000
U4AMC45816	FSM Department of Health and Social Affairs	158,000

TABLE 2—ACTION 2: 25 U4C RECIPIENTS AND SUPPLEMENTAL AWARD AMOUNT

Award No.	Organization name	Proposed supplement/ increase to base for all 25 U4C PMHCA awardees
U4CMC32321	Michigan Department of Health and Human Services	\$158,000
U4CMC49928	Department of Public Health & Social Services (Guam)	158,000
U4CMC49929	Executive Office of the Governor of Delaware	158,000
U4CMC32323	Alaska Department of Health and Social Services	158,000
U4CMC32320	Virginia Department of Health	158,000
U4CMC32911	Kansas Department of Health and Environment	158,000
U4CMC49933	University of South Dakota	158,000
U4CMC49944	University of Utah	158,000
U4CMC32312	Alabama Department of Mental Health	158,000
U4CMC49931	Ohio Department of Health	158,000
U4CMC32329	Iowa Department of Public Health	158,000
U4CMC32316	New Hampshire Department of Health and Human Services	158,000
U4CMC32912	Maine Department of Health and Human Services	158,000
U4CMC49927	Board of Regents of Nevada	158,000
U4CMC49932	University of Maryland, Baltimore	158,000
U4CMC32314	Mississippi Department of Mental Health	158,000
U4CMC32322	Nebraska Department of Health and Human Services	158,000
U4CMC32326	Missouri Department of Mental Health	158,000
U4CMC49930	North Dakota Department of Human Services	158,000
U4CMC32327	Colorado Department of Public Health and Environment	158,000
U4CMC32319	Rhode Island Department of Health	158,000
U4CMC32324	Wisconsin Department of Health Services	158,000
U4CMC32317	New Jersey Department of Health	158,000
U4CMC32328	Montana Department of Public Health and Human Services	158,000
U4CMC32315	North Carolina Department of Health & Human Services	158,000

TABLE 3—ACTION 3: 19 U4A RECIPIENTS AND SUPPLEMENTAL AWARD AMOUNT

Original award No. (supplements will be issued on new awards issued in the first action)	Organization name	Supplement/ increase to base for 19 U4A PMHCA awardees
U4AMC45817	My Health Resources of Tarrant County	\$255,000
U4AMC44241	Kentucky Cabinet for Health & Family Services	255,000
U4AMC44256	West Virginia Department of Health and Human Resources	255,000
U4AMC44247	New Mexico Department of Health	255,000
U4AMC44240	Indiana Family and Social Services Administration	255,000
U4AMC44246	Republic Of Palau	255,000
U4AMC44245	Red Lake Band of Chippewa Indians	255,000
U4AMC44253	Virgin Islands Department of Health Group	255,000

TABLE 3—ACTION 3: 19 U4A RECIPIENTS AND SUPPLEMENTAL AWARD AMOUNT—Continued

Original award No. (supplements will be issued on new awards issued in the first action)	Organization name	Supplement/ increase to base for 19 U4A PMHCA awardees
U4AMC45818	Illinois Department of Public Health	255,000
U4AMC45815	Commonwealth Healthcare Corporation	255,000
U4AMC44250	Oklahoma Department of Mental Health and Substance Abuse Services	255,000
U4AMC44244	Minnesota Department of Health	255,000
U4AMC44249	Chickasaw Nation	255,000
U4AMC44254	Vermont Agency of Human Services	255,000
U4AMC44251	South Carolina Department of Mental Health	255,000
U4AMC44252	Tennessee Department of Health	255,000
U4AMC44242	Louisiana Department of Health	255,000
U4AMC44257	Wyoming Department of Health	255,000
U4AMC45816	FSM Department of Health and Social Affairs	255,000

Justification: HRSA is issuing non-competitive supplemental funds in FY 2024 for all PMHCA award recipients to continue to address behavioral health needs among children and adolescents. HRSA will offer supplemental funding for all 54 PMHCA current award recipients in a manner that will ensure that, as a result of all PMHCA funding provided over the past two fiscal years, all award recipients will be offered consistent funding over a consistent timeframe. If PMHCA current award recipients decline supplemental funding, that declined funding will be distributed among remaining recipients as allowable. Supplemental funding will be awarded through three consecutive actions:

- *First Action:* Offer supplemental funding of \$158,000 to 29 PMHCA recipients who will then be tracked with new U4A grant numbers; these award recipients will continue to be tracked separately for their ARP (Pub. L. 117–2) funding.
- *Second Action:* Offer supplemental funding of \$158,000 to 25 PMHCA recipients who are already tracked with U4C grant numbers.
- *Third Action:* Offer supplemental funding of \$255,000 to the 19 PMHCA recipients that did not receive these supplemental funds in FY 2023, who are tracked under the new U4A grant numbers issued in the First Action.

PMHCA program award recipients will continue to expand the reach and capacity of PMHCA programs started in FY 2022 to provide training and tele-consult support to pediatric primary care providers as well as to providers in other settings, including emergency departments and educational agencies and schools.

The above activities are within the original scope of the PMHCA program

(HRSA–23–081, HRSA–22–121, and HRSA–21–122).

Carole Johnson,
Administrator.

[FR Doc. 2024–18720 Filed 8–20–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA’s role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 8W–25A, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: [http://](http://www.hrsa.gov/vaccinecompensation/index.html)

www.hrsa.gov/vaccinecompensation/index.html.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that “[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.” Set forth below is a list of petitions received by HRSA on

July 1, 2024, through July 31, 2024. This list provides the name of the petitioner, city, and state of vaccination (if unknown then the city and state of the person or attorney filing the claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master “shall afford all interested persons an opportunity to submit relevant, written information” relating to the following:

1. The existence of evidence “that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,” and

2. Any allegation in a petition that the petitioner either:

a. “[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by” one of the vaccines referred to in the Table, or

b. “[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine” referred to in the Table.

In accordance with section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Health Systems Bureau, 5600 Fishers Lane, 8W-25A, Rockville, Maryland 20857. The Court’s caption (*Petitioner’s Name v. Secretary of HHS*) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of Title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Carole Johnson,
Administrator.

List of Petitions Filed

1. Dennis E. Olson, Jr., Elk River, Minnesota, Court of Federal Claims No: 24–1004V
2. Robert Rogers, Fox Lake, Wisconsin, Court of Federal Claims No: 24–1005V
3. Madeleine King Peterson, Lakewood Ranch, Florida, Court of Federal Claims No: 24–1006V
4. Donvonta R. Pearson, Boscobel, Wisconsin, Court of Federal Claims No: 24–1011V
5. David Carter, Winnebago, Wisconsin, Court of Federal Claims No: 24–1012V
6. Kevin Weikert, Missoula, Montana, Court of Federal Claims No: 24–1013V
7. Season Slunt, Titusville, Florida, Court of Federal Claims No: 24–1014V
8. Misty Stein, Gig Harbor, Washington, Court of Federal Claims No: 24–1015V
9. Sarah Hooper on behalf of E.H., Las Vegas, Nevada, Court of Federal Claims No: 24–1016V
10. Robin Cooper, Galesburg, Illinois, Court of Federal Claims No: 24–1022V
11. Sarah Jackson, Harvest, Alabama, Court of Federal Claims No: 24–1025V
12. Ted Poulos, Barnegat, New Jersey, Court of Federal Claims No: 24–1026V
13. Michelle Rizzo, Boston, Massachusetts, Court of Federal Claims No: 24–1027V
14. Marsha Atkins, Prattville, Alabama, Court of Federal Claims No: 24–1031V
15. Melissa Chockley, Fort Myer, Virginia, Court of Federal Claims No: 24–1033V
16. Dimitra Charisi, San Jose, California, Court of Federal Claims No: 24–1035V
17. George Ferree, Clarksville, Pennsylvania, Court of Federal Claims No: 24–1036V
18. David A. Higham, San Clemente, California, Court of Federal Claims No: 24–1037V
19. Heidi Farquharson, Tulsa, Oklahoma, Court of Federal Claims No: 24–1038V
20. Beverly Clark, Allegan, Michigan, Court of Federal Claims No: 24–1039V
21. Wanda Barragan, Ontario, California, Court of Federal Claims No: 24–1040V
22. Helen Marks, Beaumont, Texas, Court of Federal Claims No: 24–1041V
23. Christian Sturz, Rye, New York, Court of Federal Claims No: 24–1042V
24. Linda Copeland, Jamaica, New York, Court of Federal Claims No: 24–1043V
25. Belinda Lamebull, Great Falls, Montana, Court of Federal Claims No: 24–1044V
26. Dionte Nowels, Boscobel, Wisconsin, Court of Federal Claims No: 24–1045V
27. Steven Fields, Dresher, Pennsylvania, Court of Federal Claims No: 24–1050V
28. Travis A. Curtis, Boscobel, Wisconsin, Court of Federal Claims No: 24–1058V
29. Joanna Boeing, Concord, California, Court of Federal Claims No: 24–1059V
30. Seth Pfister, Redgranite, Wisconsin, Court of Federal Claims No: 24–1061V
31. Hyo Jung Jeong, St. Louis, Missouri, Court of Federal Claims No: 24–1062V
32. Pedro Mora on behalf of F.M.A., Spring, Texas, Court of Federal Claims No: 24–1064V
33. Dawn Fite, Boston, Massachusetts, Court of Federal Claims No: 24–1067V
34. Kerry James, Gainesville, Florida, Court of Federal Claims No: 24–1068V
35. Donald Smith, Seward, Alaska, Court of Federal Claims No: 24–1071V
36. Luz Alvarado, Pittsford, New York, Court of Federal Claims No: 24–1073V
37. Anthi Manolakaki, Great Falls, Montana, Court of Federal Claims No: 24–1074V
38. James Hamilton, Sr., Hardwick, Georgia, Court of Federal Claims No: 24–1075V
39. Robert Garretson, Irvine, California, Court of Federal Claims No: 24–1079V
40. David C. Hill, Twin Falls, Idaho, Court of Federal Claims No: 24–1080V
41. Russell Yerger, Burlington, Washington, Court of Federal Claims No: 24–1081V
42. Haniyyah Siddique, Skokie, Illinois, Court of Federal Claims No: 24–1082V
43. Lenore Franklin, Brookings, South Dakota, Court of Federal Claims No: 24–1083V
44. Ryan Cigler, Gilbert, Arizona, Court of Federal Claims No: 24–1085V
45. Sheila Gayle, Bend, Oregon, Court of Federal Claims No: 24–1086V
46. Carol Barstow, Wakefield, Rhode Island, Court of Federal Claims No: 24–1091V
47. James Eddie Goodwin, Panama City Beach, Florida, Court of Federal Claims No: 24–1093V
48. Karen Debolle, Jupiter, Florida, Court of Federal Claims No: 24–1094V
49. Matthew Allen, Murfreesboro, Tennessee, Court of Federal Claims No: 24–1096V
50. Sahra Kahn on behalf of M.A.K., Harrisburg, Pennsylvania, Court of Federal Claims No: 24–1098V
51. Donald Rader, Gastonia, North Carolina, Court of Federal Claims No: 24–1099V
52. Mary O. Lilly, Millersville, Maryland, Court of Federal Claims No: 24–1101V
53. Kathleen Ohlman, Fort Myers, Florida, Court of Federal Claims No: 24–1104V
54. Suzanne Hollingshead, Madison, Mississippi, Court of Federal Claims No: 24–1106V
55. Cassandra Ziegler, Pittsburgh, Pennsylvania, Court of Federal Claims No: 24–1109V
56. Steven Archambeau, Perrysburg, Ohio, Court of Federal Claims No: 24–1110V
57. Michael Formato, Fuquay-Varina, North Carolina, Court of Federal Claims No: 24–1111V
58. Kimberly Gebinine, Lakewood, Colorado, Court of Federal Claims No: 24–1112V
59. Lisa Covington, Boston, Massachusetts, Court of Federal Claims No: 24–1113V
60. Renee Bogi, Los Angeles, California, Court of Federal Claims No: 24–1114V
61. Lisa Soucy, Lee, New Hampshire, Court of Federal Claims No: 24–1115V
62. Deborah Surabian, Wakefield, Massachusetts, Court of Federal Claims No: 24–1116V
63. Shayla Allen, West Hollywood, California, Court of Federal Claims No: 24–1119V
64. Shannon Dominguez, Arlington Heights, Illinois, Court of Federal Claims No: 24–1123V
65. Danie’l Survis, Jackson, Wyoming, Court of Federal Claims No: 24–1125V
66. Walter Moore, Detroit, Michigan, Court of Federal Claims No: 24–1126V
67. Linda Simon, Albuquerque, New Mexico, Court of Federal Claims No: 24–1128V
68. Jacob Hall, San Mateo, California, Court of Federal Claims No: 24–1129V
69. Rebecca Taylor, Mocksville, North Carolina, Court of Federal Claims No: 24–1130V
70. Jamie Overby, Magnolia, Texas, Court of Federal Claims No: 24–1131V

71. Sharon Delcorro, Murrells Inlet, South Carolina, Court of Federal Claims No: 24–1133V
72. Drake Gaines, Bradenton, Florida, Court of Federal Claims No: 24–1134V
73. Cynthia Bell-Bonds, Spokane, Washington, Court of Federal Claims No: 24–1137V
74. Arielle Lewis, Los Angeles, California, Court of Federal Claims No: 24–1138V
75. Alvin Thomas, III, Orlando, Florida, Court of Federal Claims No: 24–1139V
76. Nancy Wasserstein, Brooklyn, New York, Court of Federal Claims No: 24–1142V
77. Christy Williams, Conyers, Georgia, Court of Federal Claims No: 24–1143V
78. Ronald Cato, Spartanburg, South Carolina, Court of Federal Claims No: 24–1145V
79. Angel Acevedo, Sioux Falls, South Dakota, Court of Federal Claims No: 24–1146V
80. Tracy Ray, New York, New York, Court of Federal Claims No: 24–1149V
81. Zachary Haller, Pittsburgh, California, Court of Federal Claims No: 24–1153V
82. Edward Quiroz, Surprise, Arizona, Court of Federal Claims No: 24–1156V
83. Teresa Betancourt, West New York, New Jersey, Court of Federal Claims No: 24–1157V
84. Kathleen A. Merante, Pittsburgh, Pennsylvania, Court of Federal Claims No: 24–1158V
85. Katrina Nazreth, Columbia, South Carolina, Court of Federal Claims No: 24–1162V
86. Ameleah Pfeiffer, Warren, Michigan, Court of Federal Claims No: 24–1163V
87. Joseph Virissimo on behalf of M.V., Las Vegas, Nevada, Court of Federal Claims No: 24–1168V
88. James McMahon, Dresher, Pennsylvania, Court of Federal Claims No: 24–1169V
89. Michael Gross, Minneapolis, Minnesota, Court of Federal Claims No: 24–1170V
90. James Wilkerson, Spooner, Wisconsin, Court of Federal Claims No: 24–1172V
91. James McDowell, Silver Spring, Maryland, Court of Federal Claims No: 24–1173V
92. Eric Ruffo, San Antonio, Texas, Court of Federal Claims No: 24–1174V

[FR Doc. 2024–18733 Filed 8–20–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; R25 Review—Short Courses, Mentoring Networks, and Education Programs for Psychiatry Residents.

Date: September 25, 2024.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual meeting).

Contact Person: EMMA Perez-Costas, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (240) 936–6720, emma.perez-costas@nih.gov.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 15, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18682 Filed 8–20–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: September 20, 2024.

Time: 10:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F21B, Rockville, MD 20852 (Video Assisted).

Contact Person: Maryam Feili-Hariri, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F21B, Rockville, MD 20852, 240–669–5026, haririmf@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 15, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18712 Filed 8–20–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2024 Notice of Supplemental Funding Opportunity

AGENCY: Substance Abuse and Mental Health Services Administration, Department of Health and Human Services (HHS).

ACTION: Notice of intent to award supplemental funding.

SUMMARY: This notice is to inform the public that the Substance Abuse and Mental Health Services Administration (SAMHSA) is supporting administrative supplements in scope of the parent award for the 12 eligible grant recipients funded in FY 2022 under the Tribal Behavioral Health Grant Program (Short Title: Native Connections), Notice of Funding Opportunity (NOFO) SM–21–011. Recipients may receive up to \$77,500 each for a total of \$930,000 across the grant cohort. These recipients have a project end date for these supplemental funds of September 29, 2025. The supplemental funding will be used to fund a comprehensive Training of Trainers (ToT) model to enhance and expand workforce development and capacity in the areas of focus of the TBH program: preventing and reducing substance use, overdose, suicidal behavior, suicide, and addressing the impact of trauma among American Indian/Alaska Native (AI/AN) youth, up to and including age 24.

FOR FURTHER INFORMATION CONTACT: Shannon Hastings, NOFO Lead,

Division of Targeted Prevention, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockville, MD 20857, email: DTP-NOFO@samhsa.hhs.gov.

SUPPLEMENTARY INFORMATION:

Funding Opportunity Title: FY 2021 Tribal Behavioral Health Grant Program (Short Title: Native Connections) SM–21–011.

Assistance Listing Number: 93.243.

Authority: Sections 520A (290bb–32) and 516 (290bb–22) of the Public Health Service Act, as amended.

Justification: These supplement awards will be offered to the FY 2022 cohort under the Tribal Behavioral Health/Native Connections (SM–21–011) program supporting recipients in developing and establishing a ToT comprehensive program based on a culturally appropriate curriculum (developed by the recipient) that leverages lessons learned from recipient's current substance use, overdose, and suicide prevention activities. Utilizing a ToT Model is a low-cost approach to advancing evidenced-based prevention interventions while rapidly building a network of multiple knowledgeable and skilled trainers and thus enhancing tribal workforce capacity and reach. Trainers can rapidly support a broader reach, rapid dissemination, and increased sustainability among AI/AN communities. Empowering participants from within and reflective of the communities served to take part in designing and implementing programs can expand proper identification and address specific needs, rather than following top-down, prescriptive approaches. This cascade effect can effectively eliminate barriers and enhance engagement.

This is not a formal request for application. Assistance will only be provided to the 12 Native Connections grant recipients funded in FY 2022 under the Tribal Behavioral Health Grant Program, NOFO (SM–21–011) based on the receipt of a satisfactory application and associated budget that is approved by a review group.

Date: August 15, 2024.

Ann Ferrero,

Public Health Analyst.

[FR Doc. 2024–18638 Filed 8–20–24; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0501]

Consideration for Acceptance of One or More Viability Testing Methods for Type Approval of Ballast Water Management Systems

AGENCY: Coast Guard, DHS.

ACTION: Notice of intent to prepare a Programmatic Environmental Impact Statement; notice of virtual scoping meetings; and request for comments.

SUMMARY: The Coast Guard, as the lead agency, announces its intent to prepare the *Viability Testing Method Consideration for Acceptance Programmatic Environmental Impact Statement*. Through this document, we will evaluate the potential environmental impact of the Coast Guard's Proposed Action to use the best available science to evaluate one or more viability testing methods submitted for consideration. Through this document, we will also evaluate, and potentially accept, methods that demonstrate that ballast water discharge meets U.S. ballast water discharge performance standards currently under development by the Environmental Protection Agency.

DATES: Comments must be submitted orally at one of the public meetings or in writing the online docket via <https://www.regulations.gov> on or before October 7, 2024. Virtual public meetings regarding this notice of intent will be held Thursday, September 5, 2024, at 12 p.m. EST, Tuesday, September 10, 2024 at 4 p.m. EST, and Wednesday, September 11, 2024 at 7 p.m. EST.

ADDRESSES: You may submit comments identified by docket number USCG–2024–0501 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Commander Andrew Murphy, Coast Guard; telephone 202–372–1430; email CG-OES@uscg.mil.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on preliminary alternatives to help the

Coast Guard identify reasonable alternatives. We will consider all submissions and may adjust our final action based on your comments. If you submit a comment, please include the docket number for this notice, indicate the specific item of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <http://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2024–0501 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Viewing material in docket. Public comments will be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. We review all comments received, but we may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Public Meeting

We plan to hold three virtual public scoping meetings to solicit feedback. At these meetings, the Coast Guard will present an overview of the Proposed Action and the environmental review process, followed by a period of listening to oral comments from the public. The Coast Guard will record all oral comments and respond to them in the Draft PEIS. The public meetings will be held virtually in Microsoft Teams at the following dates below. The public meetings can be accessed by either Microsoft Teams or by telephone.

Thursday, September 5, 2024
12:00 p.m. EST (4:00 p.m. UTC)
Meeting Link: <https://tinyurl.com/CGVIDAVT1>
Meeting ID: 242 571 871 890
Passcode: DD7bEW
Phone-in: +1 202–660–1181
Phone conference ID: 925 558 1#
Tuesday, September 10, 2024

4:00 p.m. EST (8:00 p.m. UTC)
 Meeting Link: <https://tinyurl.com/CGVIDAVT2>
 Meeting ID: 294 512 529 402
 Passcode: 8wzmy4
 Phone-in: +1 202-660-1181
 Phone conference ID: 567 920 777#
 Wednesday, September 11, 2024
 7:00 p.m. EST (11:00 p.m. UTC)
 Meeting Link: <https://tinyurl.com/CGVIDAVT3>
 Meeting ID: 265 269 415 521
 Passcode: jhEUSk
 Phone-in: +1 202-660-1181
 Phone conference ID: 125 105 712#

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact the person named in the **FOR FURTHER INFORMATION CONTACT** section, above.

Abbreviations

ANS Aquatic nuisance species
 ATP Adenosine triphosphate
 BWMS Ballast Water Management System
 CDNA Complementary DNA
 CEQ Council on Environmental Quality
 CMFDA 5-chloromethylfluorescein diacetate
 CFR Code of Federal Regulations
 DHS Department of Homeland Security
 EIS Environmental Impact Statement
 EPA Environmental Protection Agency
 ETV Environmental Technology Verification
 FDA Fluorescein diacetate
 IMO International Maritime Organization
 µm Micrometer
 MPN Most probable number
 NEPA National Environmental Policy Act
 NOI Notice of Intent
 PCR Polymerase chain reaction
 PEIS Programmatic Environmental Impact Statement
 qPCR Quantitative polymerase chain reaction
 SDC-MPN Serial dilution culture most probable number
 U.S.C. United States Code
 USEPA United States Environmental Protection Agency
 VIDA Vessel Incidental Discharge Act

Background

Currently, Coast Guard type approval is granted for ballast water management systems (BWMSs) that meet the live/dead standard under protocols described in title 46 of the Code of Federal Regulations (CFR) and the Environmental Protection Agency's (EPA's) *Environmental Technology Verification (ETV) Program* (EPA 2010), which include the use of cell tracing stains (such as fluorescein diacetate or (FDA) 5-chloromethylfluorescein diacetate (CMFDA), and do not include the use of viability tests. The Vessel Incidental Discharge Act (VIDA) of

2018¹ allows the Coast Guard to consider the use of viability tests for the type approval of BWMS and directs the Coast Guard to not consider methods for viability that rely on staining to measure the concentrations of organisms that are between (or equivalent to) 10 and 50 micrometers (µm).

This Notice of Intent (NOI) is intended to solicit feedback on the scope of the Programmatic Environmental Impact Statement (PEIS). The Coast Guard intends to host three virtual scoping meetings to provide additional information to the public and to solicit input on potential issues, concerns, and reasonable alternatives that should be considered in the PEIS.

Discussion

Congress, through enacting VIDA required the Coast Guard to consider adding "viability" of organisms as a way of testing compliance with ballast water discharge standards.

Ballast water is taken on by a vessel to increase the draft, change the trim, regulate the stability, or maintain stress loads within acceptable operational limits. Introduction of nonindigenous invasive species, also known as aquatic nuisance species (ANS), through ballast water discharge is a global concern. Ballast water discharge may contain water-borne organisms taken up at the last (or several recent) ballasting locations as well as water-borne organisms (especially eggs or larvae) that were produced by adult individuals in the ballast tank. Viable organisms that are discharged and become established in waters outside their native range may have adverse effects on native species and ecosystems, infrastructure, human health, socioeconomic, and other resources. Current regulation of ballast water (EPA's ETV protocol;² USCG's 33 CFR part 151 subparts C and D) uses a live/dead metric to measure the concentration of living organisms in ballast water after treatment by a BWMS.

VIDA defines a BWMS as rendering organisms "nonviable" if the organisms are "permanently incapable of reproduction following treatment." (VIDA 2018, Clean Water Act section 312(p)(1)(U)). By adding "viability" of organisms as a way of testing compliance with ballast water discharge standards, this change broadened how compliance with ballast water discharge

standards can be measured. In addition to counting whether organisms in ballast water discharge are alive, VIDA allows the possibility for a BWMS to meet EPA's ballast water standard by not counting organisms that are still alive but not reproductively viable.

The definitions in Title 33 of the United States Code section 1322 (33 U.S.C. 1322) of "live" and "living" as applied to current Coast Guard BWMS regulations do not address the instance of organisms that are alive but incapable of reproducing; thus, reproductively nonviable organisms count the same as viable living organisms. VIDA allows the Coast Guard to consider type approving BWMS that meet the standard by counting organisms that are alive but permanently nonviable the same as dead organisms, and in doing so to accept one or more viability test methods for use in type approving BWMS. EPA's final rule setting performance standards for ballast water has not been published yet³, but VIDA stipulates that the Coast Guard consider viability as applied to the Coast Guard's current ballast water standard as well as EPA's future ballast water standard under VIDA.⁴

The Coast Guard has determined that a PEIS is appropriate due to the wide geographic applicability, the various elements of uncertainty, and the potential for significant impacts of the Proposed Action. As such, we encourage you to comment upon the Proposed Action as a whole and provide information specifically on these four aspects: (1) the geographic areas that should be focused upon; (2) the uncertainties within the known viability test methods; (3) the ways to evaluate viability test methods; and (4) any viability test methods themselves that we may not have considered.

The Coast Guard's Proposed Action would have the potential to affect all navigable waters of the United States, including marine, estuarine, and freshwater environments. The scope of this action would include navigable waterways of the United States where discharge of ballast water is allowed, and waterways and adjacent areas that could be affected by such discharge. The following areas of uncertainty have been identified to date:

- No independently validated viability testing method exists that can accurately and precisely document the

¹ 132 Stat. 4192, Public Law 115-282, Dec. 4, 2018. See Sec. 903, Standards for Discharges Incidental to Normal Operation of Vessels.

² Generic Protocol for the Verification of Ballast Water Treatment Technology, available in this docket.

³ EPA's VIDA SNPRM was published October 18, 2023, 88 FR 71788. **Federal Register:** Vessel Incidental Discharge National Standards of Performance.

⁴ See Sec. 903 of VIDA (<https://www.govinfo.gov/content/pkg/PLAW-115publ282/pdf/PLAW-115publ282.pdf>) at 132 Stat. 4338.

concentration of viable organisms in ballast water discharged under typical operational conditions throughout the Action Area;

- Innumerable organisms in ballast water discharge have not been identified or cultured in laboratories; and
- No BWMS has been proven to render all ANS discharged in ballast water as *permanently* nonviable.

Currently, no specific viability test method has been submitted to Coast Guard for evaluation; therefore, this PEIS will analyze the impacts of a reasonable range of potential viability testing methods that may be submitted for Coast Guard review, based upon testing methods gathered from the applicable scientific literature.

The PEIS is intended to be broad enough to represent the range of viability testing methods known to the Coast Guard at this time or likely to be submitted for Coast Guard review and acceptance. If a testing method that is not covered in the PEIS is submitted to the Coast Guard later, the Coast Guard may determine that additional National Environmental Policy Act (NEPA) analysis is warranted.

This NOI briefly summarizes the purpose and need for the Proposed Action, the Proposed Action itself, and the No Action Alternative. As required by NEPA and its implementing regulations (40 CFR 1502.3), a Federal agency must prepare an EIS if it is proposing a major Federal action with the potential for significant impacts. The NEPA process is designed to identify and consider reasonably foreseeable environmental effects of the proposed action and all reasonable alternatives, including the Proposed Action, and to receive public input on that analysis to inform the agency's decision.

Purpose and Need for the Proposed Action

The Coast Guard's Proposed Action is to potentially accept one or more viability testing method submitted to the Coast Guard. Using best available science, the Coast Guard would evaluate each proposed method and accept methods (if any) that can demonstrate that ballast water discharge treated by a U.S. type approved BWMS meets applicable U.S. ballast water discharge performance standards for viable organisms.

To evaluate each submitted viability testing method, the Coast Guard would accept or reject a submitted Viability Testing Method based upon best available science, as described in the Final Policy Letter, Type-Approval Testing Protocols for Ballast Water

Management Systems That Render Organisms in Ballast Water Nonviable (87 FR 16641, March 24, 2022).⁵ In order to be accepted, a viability testing method would have to accurately quantify the concentration of viable organisms in a targeted size class remaining after the BWMS had either removed, killed, or rendered permanently nonviable other organisms in the ballast water discharge. The ultimate purpose of an accepted viability testing method is to reduce the probability that populations of ANS released in ballast water discharge become established in U.S. waters.

Proposed Action and Alternative

The Coast Guard has identified a Proposed Action and a No Action Alternative. Under the Proposed Action, Coast Guard would consider, evaluate, and accept one or more viability testing methods submitted by a third party for use in type approval of one or more ballast water management systems. If a viability test method is accepted and used to type approve one or more ballast water management systems, living organisms that are deemed "permanently nonviable" would not count in measuring living organisms that are allowed to be discharged.

Typically, the No Action Alternative assumes that current conditions (without the Proposed Action) would be maintained. However, VIDA stipulates that existing EPA and Coast Guard ballast water regulations will remain in effect only until the EPA establishes new performance standards and the Coast Guard develops implementing regulations, which must occur as soon as practicable, but not later than 2 years of EPA's final rule.

Under the No Action Alternative, the Coast Guard would consider, evaluate, but not accept, any viability testing method, and thus the Coast Guard would continue to use the live/dead method of measuring compliance with the standard for type approval of BWMS.

In the case of accepting a viability test method, a ballast water discharge sample containing 30 individuals per mL (in the 10–50 micrometer (µm) size class) would be deemed compliant with the 10 individuals/mL discharge performance standard if 20 of the 30 individuals were deemed "permanently nonviable." In this example, any uncertainty associated with the identification of an individual as

"permanently nonviable" represents a potential exceedance of the standard. The U.S. Coast Guard currently uses the 3 methods described in EPA's ETV Protocol for US type approval of BWMS. One of these methods uses staining, and while that would still be used for live/dead test methods, staining would not be allowed under VIDA for viability test methods.

Culture methods used to measure viability in the three regulated bacteria would continue: United States Environmental Protection Agency (USEPA) Method 1603 for *E. coli*; modified version of USEPA Method 1106.1 for *Enterococcus* spp.; and a DNA colony blot hybridization method for *V. cholera*.

Under the No Action Alternative, living organisms in the 10–50 µm size class would continue to be detected using manual epifluorescence microscopy and staining; unstained but motile organisms would be counted as live. This test does not measure reproductive viability; all living organisms are presumed viable.

Under current testing methods for heterotrophic organisms greater than or equal to 50 µm, organisms are determined to be living based on motility analysis under magnification (at least 10 seconds observation, with prodding by the observer if necessary). All organisms classified as living would be *assumed* viable. Note that this test does not measure actual reproductive viability.

Proposed Action

VIDA explicitly requires that the Coast Guard "take into consideration a testing method that uses organism growth and MPN statistical analysis to determine the concentration of organisms in ballast water that are capable of reproduction"⁶ and prohibits consideration of viability testing methods that rely on staining methods to measure the concentration of organisms in the 10–50 µm size class. Any accepted method will be used in land-based or shipboard testing (or both), so the method must be appropriate for type approval tests.

Under the Proposed Action, the Coast Guard would use a Decision Framework to determine whether a proposed viability testing method were acceptable to use in type approving a BWMS. The Decision Framework was designed to meet the directive in VIDA that Coast Guard use best available science (BAS) to evaluate and accept any viability

⁵ The final policy letter was effective February 28, 2022. A draft policy letter and request for comments were published on July 31, 2019 (84 FR 37330). The final policy letter is available in the docket.

⁶ 132 Stat. 4338, Public Law 115–282, Dec. 4, 2018. See Sec. 903, Standards for Discharges Incidental to Normal Operation of Vessels.

testing methods that can measure concentrations of organisms rendered permanently incapable of reproduction by the operation of a BWMS. All available information, if relevant to the intended output of a complete, standardized viability testing method to support BWMS type approval, will be assessed pursuant to the Coast Guard Decision Framework.

Table 2 lists viability testing methods that the Coast Guard is aware of from peer-reviewed published literature,

International Maritime Organization (IMO) documents, public notices prepared by proponents or developers, or other indicators of potential use in measuring concentrations of viable organisms in ballast water discharge. For instance, several methods developed for or used in monitoring pathogens in drinking water have features that may make them suitable (with or without modification) for measuring viability of organisms in ballast water discharge.

Viability testing methods to be evaluated in this PEIS represent three stages of research and development for use in testing treated ballast water against U.S. or IMO D-2 standards:⁷

1. Currently in use by Coast Guard or IMO;
2. Suggested in the peer-reviewed literature as potentially suitable; or
3. Under active research and development, with early results suggesting potential utility.

TABLE 1—POTENTIAL VIABILITY TESTING METHODS FOR COAST GUARD EVALUATION

Viability test method	Target organisms	Brief description
Serial dilution culture most probable number (SDC–MPN) assay ¹ .	10–50 µm size class (Autotrophs)	SDC–MPN is a growth-based method that relies on the use of serial dilutions to track population growth over time, particularly in organisms with defined growth characteristics, like microalgae. The MPN culturing technique for protists was adapted from food microbiology laboratories for use in evaluating phytoplankton communities. It uses a 14-day grow-out period to quantify reproductively viable phytoplankton.
Most Probable Number Dilution Culture + Motility ¹ ...	10–50 µm size (Heterotrophs)	The Heterotroph Method uses epifluorescence microscopy to identify and exclude from enumeration organisms that display the red fluorescence of chlorophyll, a diagnostic of photosynthetic autotrophs. The remaining organisms—those without detectable chlorophyll—are defined as heterotrophs. Heterotrophs that are observed to move are classified as living.
Microscopy ² (Standard, Epifluorescence, Variable fluorescence, Chlorophyll <i>a</i> fluorescence, Raman spectroscopy, Confocal Raman spectroscopy with near infrared excitation).	10–50 µm and greater than or equal to 50 µm size classes.	Direct observation of ballast water samples under magnification using stereo or compound microscopes. Specific types of microscopies use various light sources and sensors to enhance detection of cells and cell processes. Several indicative tests using variable fluorescence are commercially available.
Motility and fluorescence assay ³	10–50 µm and greater than or equal to 50 µm size classes.	Automated system that counts motile and fluorescent organisms; indicative tests are available and under development.
Adenosine triphosphate (ATP) assay ³	10–50 µm size class	1st Generation methods measure active ATP in the presence of luciferase enzyme. 2nd Generation ATP test method measures all living bacteria, culturable and non-culturable as well as autotrophs and heterotrophs. ATP assays are commercially available for indicative shipboard commissioning testing using the IMO D-2 standard.

⁷ IMO (2004) International convention for the control and management of ships' ballast water and

sediments. International Maritime Organization, London.

TABLE 1—POTENTIAL VIABILITY TESTING METHODS FOR COAST GUARD EVALUATION—Continued

Viability test method	Target organisms	Brief description
Polymerase chain reaction (PCR) ³		Several kinds of molecular methods based on PCR are used to detect live cells, including a molecular activity test and viability PCR. Messenger ribonucleic acid (mRNA) is a type of single-stranded RNA involved in protein synthesis. Because mRNA is synthesized by living cells during the process of transcription, the MVT measures changes in concentration of mRNA as an indicator of the cell's vitality. Reverse transcription PCR allows the use of RNA as a template to generate complementary deoxyribonucleic acid (cDNA). Using the reverse transcriptase enzyme, a single-stranded copy of cDNA is generated. This can then be amplified by a DNA polymerase, generating double-stranded cDNA, feeding into a standard PCR-based amplification process. Quantitative PCR (qPCR) is used to detect unwanted microbes (e.g., pathogens) and to identify DNA sequences used to classify the organisms in real time; qPCR methods generally use a fluorescent probe to quantify the DNA.
mRNA ³	bacteria (less than 10 µm size class) and.	Viable bacteria can be identified through mRNA, which exists only in molecularly active organisms. This tool is used in conjunction with reverse transcriptase PCR to reduce the time required to culture bacteria in food products.
mRNA ³	10–50 µm and greater than or equal to 50 µm size classes.	In principle, an mRNA primer can be created for any organism for which adequate genetic Information is available, including chordates such as tunicates.

Notes:
¹ Test may be used for IMO type approval of all BWMS technologies (BWM.2/Circ.61/Rev.1 Annex).
² Various types of microscopies are currently used to identify living organisms in these size classes; reproductive viability cannot be determined through microscopy alone.
³ Theoretically suitable for viability testing method; research and development are ongoing.

Summary of Expected Impacts

NEPA requires the identification and evaluation of impacts to the human environment that are reasonably foreseeable because of the agency’s Proposed Action. The analysis of potential impacts is based on potential changes in the concentrations of living ANS released in ballast water discharge in U.S. waters. Impacts of the Proposed Action would be manifested through the acceptance of a viability testing method and its use by the Coast Guard to type approve BWMS, and then the subsequent discharge from those BWMS into the Action Area.

The extent to which potential impacts would affect a given resource in a specific part of the Action Area would be influenced by complex interrelated variables independent of the Proposed Action. For example, impacts of ANS to U.S. ecosystems would be determined by the specific viable organisms released in specific locations under specific conditions that favor population establishment and growth; all these variables are dynamic and cannot be predicted quantitatively. Nevertheless, the Coast Guard can

assign relative probabilities of occurrence of various impacts to resources in selected locations in the Action Area. Assumptions based on historical and current data on ballast water discharge volumes and locations, presence of ANS in ballast tanks under various conditions, known physiological responses of organisms to common BWMS, types of chemicals released in ballast water discharge, and other factors relevant to each resource will be considered in the PEIS.

The potential impacts of the Proposed Action could occur throughout the Action Area. The set of human and natural resources potentially affected by the Proposed Action is known as the affected environment. Resources that have some reasonably foreseeable chance of being affected by the Proposed Action somewhere in the Action Area, that may include ecosystems, socioeconomic factors, essential fish habitat, and managed species, Endangered Species Act-listed species, marine protected areas, water quality, air quality, cultural resources, migratory birds, human health, and the Coastal Zone Management Act.

Anticipated Permits and Authorizations

The Coast Guard will comply with all applicable Federal, State, and local laws. This includes, but is not limited to, the following:

- The Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*)
- The Marine Mammal Protection Act (16 U.S.C 1361 *et seq.*)
- The Endangered Species Act (16 U.S.C. 1531 *et seq.*)
- Clean Water Act (33 U.S.C. 1251, *et seq.*)
- The National Historic Preservation Act (16 U.S.C. 470, *et seq.*)
- Clean Air Act (42 U.S.C. 7401, *et seq.*)

In addition, Coast Guard will complete Consultation with all affected Federally Recognized Tribes on a Government-to-Government basis in accordance with Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments).

Schedule for the Decision-Making Process

Following the scoping period announced in this NOI, and after consideration of all comments received during the 45-day scoping period, the

Coast Guard will prepare a draft PEIS for the Proposed Action to accept one or more viability testing methods for use in type approval of BWMSs. Once the draft PEIS is completed, it will be made available for a 45-day public review and comment period.

The Coast Guard will announce the availability of the draft PEIS in the **Federal Register** and other media outlets. The Coast Guard expects the draft PEIS will be available for public review and comment in 2024. In meeting the Council on Environmental Quality (CEQ) regulations generally requiring EISs to be completed within 2 years, the Coast Guard anticipates the final PEIS would be available in 2026. The final PEIS will respond to all comments received on the draft PEIS within the draft PEIS comment period. And we will publish a notice of availability in the **Federal Register** when we issue the PEIS. Should new information become available after the completion of the draft or final PEIS, supplemental NEPA documentation may be prepared in support of new information or changes in the Proposed Action considered under the PEIS.

Public Scoping Process

This NOI initiates the scoping process, which guides development of the PEIS. The Coast Guard is seeking comments on the reasonably foreseeable environmental impacts that may result from the Proposed Action, accepting one or more viability test methods that would ultimately be used for type approval of BWMS. The Coast Guard is also seeking input on relevant information, studies, or analyses of any kind concerning impacts potentially affecting the quality of human health or the environment because of the Proposed Action and alternatives.

NEPA requires Federal agencies to consider environmental impacts that may result from a Proposed Action, to inform the public of potential impacts and alternatives, and to facilitate public involvement in the assessment process. The PEIS will include, among other topics, discussions of the purpose and need for the Proposed Action, a description of alternatives, a description of the affected environment, and an evaluation of the environmental impact of the Proposed Action and alternatives.

The Coast Guard intends to follow the CEQ regulations (40 CFR 1500 *et. seq.*), Department of Homeland Security (DHS) Directive Number 023–01, Rev. 01, and Instruction 023–001–01, Rev. 01; and Coast Guard Commandant Instruction (COMDTINST) 5090.1, U.S. Coast Guard Environmental Planning Policy, by scoping through public

comments. Scoping, which is integral to the process for implementing NEPA, provides a process to ensure that (1) issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft PEIS is thorough and balanced; and (4) delays caused by an inadequate PEIS are avoided.

Scope consists of the range and breadth of actions, alternatives, and effects to be considered in an environmental impact statement or environmental assessment. The scoping process begins with publication of this NOI. The Coast Guard seeks to do the following during the scoping process:

- Invite the participation of Federal, State, and local agencies, any affected Federally Recognized Tribes, and other interested persons;
- Consult with affected Federally Recognized Tribes on a Government-to-Government basis in accordance with Executive Order 13175 and other policies. Concerns of Federally Recognized Tribes, including potential impacts on Treaty rights, Indian trust assets, and cultural resources, will be given appropriate consideration;
- Determine the scope and the issues to be analyzed in depth in the PEIS;
- Identify any related environmental assessments or environmental impact statements that are not part of the PEIS; and,
- Identify other relevant environmental review and consultation requirements, such as CZMA consistency evaluations, and threatened and endangered species and habitat impacts.

In accordance with the U.S. Coast Guard Environmental Planning Procedures,⁸ the Coast Guard will reach out to relevant agencies with jurisdiction by law or special expertise with respect to environmental issues in the project area.

Pursuant to the CEQ regulations, Coast Guard invites public participation in the NEPA process. This NOI requests public participation in the scoping process, establishes a public comment period, and provides information on how to participate.

The public will be provided with an opportunity to review and comment on the draft PEIS. Comments received during the draft PEIS review period will be available in the public docket (where indicated under the Public Participation and Request for Comments portion of this notice) and made available in the final PEIS.

⁸ Environmental Planning COMDTINST 5090.1 (series).

The 45-day public scoping period begins August 21, 2024 and ends October 7, 2024. Comments and related material submitted to the online docket via <https://www.regulations.gov/> must be received by the Coast Guard on or before October 7, 2024. Comments may also be provided at one of the public meetings referenced in the Public Participation and Request for Comments portion of the **SUPPLEMENTARY INFORMATION** section of this notice.

We request your comments on environmental concerns that you may have related to the PEIS. This includes suggesting analyses and methodologies for use in the PEIS or possible sources of data or information not included in the draft PEIS. Your comments will be considered in preparing the final PEIS.

This notice is issued under authority of 42 U.S.C. 4332.

Dated: August 6, 2024.

W.R. Arguin,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

[FR Doc. 2024–18597 Filed 8–20–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/
AOA501010.999900; OMB Control Number
1076–0149, 1076–0152, 1076–0158, 1076–
0172]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment on 25 CFR 290–293 Expirations Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs,
Interior.

ACTION: Notice of information collection;
request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, Indian Affairs, are proposing to renew four (4) information collections. We are seeking comments from the public, and other Federal agencies, as part of our continuing effort to minimize burdens and enhance the quality, utility, and clarity of the information to be collected.

DATES: Interested persons are invited to submit comments on or before September 20, 2024.

ADDRESSES: Written comments and recommendations for each proposed information collection request (ICR) should be sent within 30 days of publication of this notice to the Office

of Information and Regulatory Affairs (OIRA) by visiting <https://www.reginfo.gov/public/do/PRAMain> and selecting “Currently under Review—Open for Public Comments” and then scrolling down to the “Department of the Interior.”

FOR FURTHER INFORMATION CONTACT: Steven Mullen, Information Collection Clearance Officer, by email at comments@bia.gov or telephone at (202) 924–2650. 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. You may also view each information collection at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) 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 these ICRs was published on May 22, 2024 (89 FR 45007). 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.

Information collection	OMB control No.	Expiration date
(1.) Tribal Revenue Allocation Plans, 25 CFR 290	1076–0152	05/31/2025
(2.) Class III Gaming Procedures, 25 CFR 291	1076–0149	06/30/2025
(3.) Gaming on Trust Lands Acquired After October 17, 1988, 25 CFR 292	1076–0158	05/31/2025
(4.) Class III Tribal-State Gaming Compact Process, 25 CFR 293	1076–0172	08/31/2024

1. Tribal Revenue Allocation Plans, 25 CFR 290

Abstract: An Indian tribe must ask the Secretary to approve a Tribal revenue allocation plan. In order for Indian Tribes to distribute net gaming revenues in the form of per capita payments, information is needed by the AS–IA to ensure that Tribal revenue allocation plans include: (1) Assurances that certain statutory requirements are met, (2) a breakdown of the specific uses to which net gaming revenues will be allocated, (3) eligibility requirements for participation, (4) tax liability notification, and (5) the assurance of the protection and preservation of the per capita share of minors and legal incompetents. Sections 290.12, 290.17, 290.24 and 290.26 of 25 CFR part 290, Tribal Revenue Allocation Plans, specify the information collection requirement. The information to be collected includes: The name of the Tribe, Tribal documents, the allocation plan, and other documents deemed necessary.

Title of Collection: Tribal Revenue Allocation Plans, 25 CFR 290.

OMB Control Number: 1076–0152.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Federally recognized Indian Tribes.

Total Estimated Number of Annual Respondents: 20.

Total Estimated Number of Annual Responses: 20.

Estimated Completion Time per Response: 100 hours.

Total Estimated Number of Annual Burden Hours: 2,000 hours.

Respondent’s Obligation: Required to obtain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: \$0.

2. Class III Gaming Procedures, 25 CFR 291

Abstract: The collection of information will ensure that the provisions of the Indian Gaming Regulatory Act (IGRA) and other applicable requirements are met when federally recognized Tribes submit Class III procedures for review and approval by the Secretary of the Interior. Sections 291.4, 291.10, 291.12 and 291.15 of 25 CFR 291, Class III Gaming Procedures,

specify the information collection requirement. An Indian Tribe must ask the Secretary to issue Class III gaming procedures. The information to be collected includes: The name of the Tribe, the name of the State, Tribal documents, State documents, regulatory schemes, the proposed procedures, and other documents deemed necessary.

Title of Collection: Class III Gaming Procedures.

OMB Control Number: 1076–0149.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Federally recognized Indian Tribes.

Total Estimated Number of Annual Respondents: 12.

Total Estimated Number of Annual Responses: 12.

Estimated Completion Time per Response: 320 hours.

Total Estimated Number of Annual Burden Hours: 3,840 hours.

Respondent’s Obligation: Required to Obtain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: \$0.

3. Gaming on Trust Lands Acquired After October 17, 1988, 25 CFR 292

Abstract: The collection of information will ensure that the provisions of IGRA, Federal law, and the trust obligations of the United States are met when Federally recognized Tribes submit an application under 25 CFR part 292. The applications covered by this OMB Control No. are those seeking a secretarial determination that a gaming establishment on land acquired in trust after October 17, 1988, would be in the best interest of the Indian Tribe and its members, and would not be detrimental to the surrounding community.

Title of Collection: Gaming on Trust Lands Acquired After October 17, 1988.

OMB Control Number: 1076-0158.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public:

Federally recognized Indian Tribes.

Total Estimated Number of Annual Respondents: 2.

Total Estimated Number of Annual Responses: 2.

Estimated Completion Time per Response: 1,000 hours.

Total Estimated Number of Annual Burden Hours: 2,000 hours.

Respondent's Obligation: Required to obtain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: \$0.

4. Class III Tribal-State Gaming Compact Process, 25 CFR 293

Abstract: We, the Office of the Assistant Secretary—Indian Affairs (AS-IA), are proposing to renew an information collection. The information collected includes Tribal-state compacts or compact amendments entered into by Indian Tribes and State governments. The Secretary of the Interior reviews this information under 25 CFR 293, Class III Tribal-State Gaming Compact Process and the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2710(d)(8)(A), (B) and (C), which authorizes the Secretary to approve, disapprove, or “consider approved” (i.e., deemed approved) a Tribal-state gaming compact or compact amendment and publish notice of that approval or considered approval in the **Federal Register**.

Title of Collection: Class III Tribal-State Gaming Compact Process.

OMB Control Number: 1076-0172.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Indian Tribes and State governments.

Total Estimated Number of Annual Respondents: 40 per year.

Total Estimated Number of Annual Responses: 40 per year.

Estimated Completion Time per Response: 200 hours.

Total Estimated Number of Annual Burden Hours: 8,000 hours.

Respondent's Obligation: Required to obtain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: \$0.

Authority: 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 these information collection actions is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Steven Mullen,

*Information Collection Clearance Officer,
Office of Regulatory Affairs and
Collaborative, Office of the Assistant
Secretary—Indian Affairs.*

[FR Doc. 2024-18695 Filed 8-20-24; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS-WASO-NAGPRA-NPS0038512;
PPWOCRADNO-PCU00RP14.R50000]**

Notice of Inventory Completion: University of Nebraska State Museum, Lincoln, NE

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Nebraska State Museum has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after September 20, 2024.

ADDRESSES: Taylor Ronquillo, University of Nebraska State Museum, 645 N 14th Street, Lincoln, NE 68588, telephone (402) 472-6592, email Tronquillo2@unl.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of

Nebraska State Museum, and additional information on the determinations in this notice, including the results of the consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing at least, 14 individuals from four unique sites have been reasonably identified. No associated funerary objects are present. The individuals per site are as follows:

1. Lyon County, IA. One individual was excavated by Royce Lindsay of the UNL Department of Anthropology in connection with a 1970 Lindsey and Tom Thiessen (National Park Service), Canton Reservoir, Big Sioux Survey, 1970.

2. Fairmont Park, Council Bluffs. Nine individuals from an excavation involving Robert Gilder. No additional information is available.

3. East Nishnabota River, IA. Three individuals were donated to UNSM Vertebrate Paleontology Division by D. A Easterly on November 8, 2021, and transferred to the Anthropology Division on November 23, 2021. They were found by McClernon Brothers in 2017, eroding from the riverbank.

4. Crescent, IA. One individual was donated by Robert Gilder with no other information provided.

Cultural Affiliation

Based on the information available and the results of the consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The University of Nebraska State Museum has determined that:

- The human remains described in this notice represent the physical remains of 14 individuals of Native American ancestry.
- There is a reasonable connection between the human remains and associated funerary objects described in this notice and the Omaha Tribe of Nebraska.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the University of Nebraska State Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of Nebraska State Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-18670 Filed 8-20-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038506;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: David A. Fredrickson Archaeological Collections Facility at Sonoma State University, Rohnert Park, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Sonoma State University has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 20, 2024.

ADDRESSES: Doshia Dodd, Sonoma State University, 1801 East Cotati Avenue, Rohnert Park, CA 94928, telephone

(530) 514-8472, email Doshia.dodd@sonoma.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Sonoma State University, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual removed from CA-TEH-1528 in Tehama County, California, have been reasonably identified. The lot of 8,707 associated funerary objects removed from CA-TEH-1528 are groundstone tools, ocher, unmodified shell, faunal bone, modified faunal bone, flaked stone tools and debitage. Based on records concerning the associated funerary objects and the institution in which they were housed, there is no evidence of the human remains or associated funerary items being treated with hazardous substances.

CA-TEH-1528 is located at the edge of a broad basaltic plateau northeast of Red Bluff and west-northwest of Vales in Tehama County. CA-TEH-1528 was first recorded by Pat Mikkelsen in 1992. The collection is the result of Stage II and III archaeological investigations at the PGT-PGE Pipeline Project by Far Western Anthropological Research Group. The collection, Accession Number 91-31, has been housed at Sonoma State University since 1995.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Sonoma State University has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The 8,707 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- There is a connection between the human remains and associated funerary objects described in this notice and the Paskenta Band of Nomlaki Indians of California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the Sonoma State University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Sonoma State University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-18684 Filed 8-20-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038514;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: The Children's Museum of Indianapolis, Indianapolis, IN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), The Children's Museum of Indianapolis intends to repatriate certain cultural

items that meet the definition of sacred objects and/or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 20, 2024.

ADDRESSES: Jennifer Noffze, The Children's Museum of Indianapolis, 3000 N Meridian Street, Indianapolis, IN 46208, telephone (317) 334-3722, email jenn@childrensmuseum.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of The Children's Museum of Indianapolis, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 19 cultural items have been requested for repatriation. The 19 sacred objects/objects of cultural patrimony are:

Knife sheath (47.630.125)—donated to the museum by the Goodland Museum in 1947. The sheaf has beaded designs that include horse prints; leather has green pigment; strap is wrapped in red quills. It dates from 1885–1900 and is attributed to the Sioux.

Pipestem (47.677.125)—donated to the museum by the Goodland Museum in 1947. The long, catlinite pipestem is cylindrical at ends, square in the center, and has carved designs. It dates to around 1890 and is attributed to the Sioux.

Feathered headdress (48.177.1)—donated to the museum from the Estate of Mabel Hoster Troupe in 1948. It has a brown crown; headbands with white, purple and red beadwork; and eagle feathers. It dates to around 1920 and is attributed to the Lakota.

Child's vest (48.629.56)—donated to the museum by Anna Russell in 1948. The vest has a leather front and calico cloth back and the front is decorated with quilled bird-like designs. It dates from 1885–1900 and is attributed to the Oglala Lakota.

Doll (54.39.15)—donated to the museum by Margaret Pollitt in 1954. The doll has a cloth body; dressed in beaded buckskin with breech cloth apron, leggings, and long shirt; horsehair braids and beaded features;

braided hair. It is attributed to the Sioux.

Saddle/storage bags (64.4.19AB)—donated to the museum by Mrs. Paul Moore in 1964. The bags are beaded on both sides with red dyed horsehair tassels and metal cones. They date from 1875–1885, are from North Dakota, and are attributed to the Lakota.

Beaded sheath (69.1.76)—donated to the museum by Mrs. J. William Wright, Jr. in 1969. Front of sheath covered with white, dark blue and dark brown geometric pattern on red background; black natural hide; and two beaded hide tassels. It dates from 1900–1925 and is attributed to the Sioux.

Drum (70.165.1)—purchased from George Herzog in 1970. It is a circular frame drum painted with blue stars around the edge of the head. It dates from 1890–1910 and is attributed to the Lakota.

Eagle bone whistle (74.50.106)—donated to the museum by Mr. & Mrs. Harrison E. Eiteljorg in 1974. It is yellow, hollow, slightly curved bone with red and blue lines and double leather tie. It dates from 1972–1974 and is attributed to the Oglala Lakota.

Rattle (76.214.1)—purchased from Margaret A. Davies in 1976. It is a round, flat rattle with green hide covering, fringe on end of handle, and has geometric designs. It dates to around 1970 and is attributed to the Sioux.

Headdress (77.6.5)—donated to the museum by Mr. & Mrs. Richard H. Crane in 1977. It is a red, white, blue, and green feathered headdress with ermine tassels at the temples. It dates to around 1875 and is attributed to the Sioux.

Medicine bag (77.78.1)—purchased from Gallery II, Inc (Milwaukee, WI) in 1977. Bag is made from a prairie dog with beaded and quilled appendages. It dates from 1900–1910 and is attributed to the Lakota.

Pouch (2049)—donated to the museum in 1927 (donor unknown). It is made of cow hide and has a beaded cross design on front. It dates to around 1900 and is attributed to the Lakota.

Parfleche (2718)—donated to the museum by Mrs. D.M. Parry in 1928. It is made from rawhide and painted with blue, turquoise, red, and yellow geometric motifs outlined in blue on both sides. It dates from 1875 and is attributed to the Sioux.

Parfleche (5209)—donated to the museum by Mrs. S.H. Malpas in 1931. It is a small tan pouch with yellow, red, and blue geometric designs on the front and blue and red lines on the back. It dates from 1875 and is attributed to the Sioux.

Dance rattle (5237)—donated to the museum by Mrs. S.H. Malpas in 1931.

It is a hide-covered gourd on stick; handle is wrapped with red wool and buckskin; tuft of rawhide fringes on top; feathers lashed with sinew and silver paint drops on one side. It dates from 1875 and is attributed to the Sioux.

Storage bag (8528)—donated to the museum by Mrs. W.B. Wheelock in 1936. It is a rectangular storage bag decorated with narrow lanes of dyed porcupine quillwork; panels of beads are attached to the edges along with green wool tassel and metal cones with red horsehair. It dates from 1875–1900 and is attributed to the Lakota.

Pair of possible bags (3992AB)—donated to the museum by Abby W. Erskine in 1930. The bags are decorated with stripes of blue and white beads and blue cross elements; dyed horsehair tassels inside metal cones; five rectangular designs on edge in green, yellow, red and white. They date from 1885–1905 and are attributed to the Lakota.

Pouch with playing cards (5063A–C)—donated to the museum by Mrs. Vernon E. Hahn in 1931. Round pouch made from saddle leather and perforated with star and other designs; rectangular playing cards with rounded corners tucked inside. It dates from 1875–1885 and is attributed to the Sioux.

Determinations

The Children's Museum of Indianapolis has determined that:

- The 19 sacred objects/objects of cultural patrimony described in this notice are, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).

- There is a reasonable connection between the cultural items described in this notice and the Oglala Sioux Tribe.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or

a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, The Children's Museum of Indianapolis must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Children's Museum of Indianapolis is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-18673 Filed 8-20-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038505; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the American Museum of Natural History (AMNH) intends to repatriate a certain cultural item that meets the definition of a sacred object and that has a cultural affiliation with the Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after September 20, 2024.

ADDRESSES: Nell Murphy, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769-5837, email nmurphy@amnh.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the AMNH, and additional information on the determinations in this notice, including the results of consultation, can be found

in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one sacred object is a *mahiole* or feather helmet. The cultural item was found in storage. However, based on Museum records, consultation as well as information in the published literature, the item is presumed to have originated in Hawai'i. In 1907, it was recorded in the Museum's catalog as a feather helmet from the Hawaiian Islands, Collector Unknown. A catalog card located in the Division of Anthropology Archives dates the helmet to pre-1907, as this is the year it appears to have been located. The Collector is unknown.

Determinations

The American Museum of Natural History has determined that:

- The one sacred object described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization
- There is a reasonable connection between the cultural item described in this notice and the Na Hoa Aloha O Ka Pu'uhonua o Hōnaunau and the Office of Hawaiian Affairs.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the AMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The AMNH is responsible for sending a copy of this notice to the Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25

U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-18683 Filed 8-20-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038520; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Disposition: U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, Canyons of the Ancients National Monument, Dolores CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Land Management, Canyons of the Ancients National Monument intends to carry out the disposition of human remains removed from Federal or Tribal lands to the lineal descendants, Indian Tribe, or Native Hawaiian organization with priority for disposition in this notice.

DATES: Disposition of the human remains in this notice may occur on or after September 20, 2024. If no claim for disposition is received by August 21, 2025, the human remains in this notice will become unclaimed human remains.

ADDRESSES: Raymond O'Neil, Monument Manager, Canyons of the Ancients National Monument, 27501 Highway 184, Dolores, CO 81323, telephone (970) 882-5616, email roneil@blm.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Bureau of Land Management and additional information on the human remains in this notice, including the results of consultation, can be found in the related records. The National Park Service is not responsible for the identifications in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual have been reasonably identified. The human remains consist of a single human cranium, including

the detached lower mandible. Distinct occipital flattening, often referred to as “cradle boarding,” is commonly found in prehistoric Puebloan remains throughout the Four Corners region of the American Southwest, indicating the likelihood that the individual is an ancestor to modern Puebloan tribal members who lived between 1050 and 1295 BCE.

No other skeletal material was located or collected. No Native American cultural objects were found in association with the isolated cranium. The absence of additional material prevents further determination of cultural affiliation but does indicate that the location was not the site of an intentional prehistoric burial. No known individuals were identified.

Determinations

The Bureau of Land Management has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The Pueblo of Acoma, New Mexico has priority for disposition of the human remains described in this notice.

Claims for Disposition

Written claims for disposition of the human remains in this notice must be sent to the appropriate official identified in this notice under **ADDRESSES**. If no claim for disposition is received by August 21, 2025, the human remains in this notice will become unclaimed human remains. Claims for disposition may be submitted by:

1. Any lineal descendant, Indian Tribe, or Native Hawaiian organization identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that they have priority for disposition.

Disposition of the human remains in this notice may occur on or after September 20, 2024. If competing claims for disposition are received, the Bureau of Land Management must determine the most appropriate claimant prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. The Bureau of Land Management is responsible for sending a copy of this notice to the lineal descendants, Indian Tribes, and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25

U.S.C. 3002, and the implementing regulations, 43 CFR 10.7.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18675 Filed 8–20–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS–WASO–NAGPRA–NPS0038513;
PPWOCRADNO–PCU00RP14.R50000]**

Notice of Inventory Completion: San Francisco State University NAGPRA Program, San Francisco, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the San Francisco State University (SF State) NAGPRA Program has completed an inventory of human remains has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after September 20, 2024.

ADDRESSES: Elise Green, San Francisco State University NAGPRA Program, 1600 Holloway Avenue, San Francisco, CA 94132, telephone (415) 338–1381, email egreen@sfsu.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SF State NAGPRA Program and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual has been reasonably identified. The human remains were contained in a box marked “Yuki Skeleton”. It is unknown how the materials labeled “Yuki” were collected or how they came into the possession of SF State. SF State conducted two archaeological surveys in Yuki territory. The first was by Treganza, Smith and Weymouth in 1950; the second by R. Edwards in 1966.

It was once common practice by museums to use chemicals on cultural items to prevent deterioration by mold, insects, and moisture. To date, the SF State NAGPRA Program has no records documenting use of chemicals at our facilities, and we currently do not use chemicals on any cultural items. A former SF State professor, Dr. Michael Moratto, stated that staff used glues, polyvinyl acetate, and a solution called Glyptol to mend and stabilize cultural objects in the past. Prior non-invasive and non-destructive hazardous chemical tests conducted at the SF State NAGPRA Program repositories show arsenic, mercury, and/or lead in some storage containers, surfaces, and certain cultural items.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains described in this notice.

Determinations

The SF State NAGPRA Program has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Round Valley Indian Tribes, Round Valley Reservation, California.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, SF State NAGPRA Program must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The SF State NAGPRA Program is responsible for sending a copy of this notice to the

Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18671 Filed 8–20–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038526;
PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: University of North Dakota, Grand Forks, ND

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of North Dakota intends to repatriate a certain cultural item that meets the definition of an object of cultural patrimony and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after September 20, 2024.

ADDRESSES: Dr. Crystal Alberts, University of North Dakota, Twamley Hall Room 300, 264 Centennial Drive, Grand Forks, ND 58202, telephone (701) 777–2393, email und.nagpra@und.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of North Dakota and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one object of cultural patrimony is a buckskin jacket. The object has not been treated with potentially hazardous substances to the best of the institution's knowledge.

The item was acquired or donated to the University of North Dakota (UND)

by an unknown individual or individuals at an unknown time. At some point prior to 1991, the item described in this notice, among others, was internally transferred to the UND American Indian Studies Department. The items were later designated the "Merry Claymore Ketterling Collection," named for a Standing Rock Sioux tribal member who served as the department's administrative assistant for many years.

This item is a buckskin/leather jacket that is fringed along the shoulder and edges. It has red, purple, and orange porcupine quillwork in a floral design front and back. It measures 37" long by 27" wide.

Determinations

The University of North Dakota, Grand Forks, ND has determined that:

- The one object of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- There is a reasonable connection between the cultural items described in this notice and the Turtle Mountain Band of Chippewa Indians of North Dakota.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the University of North Dakota must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of North Dakota is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18678 Filed 8–20–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038523;
PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: University of North Dakota, Grand Forks, ND, and University of North Dakota, Alumni Association & Foundation, Grand Forks, ND

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of North Dakota and the UND Alumni Association & Foundation intend to repatriate a certain cultural item that meets the definition of an sacred objects and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after September 20, 2024.

ADDRESSES: Dr. Crystal Alberts, University of North Dakota, Twamley Hall Room 300, 264 Centennial Drive, Grand Forks, ND 58202, telephone (701) 777–2393, email und.nagpra@und.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of North Dakota and the UND Alumni Association & Foundation, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one sacred object is a pipe. The pipe has not been treated with potentially hazardous substances to the best of the institutions' knowledge.

This item is part of the Victor A. Corbett Collection, gifted to the UND Alumni Association & Foundation (UNDAAF) circa February 1988. According to New York City-based appraisers consulted by UNDAAF in the 1980s, most of these items are estimated to date from the 1890s through the 1950s with most acquired by Corbett in the 1940s and 50s and appear to be from tribes in what is now North Dakota and surrounding states.

Victor A. Corbett, a dentist in Minot, ND, from 1931–1984, was reported to accept artifacts from Native Americans in the surrounding area, namely the Standing Rock Sioux Tribe and the residents of the nearby Three Affiliated Tribes of Fort Berthold Reservation, sometimes in lieu of payment for dental services. Documentation indicates he also collected objects related to Native American culture through various means, including purchasing and commissioning custom-made pieces. Additionally, research suggests that he would accept objects from patients as collateral for an outstanding bill for dental services rendered. Collection records do not provide any additional information regarding the objects' provenience or provenance.

Included in this collection is a catlinite pipe bowl with an engraving of a Native American man wearing a headdress on the side. After a visit from tribal elders, the pipe was identified as belonging to a relative of Standing Buffalo.

Determinations

The University of North Dakota and the UND Alumni Association & Foundation has determined that:

- The one sacred object described in this notice is a specific ceremonial object needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- There is a reasonable connection between the cultural item described in this notice and the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not

identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the University of North Dakota and the UND Alumni Association & Foundation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The University of North Dakota and the UND Alumni Association & Foundation are responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18676 Filed 8–20–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS–WASO–NAGPRA–NPS0038508;
PPWOCRADNO–PCU00RP14.R50000]**

Notice of Inventory Completion: California Department of Parks and Recreation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California Department of Parks and Recreation has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 20, 2024.

ADDRESSES: Dr. Leslie L. Hartzell, NAGPRA Coordinator, California Department of Parks and Recreation, P.O. Box 942896, Sacramento, CA

94296–0001, telephone (916) 425–8016, email Leslie.Hartzell@parks.ca.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the California Department of Parks and Recreation, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on available information, human remains representing, at least, 11 individuals have been identified. The 2,361 lots of associated funerary objects are one lot of ammo, one lot of antenna fragments, one lot of antler tines, one lot of bobby pin, one lot of boot heels, one lot of car parts, one lot of combs, one lot of concrete, one lot of concrete fragments, one lot of copper fragments, one lot of doughnut stones, one lot of earrings, one lot of electrical parts, one lot of fire fractured stones, one lot of flake tools, one lot of hull fragments, one lot of marbles, one lot of melted glass, one lot of modified steatite, one lot of ornaments, one lot of pennies, one lot of pull tops, one lot of rivets, one lot of slag, one lot of spark plugs, one lot of springs, one lot of steatite, one lot of tacks, one lot of tin fragments, one lot of tire weights, one lot of wood, one lot of wrenches, two lot of washers, two lots of awls, two lots of bottle caps, two lots of bricks, two lots of drills, two lots of leather, two lots of pestles, two lots of pigments, two lots of shingle fragments, three lots of charmstones, three lots of ochre, four lots of asphalt, four lots of bullet casings, four lots of buttons, four lots of hammerstones, four lots of rubber fragments, five lots of baked clay, five lots of foil, five lots of nuts and bolts, six lots of seeds, six lots of uniface, seven lots of metates, seven lots of sherds, eight lots of bowls, eight lots of cobbles, nine lots of charcoal, nine lots of nails, nine lots of wire, 10 lots of bottles, 10 lots of quartz crystals, 10 lots of rocks, 11 lots of ceramics, 12 lots of unknown, 13 lots of manos, 13 lots of mineral samples, 20 lots of metal, 26 lots of nails, 26 lots of plastic fragments, 28 lots of steatite, 29 lots of bifaces, 35 lots of cores, 35 lots of glass fragments, 36 lots of bone tools, 39 lots of bones, 68 lots of beads, 80 lots of food remains, 85 lots of glass vessels, 93 lots of scrapers, 166 lots of projectile points, 676 lots of debitage, and 680 lots of flakes.

This village site and cemetery are located in Mariposa County, near the City of Mariposa, CA and were excavated in 1963 and 1965 by Columbia Junior College (CJC) students and California Youth Authority wards under the direction of Francis A. Riddell (California Department of Parks and Recreation) and Robert N. Davidson (CJC). In 1996, the village was once again excavated by Caltrans archaeologists as part of a project to widen State Route 39 and improve drainage. The collection was curated at California State University, Sacramento until it was transferred to the California Department of Parks and Recreation in 2013.

The age of this burial is estimated to be between 1000 and 1500 A.D. Linguistic evidence for the Miwok occupation of the Sierra Nevada indicates that they came into the area from the Central Valley after the beginning of the Late Horizon of California prehistory, approximately 500 A.D. No lineal descendant has been identified. Geographic affiliation is consistent with the historically documented Southern Sierra Miwuk. The associated funerary objects are consistent with the period when the site would have been occupied by the Southern Sierra Miwuk. The history of the formation of California Indian rancherias in the Central Valley and Sierra Nevada foothill regions of California reveal that descendants of the historical Southern Sierra Miwuk were ultimately dispersed to the federally recognized Miwok rancherias.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The California Department of Parks and Recreation, has determined that:

- The human remains described in this notice represent the physical remains of 11 individuals of Native American ancestry.
- The 2,361 lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Buena Vista Rancheria of Me-Wuk Indians of California; Chicken Ranch

Rancheria of Me-Wuk Indians of California; Northfork Rancheria of Mono Indians of California; Picayune Rancheria of Chukchansi Indians of California; and the Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the California Department of Parks and Recreation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The California Department of Parks and Recreation is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18686 Filed 8–20–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038525; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: University of North Dakota, Grand Forks, ND, and University of North Dakota Alumni Association & Foundation, Grand Forks, ND

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of North Dakota and the UND Alumni Association & Foundation intend to repatriate certain cultural items that meet the definition of sacred objects and/or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 20, 2024.

ADDRESSES: Dr. Crystal Alberts, University of North Dakota, Twamley Hall Room 300, 264 Centennial Drive, Grand Forks, ND 58202, telephone (701) 777–2393, email und.nagpra@und.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of North Dakota and the UND Alumni Association & Foundation, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of five cultural items have been requested for repatriation.

The first object of cultural patrimony is a saddle. This item was a part of the Victor A. Corbett Collection, gifted to the UND Alumni Association & Foundation (UNDAAF) circa February 1988. According to New York City-based appraisers consulted by the UNDAAF in the 1980s, most of these items are estimated to date from the 1890s through the 1950s with most acquired by Corbett in the 1940s and 50s and appear to be from tribes in what is now North Dakota and surrounding states.

Victor A. Corbett, a dentist in Minot, ND from 1931–1984, was reported to accept artifacts from Native Americans in the surrounding area, namely the Standing Rock Sioux Tribe and the residents of the nearby Three Affiliated Tribes of Fort Berthold Reservation, sometimes in lieu of payment for dental services. Documents suggest he also collected objects related to Native American culture through various means, including purchasing and commissioning custom-made pieces. Additionally, research suggests that he would take objects from patients as collateral for an outstanding bill for

dental services rendered. Collection records do not provide any additional information regarding the objects' provenience or provenance.

The object of cultural patrimony is described by the appraiser as "Rawhide pad saddle with floral beaded designs in ovoid circles at the four corners and on four attached rectangular side panels. Three shades of green, two shades of pink, two shades of blue and yellow beads in the floral design on a white background. Stirrups and cinch strap are added and not original. Turtle Mountain Chippewa. ca. 1880. Good condition." The object has not been treated with potentially hazardous substances to the best of the institutions' knowledge.

The other four cultural items include one sacred object, which is a pipe made of black stone, and three sacred objects/objects of cultural patrimony, which are a hand drum and two decorated drumsticks. These items were a part of the Emily Doak Wolff Collection, gifted to the UND Alumni Association & Foundation in May 1992. In 1914, the University of North Dakota (UND) staged "A Pageant of the North-West." Contemporaneous accounts from 1914 in UND's student newspaper, the 1916 Dakota yearbook, and UND Department of Theatre records indicate that individuals from the Turtle Mountain Band of Chippewa Indians were invited to participate in the "A Pageant of the North-West" of 1914, including Flying Eagle (Marchebenus) and Temoweneni (Little Boy). Henry A. Doak, former UND faculty member, oversaw props for this production, which included the use of the sacred objects/objects of cultural patrimony described within this notice. No object has been treated with potentially hazardous substances to the best of the institutions' knowledge.

Determinations

The University of North Dakota and the UND Alumni Association & Foundation has determined that:

- The one sacred object described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- The one object of cultural patrimony described in this notice has ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band,

clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- The three sacred objects/objects of cultural patrimony described in this notice are, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).

- There is a reasonable connection between the cultural items described in this notice and the Turtle Mountain Band of Chippewa Indians of North Dakota.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the University of North Dakota and the UND Alumni Association & Foundation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of North Dakota and the UND Alumni Association & Foundation are responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-18677 Filed 8-20-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038522; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: San Francisco State University NAGPRA Program, San Francisco, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the San Francisco State University (SF State) NAGPRA Program intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 20, 2024.

ADDRESSES: Elise Green, San Francisco State University NAGPRA Program, 1600 Holloway Avenue, San Francisco, CA 94132, telephone (415) 338-1381, email egreen@sfsu.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SF State NAGPRA Program, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 205 lots of cultural items have been requested for repatriation. The 205 lots of unassociated funerary objects are tools, pestle fragments, projectile points, pestles, worked chert, stones, chert fragments, mano, glass, hammerstone, obsidian, and a hopper mortar. These cultural items are from archaeological sites in Mendocino County: CA-MEN-Tickenoff Collection, CA-MEN-Etsel Franciscan Survey, CA-MEN-Poor Man's Valley, CA-MEN-775-776, CA-MEN-766, CA-MEN-765, CA-MEN-764, CA-MEN-763, CA-

MEN-754, CA-MEN-753, CA-MEN-749, CA-MEN-743, CA-MEN-738, CA-MEN-736, CA-MEN-735, CA-MEN-721, CA-MEN-713, CA-MEN-703, CA-MEN-688, CA-MEN-682, CA-MEN-669, CA-MEN-668, CA-MEN-666, CA-MEN-665, CA-MEN-643, CA-MEN-622, CA-MEN-316, CA-MEN-315, CA-MEN-307, CA-MEN-306, CA-MEN-304, CA-MEN-297, CA-MEN-293, CA-MEN-285, CA-MEN-282, CA-MEN-279, CA-MEN-277, CA-MEN-272, CA-MEN-271, CA-MEN-267, CA-MEN-258, CA-MEN-245, CA-MEN-244, CA-MEN-242, CA-MEN-227, CA-MEN-226, CA-MEN-222, CA-MEN-216, CA-MEN-213, CA-MEN-209, and CA-MEN-208. Many of these sites were excavated as part of the Etsel-Franciscan Reservoir Project located in Williams Valley, CA. SF State previously repatriated ancestors to the Round Valley Indian Tribes in 2000 from this same project. These sites listed above have been determined to be geographically located near Round Valley, CA and associated with the Round Valley Indian Tribes.

It was once common practice by museums to use chemicals on cultural items to prevent deterioration by mold, insects, and moisture. To date, the SF State NAGPRA Program has no records documenting use of chemicals at our facilities, and we currently do not use chemicals on any cultural items. A former SF State professor, Dr. Michael Moratto, stated that staff used glues, polyvinyl acetate, and a solution called Glyptol to mend and stabilize cultural objects in the past. Prior non-invasive and non-destructive hazardous chemical tests conducted at the SF State NAGPRA Program repositories show arsenic, mercury, and/or lead in some storage containers, surfaces, and certain cultural items.

Determinations

The SF State NAGPRA Program has determined that:

- The 205 lots of unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to

an Indian Tribe or Native Hawaiian organization.

- There is a reasonable connection between the cultural items described in this notice and the Round Valley Indian Tribes, Round Valley Reservation, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the SF State NAGPRA Program must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The SF State NAGPRA Program is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-18672 Filed 8-20-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038510; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion:
Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Peabody Museum of Archaeology and Ethnology, Harvard University (PMAE) has completed an inventory of human remains and has determined that there

is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were collected at the Fort Totten Indian School, Benson County, ND, and the Flandreau Indian School, Moody County, SD.

DATES: Repatriation of the human remains in this notice may occur on or after September 20, 2024.

ADDRESSES: Jane Pickering, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-2374, email jpickering@fas.harvard.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the PMAE, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at minimum, 20 individuals were collected at the Fort Totten Indian School, Benson County, ND. The human remains are hair clippings collected from one individual who was recorded as being 54 years old, one individual who was recorded as being 49 years old, one individual who was recorded as being 15 years old, three individuals who were recorded as being 14 years old, two individuals who were recorded as being 13 years old, two individuals who were recorded as being 12 years old, two individuals who were recorded as being 11 years old, five individuals who were recorded as being 10 years old, two individuals who were recorded as being 9 years old, and one individual who was recorded as being seven years old and identified as "Chippewa." Orrin C. Gray took the hair clippings at the Fort Totten Indian School between 1930 and 1933. Gray sent the hair clippings to George Woodbury, who donated the hair clippings to the PMAE in 1935. No associated funerary objects are present.

Based on the information available, human remains representing, at minimum, two individuals were collected at the Flandreau Indian School, Moody County, SD. The human remains are hair clippings collected from two individuals who were recorded as being 17 years old and identified as "Chippewa." George E.

Peters took the hair clippings at the Flandreau Indian School between 1930 and 1933. Peters sent the hair clippings to George Woodbury, who donated the hair clippings to the PMAE in 1935. No associated funerary objects are present.

Cultural Affiliation

Based on the available information and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains described in this notice.

Determinations

The PMAE has determined that:

- The human remains described in this notice represent the physical remains of 22 individuals of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Turtle Mountain Band of Chippewa Indians of North Dakota.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the PMAE must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The PMAE is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-18687 Filed 8-20-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038515; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: Western Washington University, Department of Anthropology, Bellingham, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Western Washington University (WWU) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from 45-SJ-506, in San Juan County, WA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 20, 2024.

ADDRESSES: Dr. Judith Pine, Western Washington University, Department of Anthropology, Arntzen Hall 340, 516 High Street, Bellingham, WA 98225, telephone (360) 650-4783, email pinej@www.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the WWU, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual have been identified. The two associated funerary objects are level bags (lots) containing small bone, shell, and wood fragments that appear to be excavated burial matrix.

The human remains and associated funerary objects described in this notice were removed from 45-SJ-506, east of Jones Bay, Lopez Island in San Juan County, WA. In 1953, Dr. Herbert Taylor and Western Washington State College's field school excavated the burial from private property at the request of the property owners, George and Ethel Falk.

George Falk and his son Richard were digging a house foundation and exposed a portion of the burial. Richard was a former student of Dr. Taylor, and the Falks asked Taylor to excavate the burial. This location has since been recorded as 45-SJ-506. No known individuals were identified. No hazardous chemicals are known to have been used to treat the human remains while in the custody of WWU.

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archaeological information, geographical information, historical information, and oral tradition.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The WWU has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The two objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Lummi Tribe of the Lummi Reservation and the Samish Indian Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the WWU must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The WWU is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18674 Filed 8–20–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038529;
PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of North Dakota, Grand Forks, ND

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of North Dakota (UND) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 20, 2024.

ADDRESSES: Dr. Crystal Alberts, University of North Dakota, Twamley Hall Room 300, 264 Centennial Drive, Grand Forks, ND 58202, phone (701) 777–2393, email und.nagpra@und.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of North Dakota, and additional information on the determinations in

this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

In October of 1974, gravel quarrying operations in Marshall County, MN, inadvertently disturbed a multi-person burial from site 21MA10. Former UND faculty member Lawrence L. Loendorf and former UND student Gary T. Scott oversaw the removal of human remains along with 110 associated funerary objects consisting of one sample of charcoal, one arrow shaft straightener, two ground stone tools, 12 chipped stone tools, and 94 chipped stone flakes and flaking debris. The human remains were donated by K. Lund to the Minnesota Historical Society. The associated burial items were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the associated funerary objects described.

Based on information available, human remains of, at least, one individual has been reasonably identified, along with 373 associated funerary objects, consisting of 331 faunal bones or faunal bone fragments, 32 natural rocks, and 10 pieces of botanical material, which were excavated from site 24YL608 in Yellowstone County, MT. In June 1972, former UND faculty member Lawrence L. Loendorf removed the described human remains and associated funerary objects from this site and brought them back to UND. These human remains and the associated funerary objects were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the human remains or associated funerary objects described.

Based on information available, human remains representing, at least, one individual being reasonably identified were taken from a mound near Arvilla, site 32GF1 in Grand Forks County, ND. In 1907, a man believed to be identified as E.K. Kennedy, an employee of the Road Division of the Great Northern Railway, provided the described human remains to an unidentified UND faculty member. Associated documentation notes, "[t]here was a copper [illegible] wired to the skull marked with peculiar hieroglyphics." These human remains were found at the UND School of Medicine and Health Sciences in Spring 2022. No associated funerary objects are present. UND has no record of any

potentially hazardous substances being used to treat the human remains described.

On May 13, 1947, former UND faculty member Gordon W. Hewes excavated a mound identified as 32GF4 in Grand Forks County, ND. Based on the information available, human remains representing, at least, two individuals have been reasonably identified. The remains were found on UND's campus in August 2022 with a card that includes geolocation information which states: "The bodies of several persons were presented in this much disturbed burial place." Additionally, two associated funerary objects were found with these human remains, consisting of two fragments of faunal bone. UND has no record of any potentially hazardous substances being used to treat the human remains or associated funerary objects described.

In 1963, site 32GF10, the "Hegre Mound" in Grand Forks County, ND, was excavated by the landowner and local residents under the direction of Louis R. Thompson, Northwood Historical Museum, Northwood, ND, and Edward A. Milligan, historian, North Dakota State School of Forestry, Bottineau, ND. In 1967, Kenneth Cole, former UND faculty member, conducted a survey at site 32GF10. Available documentation indicates an exchange of information between Thompson, Milligan, and Cole, as well as a possible transfer of materials from Milligan and Thompson to Cole. Of the materials excavated at the site, three associated funerary objects, consisting of two faunal bone fragments and one piece of Knife River Flint, were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the associated funerary objects described.

In August 1967, Kenneth Cole, former UND faculty member, and a field crew conducted a survey of a mound at site 32GF305 in Grand Forks County, ND, the "Colony Mound." Cole collected 34 associated funerary objects, consisting of one lithic point, one lithic biface, three chipped stone flaking debris, seven faunal bone fragments, and 22 shell beads. These items were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the associated funerary objects described.

In 1967, Kenneth Cole, former UND faculty member, conducted a survey of a mound at site 32GF307 in Grand Forks County, ND. Cole collected 25 associated funerary objects consisting of 14 faunal bone and teeth fragments,

eight pieces of chipped stone flaking debris, two lithic tools (scrappers), and one ceramic sherd. These items were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the associated funerary objects described.

In 1967, Kenneth Cole, former UND faculty member conducted a survey of a mound at site 32GF308, in Grand Forks County, ND, the "Gruszie Mound." Based on information available, Cole collected human remains representing, at least, one individual, being reasonably identified, along with 29 associated funerary objects consisting of 14 faunal bone fragments, one chipped stone tool, and 14 pieces of chipped stone flakes and flaking debris. The human remains and associated objects were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the human remains or associated funerary objects described.

In 1967, Kenneth Cole, former UND faculty member conducted a survey of a mound at site 32GF322 in Grand Forks County, ND. The items collected by Cole are labeled as being from a "possible mound." The 23 associated funerary objects consist of two lithic cores, 14 pieces of chipped stone flaking debris, and seven faunal bone and tooth fragments from a large mammal. The items listed were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the associated funerary objects described.

In 1979, during topsoil borrowing activities, a burial at site 32ME378 in Mercer County, ND, was inadvertently disturbed by a contractor. The human remains and associated funerary objects described below were collected by former UND faculty member Stanley A. Ahler. Based on information available human remains representing, at least, one individual, has been reasonably identified, along with 19 associated funerary objects, consisting of 10 faunal bone fragments, one ceramic sherd, one thermally altered rock, one lithic core, and six chipped stone flakes and flaking debris. The human remains and the associated funerary items were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the human remains or associated funerary objects described.

In 1977, former UND faculty member Stanley A. Ahler, while leading a National Park Service Field School, collected items exposed on the surface

at site 32ML405 in McLean County, ND. Based on the information available, human remains representing, at least, one individual has been reasonably identified, along with 261 associated funerary objects consisting of one dark red piece of pumice, 212 chipped stone flakes and flaking debris, three lithic cores, three chipped stone tools, 40 fragments of faunal bone, one post-contact ceramic rim sherd, and one glass bottle neck were removed from this site. These human remains and the associated funerary objects were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the human remains or associated funerary objects described.

In August 1967, a box containing human remains and associated funerary objects was left in UND's Leonard Hall, and UND's Department of Anthropology was notified. It was later learned that the human remains and associated funerary objects were part of an inadvertent disinterment at site 32NE301, the "Lakota Site," located in Nelson County, ND. The 12 associated funerary objects consisting of one bison tooth fragment, five beaver tooth fragments, two shell beads, and all or part of four shell pendants were found in UND's Department of Anthropology in March 2022. The location of the human remains is unknown. UND has no record of any potentially hazardous substances being used to treat the associated funerary objects described.

Based on the information available, human remains representing, at least, one individual has been reasonably identified as being removed from a burial at site 32RM201, the "Lisbon Burial," in Ransom County, ND. In 1974, the site was disturbed by gravelling operations; later, UND faculty member Kent Good oversaw excavation of the site. No associated funerary objects are present. The human remains were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the human remains described.

Based on the information available, human remains representing at least one individual has been reasonably identified were removed from site 32SL1 in Slope County, ND. On July 7, 1977, as part the NPS Knife River Indian Villages/UND Field School, Stanley A. Ahler, former UND faculty member, and students conducted surface collection on the site. No associated funerary objects present. The human remains were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous

substances being used to treat the human remains described.

Based on the information available, human remains representing, at least, four individuals have been reasonably identified, along with one associated funerary object consisting of a dome-shaped bead, were removed from site 32SN22 in Stutsman County, ND, the "Jamestown Mounds." In 1982, the State Historical Society of North Dakota excavated three burial mounds, and John A. Williams, then faculty at UND, participated in the analysis of the human remains. The human remains and associated funerary object from this site were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the human remains or associated funerary object described.

Based on the information available, human remains representing, at least, one individual has been reasonably identified, along with three associated funerary objects consisting of faunal bone fragments, were removed from site 32SN103 in Stutsman County, ND. In August and November 1995, a survey of a mound group at the site was conducted by former UND Associate Research Archaeologist Cynthia Kordecki and Paul Picha from the State Historical Society of North Dakota. They noted "[c]ultural material observed in the disturbed area at the east end of the site" and while they collected bone, they stated "none of which is identified as human." The human remains and associated funerary objects were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the human remains or associated funerary objects described.

In June 1967, Kenneth Cole, former UND faculty member, conducted a survey at site 32WA1, Blasky or Fordville Mounds, in Walsh County, ND. The 12 associated funerary objects attributed to this survey, consisting of lithics, were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the associated funerary objects described.

In 1967, Kenneth Cole, former UND faculty member, excavated a burial at site 32WA301, in Walsh County, ND, after human remains were removed from the land by the property owner. The 39 associated funerary objects, consisting of 29 faunal bone fragments, one center fragment of a bison horn, three ceramic sherds, two chipped stone tools, and four chipped stone flakes and flaking debris from this site were found

in UND's Department of Anthropology in March 2022. The location of the human remains is unknown. UND has no record of any potentially hazardous substances being used to treat the associated funerary objects described.

Based on the information available, human remains representing, at least, eight individuals have been reasonably identified. The human remains were removed at an unknown time from an unknown location or locations by a person who is believed to be Edward A. Milligan, historian, North Dakota State School of Forestry, Bottineau, ND. They are marked with "Milligan" in black lettering. No associated funerary objects are present. The human remains were found in UND's Department of Anthropology in March 2022. UND has no record of any potentially hazardous substances being used to treat the human remains described.

Based on the information available, human remains representing, at least, two individuals have been reasonably identified. The human remains were removed at an unknown time by an unknown person, from an unknown location or locations. Many are marked "Ft. Totten" in thick black lines with smaller identification numbers. They were found in UND's Department of Anthropology in March 2022. No associated funerary objects are present. UND has no record of any potentially hazardous substances being used to treat the human remains described.

Based on the information available, human remains representing, at least, 28 individuals have been reasonably identified. The human remains were removed at an unknown time by an unknown person, from an unknown location or locations. At an unknown time by an unknown person or persons, the human remains were brought to UND. They were found in various locations around UND's campus and, after non-invasive analysis by a forensic anthropologist specializing in human osteology, they were determined to be, or possibly be, of Native American ancestry and have been excavated from undetermined archaeological sites. No associated funerary objects are present. UND has no record of any potentially hazardous substances being used to treat the human remains described.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location of the human remains and associated funerary objects described in this notice.

Determinations

The University of North Dakota has determined that:

- The human remains described in this notice represent the physical remains of 52 individuals of Native American ancestry.
- The 946 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a reasonable connection between the human remains and associated funerary objects described in this notice and the Assiniboiné and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Eastern Shoshone Tribe of the Wind River Reservation, Wyoming; Flandreau Santee Sioux Tribe of South Dakota; Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community in the State of Minnesota; Northern Arapaho Tribe of the Wind River Reservation, Wyoming; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe; Prairie Island Indian Community in the State of Minnesota; Red Lake Band of Chippewa Indians, Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Shakopee Mdewakanton Sioux Community of Minnesota; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Turtle Mountain Band of Chippewa Indians of North Dakota; Upper Sioux Community, Minnesota; and the Yankton Sioux Tribe of South Dakota.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that

the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the University of North Dakota must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of North Dakota is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-18681 Filed 8-20-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038507; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: California Department of Parks and Recreation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California Department of Parks and Recreation has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 20, 2024.

ADDRESSES: Dr. Leslie L. Hartzell, NAGPRA Coordinator, California Department of Parks and Recreation, P.O. Box 942896, Sacramento, CA 94296-0001, telephone (916) 425-8016, email Leslie.Hartzell@parks.ca.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative

responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the California Department of Parks and Recreation, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing at least 79 individuals were removed from Placer, Sutter, and Yuba Counties, CA. The 1,155 lots of associated funerary objects are 125 lots of modified stone, 404 lots of modified shell, 110 lots of modified bone, 17 lots of unmodified stone, 21 lots of unmodified shell, 313 lots of unmodified bone, seven lots of organic material, 10 lots of inorganic material, one lot of soil samples, 15 lots of baked clay, three lots of pigments, and 129 lots of unidentified items.

CA-PLA-142

From 1962–63, human remains representing, at minimum, two individuals were removed from CA-PLA-142 (BIR 44, ACCN.295) in Placer County, CA. No known individuals were identified. The three lots of associated funerary objects are three lots of modified stone.

American River College removed human remains and associated funerary objects from the burial site for the Central California Archaeological Foundation. The State Indian Museum (managed by the California Department of Parks and Recreation) were consulted on the project, and later accepted the collection as a donation at an unknown date.

CA-SUT-23

In 1958, human remains representing, at minimum, 31 individuals were removed from CA-SUT-23 (BIR 87, ACCN.309–154) southeastern Sutter County, CA. The human remains and associated funerary objects were donated to the State Indian Museum. No known individuals were identified. The 912 lots of associated funerary objects are 106 lots of modified stone, 310 lots of modified shell, 100 lots of modified bone, 12 lots of unmodified stone, 248 lots of unmodified bone, two lots of organic material, one lot of inorganic material, one lot of baked clay, three lots of pigments, and 129 lots of unidentified items.

Records pertaining to the site alternately use CA-SUT-23 and CA-SUT-24 as the site trinomial. CA-SUT-23 appears on the earliest records. CA-

SUT-24 has been used to describe this site and another site located in the Sutter Buttes. During tribal consultation, the site was determined to be CA-SUT-23.

CA-SUT-?

In 1959, human remains representing, at minimum, three individuals were removed from an unknown site (BIR 86, ACCN.309–202) in Sutter County, CA. The human remains and associated funerary objects were accessioned to the State Indian Museum. No known individuals were identified. The 47 lots of associated funerary objects are five lots of modified stone, 30 lots of modified shell, one lot of modified bone, two lots of unmodified stone, one lot of unmodified shell, four lots of unmodified bone, three lots of organic material, and one lot of baked clay.

CA-YUB-14

In 1957, human remains representing, at minimum, 42 individuals were removed from the Rio Oso Site, CA-YUB-14 (BIR 109, ACCN.141), in Placer County, CA. The site was excavated by volunteer archaeological crews of the State Indian Museum, who then accessioned the collections into the State Indian Museum's collection. No known individuals were identified. The 180 lots of associated funerary objects are 8 lots of modified stone, 63 lots of modified shell, eight lots of modified bone, three lots of unmodified stone, 20 lots of unmodified shell, 61 lots of unmodified bone, two lots of organic material, one lot of inorganic material, one lot of soil samples, and 13 lots of baked clay. The site was discovered by the U.S. Army Corps of Engineers during levee repair.

CA-YUB-[-?]

At an unknown date, probably in the 1960s, human remains representing, at minimum, one individual were removed from an unknown site (BIR 110, ACCN.309–X) in Brown's Valley in Yuba County, CA. The exact date of excavation is unknown. No known individuals were identified. The 13 lots of associated funerary objects are three lots of modified stone, one lot of modified shell, one lot of modified bone, and eight lots of inorganic material.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The California Department of Parks and Recreation has determined that:

- The human remains described in this notice represent the physical remains of 79 individuals of Native American ancestry.
- The 1,155 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a reasonable connection between the human remains and associated funerary objects described in this notice and the Mooretown Rancheria of Maidu Indians of California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; United Auburn Indian Community of the Auburn Rancheria of California; and the Wilton Rancheria, California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the California Department of Parks and Recreation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The California Department of Parks and Recreation is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18685 Filed 8–20–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038527;
PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: University of North Dakota, Grand Forks, ND, and University of North Dakota Alumni Association & Foundation, Grand Forks, ND

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of North Dakota and the UND Alumni Association & Foundation intend to repatriate certain cultural items that meet the definition of sacred objects and that have a known lineal descendant.

DATES: Repatriation of the cultural items in this notice may occur on or after September 20, 2024.

ADDRESSES: Dr. Crystal Alberts, University of North Dakota, Twamley Hall Room 300, 264 Centennial Drive, Grand Forks, ND 58202, telephone (701) 777–2393, email und.nagpra@und.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of North Dakota and the UND Alumni Association & Foundation, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of two cultural items have been requested for repatriation. The two sacred objects are one pipe and an associated pipe bag. Neither object has been treated with potentially hazardous substances to the best of the institutions' knowledge.

These items were a part of the Victor A. Corbett Collection, gifted to the UND Alumni Association & Foundation (UNDAAF) circa February 1988. According to the New York City-based appraisers consulted by the UNDAAF in

the 1980s, most of these items were estimated to date from the 1890s through the 1950s with most acquired by Corbett in the 1940s and 50s and appear to be from tribes in what is now North Dakota and surrounding states.

Victor A. Corbett, a dentist in Minot, ND, from 1931–1984, was reported to accept artifacts from Native Americans in the surrounding area, namely the Standing Rock Sioux Tribe and the residents of the nearby Three Affiliated Tribes of Fort Berthold Reservation, sometimes in lieu of payment for dental services. Documents suggest he also collected objects related to Native American culture through various means, including purchasing and commissioning custom-made pieces. Additionally, research suggests that he would take objects from patients as collateral for an outstanding bill for dental services rendered. Collection records do not provide any additional information regarding the objects' provenience or provenance.

Included in this collection is a pipe bag described by the appraiser as “Buckskin pipe bag . . . Quilled panelling and leather fringe. Lazy-stitch beading. Probably SIOUX; c.1890. 7x24.” The design is geometric; the opening features a blue and black design broken up at regular intervals by narrow red lines. The top half is primarily plain buckskin with a white, blue and red symmetrical border on each side punctuated by three double pointed patterns at the bottom (red, blue, yellow, blue, white). The middle section features another symmetrical pattern with four red, blue, and yellow squares on the outside with two red and blue diamond plus a smaller, connected squares of the same color pattern surrounding a solid green square in the middle. These are placed on a white background with blue stitching on the side. The next portion is red fringe with three symmetrical white, possibly gray, and yellow squares across the middle. The bag ends with buckskin fringe. The accompanying ceremonial pipe is red and described by the appraiser as “Pipe and stem; plain cylindrical ash stem, with carved red catlinite T bowl; shallow diagonal oval cuts at one end of the bowl. SIOUX. Overall length: 21⅜.”

After viewing and interpreting each, a Dakota tribal elder and Mr. Timothy J. Mentz, Sr., a member of the Standing Rock Sioux Tribe, noted that these items belonged to Chief Big Head (Pa Tanka), a 19th century Upper Yanktonai leader.

Determinations

The University of North Dakota and the UND Alumni Association & Foundation have determined that:

- The two sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- Mr. Timothy J. Mentz, Sr. (Standing Rock Sioux Tribe of North & South Dakota) is connected to the cultural items described in this notice.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, the University of North Dakota and the UND Alumni Association & Foundation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of North Dakota and the UND Alumni Association & Foundation are responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18679 Filed 8–20–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038511;
PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Culver-Stockton College, Canton, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Culver-Stockton College intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 20, 2024.

ADDRESSES: C. Patrick Hotle, Culver-Stockton College, No. 1 College Hill, Canton, MO 63435, telephone (217) 593-2034, email photle@culver.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Culver-Stockton College, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of two cultural items have been requested for repatriation. The two objects of cultural patrimony are a human effigy mask and an engraved gorget. Object ID #1083 Box E is a human effigy mask with bird head from Alabama. Object ID #1081 is an engraved gorget from Hale County, Alabama. Both were given to the college in 1976 as part of the Paul Cory Collection.

Determinations

The Culver-Stockton College has determined that:

- The two objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and The Choctaw Nation of Oklahoma.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this

notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 20, 2024. If competing requests for repatriation are received, Culver-Stockton College must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. Culver-Stockton College is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-18688 Filed 8-20-24; 8:45 am]

BILLING CODE 4312-52-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1200 (Second Review)]

Large Residential Washers From Mexico; Scheduling of an Expedited Five-Year Review

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 ("the Act") to determine whether revocation of the antidumping duty order on large residential washers from Mexico would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: July 5, 2024.

FOR FURTHER INFORMATION CONTACT: Alejandro Orozco (202-205-3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain

information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On July 5, 2024, the Commission determined that the domestic interested party group response to its notice of institution (89 FR 22455, April 1, 2024) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the review has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for this review on September 4, 2024. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before

¹ A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

² The Commission has found the response submitted on behalf of Whirlpool Corporation to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

September 12, 2024 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by September 12, 2024. However, should the Department of Commerce ("Commerce") extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Act; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 15, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–18710 Filed 8–20–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade

Commission has received a complaint entitled *Certain Exercise Equipment and Subassemblies Thereof*, DN 3767; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Balanced Body, Inc. on August 15, 2024. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain exercise equipment and subassemblies thereof. The complaint names as respondents: Guangzhou Oasis, LLC, d/b/a trysauna.com of Boulder, CO; Ciga Pilates of China; Shandong Tmax Machinery Technology Co. Ltd. of China; Shandong VOG Sports Products Co. Ltd.; Dezhou Bodi Fitness Equipment Co., Ltd. of China; Suzhou Selfcipline Sports Goods Co., Ltd. of China. The complainant requests that the Commission issue a general exclusion order or, in the alternative issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on

any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3767") in a prominent place on the

cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures¹). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at EDIS3Help@usitc.gov.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,² solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: August 15, 2024.

Susan Orndoff,

Supervisory Attorney.

[FR Doc. 2024–18746 Filed 8–20–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–692 and 731–TA–1628 (Final)]

Certain Pea Protein 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 an industry in the United States is materially injured by reason of imports of certain pea protein from China, provided for in subheadings 2106.10.00, 3504.00.10, 3504.00.50, and 2308.00.98 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”), and imports of the subject merchandise from China that have been found to be subsidized by the government of China.^{2,3,4}

Background

The Commission instituted these investigations effective July 12, 2023, following receipt of petitions filed with the Commission and Commerce by Puris Proteins, LLC, Minneapolis, Minnesota. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain pea protein from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing 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

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 55557 and 55559 (July 5, 2024).

³ Commissioner David S. Johanson determined that a U.S. industry is threatened with material injury by reason of subject imports from China.

⁴ The Commission also finds that imports subject to Commerce's affirmative critical circumstances determination are likely to undermine seriously the remedial effect of the countervailing and antidumping duty orders on certain pea from China. Commissioner Rhonda K. Schmidtlein makes negative critical circumstances determinations in the antidumping and countervailing duty investigations. Commissioner Johanson did not assess critical circumstances because he finds that the domestic industry is threatened with material injury and does not determine that the industry in the U.S. is materially injured.

publishing the notice in the **Federal Register** on March 5, 2024 (89 FR 15895). The Commission conducted its hearing on June 25, 2024. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on August 15, 2024. The views of the Commission are contained in USITC Publication 5529 (August 2024), entitled *Certain Pea Protein from China: Investigation Nos. 701–TA–692 and 731–TA–1628 (Final)*.

By order of the Commission.

Issued: August 15, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–18715 Filed 8–20–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–556 and 731–TA–1311 (Review)]

Truck and Bus Tires From China

Determinations

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping and countervailing duty orders on truck and bus tires from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.²

Background

The Commission instituted these reviews on January 2, 2024 (89 FR 93) and determined on April 8, 2024 that it would conduct expedited reviews. (89 FR 45676, May 23, 2024).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on August 16, 2024. The views of the Commission are contained in USITC Publication 5535 (August 2024), entitled *Truck and Bus Tires from China: Investigation Nos. 701–TA–556 and 731–TA–1311 (Review)*.

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

² Commissioner David S. Johanson dissented.

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.

² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

By order of the Commission.

Issued: August 16, 2024.

Susan Orndoff,

Supervisory Attorney.

[FR Doc. 2024–18753 Filed 8–20–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[Docket No. 2024N–01]

Commerce in Explosives; 2024 Annual List of Explosive Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); Department of Justice.

ACTION: Notice of list of explosive materials.

SUMMARY: This notice publishes the 2024 List of Explosive Materials, as required by law. The 2024 list is the same as the 2023 list published by ATF.

DATES: The list becomes effective August 21, 2024:

FOR FURTHER INFORMATION CONTACT:

Michael O'Lena, Chief; Explosives Industry Programs Branch; Bureau of Alcohol, Tobacco, Firearms, and Explosives; United States Department of Justice; 99 New York Avenue NE, Washington, DC 20226; (202) 648–7120.

SUPPLEMENTARY INFORMATION: Pursuant to 18 U.S.C. 841(d) and 27 CFR 555.23, the Department of Justice must publish and revise at least annually in the **Federal Register** a list of explosives determined to be within the coverage of 18 U.S.C. 841 *et seq.* The list covers not only explosives, but also blasting agents and detonators, all of which are defined as “explosive materials” in 18 U.S.C. 841(c).

Each material listed, as well as all mixtures containing any of these materials, constitute “explosive materials” under 18 U.S.C. 841(c). Materials constituting blasting agents are marked by an asterisk. Explosive materials are listed alphabetically, and, where applicable, followed by their common names, chemical names, and/or synonyms in brackets. This list supersedes the List of Explosive Materials published in the **Federal Register** on December 22, 2023 (Docket No. 2023N–01, 88 FR 88655). However, the explosive materials on this list are the same as those on the 2023 Annual List of Explosive Materials.

The 2024 List of Explosive Materials is a comprehensive list but is not all-inclusive. The definition of “explosive materials” includes “[e]xplosives,

blasting agents, water gels and detonators. Explosive materials, include, but are not limited to, all items in the ‘List of Explosive Materials’ provided for in § 555.23.” 27 CFR 555.11. Accordingly, the fact that an explosive material is not on the annual list does not mean that it is not within coverage of the law if it otherwise meets the statutory definition of “explosives” in 18 U.S.C. 841(d) and (j). Subject to limited exceptions in 18 U.S.C. 845 and 27 CFR 555.141, only Federal explosives licensees and permittees may possess and use explosive materials, including those on the Annual List.

Notice of the 2024 Annual List of Explosive Materials

Pursuant to 18 U.S.C. 841(d) and 27 CFR 555.23, I hereby designate the following as “explosive materials” covered under 18 U.S.C. 841(c):

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
* Ammonium nitrate explosive mixtures (non-cap sensitive).
Ammonium perchlorate having particle size less than 15 microns.
Ammonium perchlorate explosive mixtures (excluding ammonium perchlorate composite propellant (APCP)).
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
* ANFO [ammonium nitrate-fuel oil].
Aromatic nitro-compound explosive mixtures.
Azide explosives.

B

Baranol.
Baratol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
Black powder substitutes.
* Blasting agents, nitro-carbo-nitrates, including non-cap sensitive slurry and water gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,2,4 butanetriol trinitrate].

Bulk salutes.

Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclonite [RDX].
Cyclotetramethylenetetranitramine [HMX].
Cyclotol.
Cyclotrimethylenetrinitramine [RDX].

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine [glycerol dinitrate].
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
DIPAM [dipicramide; diaminohexanitrobiphenyl].
Dipicryl sulfide [hexanitrodiphenyl sulfide].
Dipicryl sulfone.
Dipicrylamine.
Display fireworks.
DNPA [2,2-dinitropropyl acrylate].
DNPd [dinitropentano nitrile].
Dynamite.

E

EDDN [ethylene diamine dinitrate].
EDNA [ethylenedinitramine].
Ednatol.
EDNP [ethyl 4,4-dinitropentanoate].
EGDN [ethylene glycol dinitrate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive liquids.
Explosive mixtures containing oxygen-releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen-releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen-releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen-releasing inorganic salts and water soluble fuels.

Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitroform).
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive powders.

F

Flash powder.
Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogen [RDX].
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMTD [hexamethylenetriperoxidediamine].
HMX [cyclo-1,3,5,7-tetramethylene 2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.
Initiating tube systems.

K

KDNBF [potassium dinitrobenzofuroxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].

MEAN [monoethanolamine nitrate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Metriol trinitrate.
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
MMAN [monomethylamine nitrate]; methylamine nitrate.
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobutametrial trinitrate].
Nitrate explosive mixtures.
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol [ethylene glycol dinitrate, EGDN].
Nitroguanidine explosives.
Nitronium perchlorate propellant mixtures.
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrotriazolone [3-nitro-1,2,4-triazol-5-one].
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [plastic bonded explosives].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.

Picramide.
Picrate explosives.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (manufactured as an explosive).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.
Pyrotechnic compositions.
Pyrotechnic fuses.
Pyrotechnic stars.
PYX [2,6-bis(picrylamino)] 3,5-dinitropyridine.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5-trimethylene-2,4,6-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Salutes (bulk).
Silver acetylde.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel, and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium azide explosive mixture.
Sodium dinitro-ortho-cresolate.
Sodium nitrate explosive mixtures.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.
Styphnic acid explosives.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene].
TATB [triaminotrinitrobenzene].
TATP [triacetonetriperoxide].
TEGDN [triethylene glycol dinitrate].
Tetranitrocarbazole.
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetrazole explosives.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.

Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN [trimethylolethane trinitrate].
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethylorthoformate].
TNT [trinitrotoluene, trotyl, trilit, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzenesulfonic acid [picryl sulfonic acid].
Trinitrobenzoic acid.
Trinitrocresol.
Trinitrofluorenone.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water-bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).
Water-in-oil emulsion explosive compositions.

X

Xanthomonas hydrophilic colloid explosive mixture.

Date approved: August 15, 2024.

Steven M. Dettelbach,

Director.

[FR Doc. 2024–18727 Filed 8–20–24; 8:45 am]

BILLING CODE 4410-FY-P

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy

AGENCY: Bureau of International Labor Affairs, Labor.

ACTION: Announcement of meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

SUMMARY: The Labor Advisory Committee for Trade Negotiations and Trade Policy will meet from 9:00 a.m. to 11:00 a.m. Eastern Standard Time on September 17, 2024.

ADDRESSES: U.S. Department of Labor, Secretary's Conference Room, 200 Constitution Ave. NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Anne M. Zollner, Designated Federal

Official and Division Chief, Office of Trade and Labor Affairs, Office of Trade and Labor Affairs, Bureau of International Labor Affairs, Department of Labor, Frances Perkins Building, Room S–5317, 200 Constitution Ave. NW, Washington, DC 20210, telephone (202) 693–4890, zollner.anne@dol.gov.

SUPPLEMENTARY INFORMATION: The Labor Advisory Committee for Trade Negotiations and Trade Policy consults with and makes recommendations to the Secretary of Labor and the United States Trade Representative on general policy matters concerning labor and trade negotiations, operations of any trade agreement once entered into, and other matters arising in connection with the administration of the trade policy of the United States.

During the meeting, the Committee will review and discuss current issues that influence U.S. trade policy. The Committee will also discuss potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations. Pursuant to 19 U.S.C. 2155(f)(2)(A), the meeting will be concern matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Therefore, the meeting is exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents). 5 U.S.C. app. Accordingly, the meeting will be closed to the public.

Signed at Washington, DC, this 15th day of August 2024.

Thea M. Lee,

Deputy Undersecretary, Bureau of International Affairs.

[FR Doc. 2024–18667 Filed 8–20–24; 8:45 am]

BILLING CODE 4510–28-P

OFFICE OF MANAGEMENT AND BUDGET

OMB Sequestration Update Report to the President and Congress for Fiscal Year 2025

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of availability of the OMB Sequestration Update Report to the President and Congress for FY 2025.

SUMMARY: OMB is issuing the OMB Sequestration Update Report to the President and Congress for Fiscal Year 2025 to report on the status of the discretionary caps and on the

compliance of pending discretionary appropriations legislation with those caps.

DATES: August 16, 2024.

ADDRESSES: The OMB Sequestration Reports to the President and Congress is available on-line on the OMB home page at: https://www.whitehouse.gov/omb/legislative/sequestration-reports-orders/.

FOR FURTHER INFORMATION CONTACT: Thomas Tobasko, 6202 New Executive Office Building, Washington, DC 20503, Email address: ttobasko@omb.eop.gov, telephone number: (202) 395–5745, FAX number: (202) 395–4768. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

SUPPLEMENTARY INFORMATION: Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 requires the Office of Management and Budget (OMB) to issue a Sequestration Update Report by August 20th of each year statutory discretionary caps are in place. For fiscal year 2024, the report finds enacted appropriations at or below the statutory caps. For fiscal year 2025, the report finds that appropriations actions to date by the House of Representatives and the Senate for the 12 annual appropriations bills for fiscal year 2025 would breach both the defense and non-defense caps under preliminary OMB estimates if they were enacted into law. The report further notes that final legislative action will determine the need for sequestration and the Administration will work with the Congress to ensure that an unintended sequestration does not occur. The report contains OMB's Preview Estimate of the Disaster Relief Funding Adjustment for FY 2025.

Shalanda D. Young,

Director.

[FR Doc. 2024–18690 Filed 8–20–24; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 24–054]

NASA Advisory Council; Technology, Innovation and Engineering Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and

Space Administration (NASA) announces a meeting of the Technology, Innovation, and Engineering Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Thursday, September 5, 2024, 8:30 a.m.–5:00 p.m., eastern time.

ADDRESSES: Meeting will be virtual. See dial-in and Webex Webinar information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Green, Designated Federal Officer, Space Technology Mission Directorate, NASA Headquarters, Washington, DC 20546, via email at g.m.green@nasa.gov or (202) 358–4710.

SUPPLEMENTARY INFORMATION: This meeting will only be available by Webex Webinar or telephonically for members of the public. If dialing in via toll number, you must use a touch-tone phone to participate in this meeting. Any interested person may join via Webex Webinar at <https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m72cbc65563b5f548ffea4839744b1116>, webinar number is 2820 100 8377, and the webinar password is n@cTIE240905 (61284324 when dialing from a phone or video system). The toll number to listen by phone is +1-415-527-5035. To avoid using the toll number, after joining the Webex Webinar, select the audio connection option that says, “Call Me” and enter your phone number. If using the desktop or web app, check the “Connect to audio without pressing 1 on my phone” box to connect directly to the meeting.

Note: If dialing in, please mute your telephone.

The agenda for the meeting includes the following topics:

- Welcome to NASA’s Glenn Research Center
- Space Technology Mission Directorate (STMD) Update
- 2024 Civil Space Shortfalls Ranking Process and Results Overview
- NASA Nuclear Systems Update
- Cryogenic Fluid Management Portfolio Update
- Commercial Lunar Payload Services Intuitive Machines-2 Technology Demonstrations Overview
- Early Career Initiative presentation on Mitigating Arc Inception via Transformational Array Instrumentation (MAI TAI)

It is imperative that this meeting be held on this day to accommodate the

scheduling priorities of the key participants.

Jamie M. Krauk,

*Advisory Committee Management Officer,
National Aeronautics and Space
Administration.*

[FR Doc. 2024–18737 Filed 8–20–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

Comments: Comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the

accuracy of the NSF’s estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents; and (d) 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 should be addressed to the points of contact in the **FOR FURTHER INFORMATION CONTACT** section. The first request for public comment was published on December 21, 2023, at 88 FR 88419. NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title of Collection: NSF’s Eddie Bernice Johnson INCLUDES Initiative National Network Survey.

OMB Number: 3145–0256.

Type of Request: Intent to seek approval to renew with change an information collection.

Abstract: NSF’s Eddie Bernice Johnson INCLUDES Initiative (the INCLUDES Initiative) is a comprehensive national effort to enhance U.S. leadership in science, technology, engineering, and mathematics (STEM) discoveries and innovations by catalyzing the STEM enterprise for inclusive change, resulting in a STEM workforce that reflects the diverse population of the Nation. The INCLUDES Initiative aligns with NSF’s commitment to equity, inclusion, and broadening participation in the STEM fields and NSF’s strategic objectives communicated in the *NSF Strategic Plan for Fiscal Years (FY) 2022–2026* (<https://www.nsf.gov/pubs/2022/nsf22068/nsf22068.pdf>).

The INCLUDES initiative is supported by NSF’s Eddie Bernice Johnson INCLUDES Coordination Hub (INCLUDES Coordination Hub; www.includesnetwork.org), an NSF-supported project that provides focused capacity building supports around data and information gathering; learning, community building and engagement; and storytelling, and communications to NSF’s Eddie Bernice Johnson INCLUDES National Network (INCLUDES National Network).

NSF is requesting OMB approval for the INCLUDES Coordination Hub to

collect information from members of the INCLUDES National Network.

Why you are collecting it: The INCLUDES Coordination Hub seeks to collect data from INCLUDES National Network members to: (1) shape INCLUDES Coordination Hub's activities (e.g., to identify support needs in the coming year; to inform Shared Measures and Network communication, engagement, learning, and community building, and expansion goals); (2) assess the development and progress of the INCLUDES National Network; and (3) inform the INCLUDES Coordination Hub's assessment of progress toward its theory of change.

What information is being collected: The collected information will include information on how and why respondents engage with the Network, each respondent's perspectives on desired outcomes and ways in which the INCLUDES National Network is informing and supporting their efforts to change systems to broaden participation in STEM, in addition to full name, affiliated organizations, email addresses, and home states. Personally identifiable information (PII) is collected primarily to categorize responses based on respondents' roles in the INCLUDES National Network. PII will be accessed only by the INCLUDES Coordination Hub. Any public data reporting will be in aggregate form, and any personal identifiers will be removed.

Respondents: All members of the INCLUDES National Network will be invited to respond to the survey. The INCLUDES National Network is comprised of individuals who are interested in or working directly to broaden participation in STEM. Some of these individuals are INCLUDES grantees; others have received NSF awards outside of INCLUDES or pursue broadening participation in STEM with support from other sources, including grants from federal, state, philanthropic, or business entities. Some are representatives of these various types of funders or businesses, such as program officers at NSF, other federal agencies, and private foundations, as well as interested individuals unaffiliated with particular grant programs.

Estimated number of respondents: 840 (representing a 21% response rate).

Use of the Information: The information collected is primarily for the use of the INCLUDES Coordination Hub to track the health, development, expansion, and diversification of the Network, understand the utility of the INCLUDES Coordination Hub in supporting Network members' success, and for informing design decisions the INCLUDES Coordination Hub will make

regarding future programming and support provided to National Network members.

Estimate burden on the public:

Estimated at 280 hours, per year, for the duration of the Coordination Hub's cooperative agreement with NSF. It is beneficial for NSF and the Coordination Hub to have access to this information annually to track progress toward the INCLUDES Initiative's goals of supporting constituencies in identifying shared goals and objectives and understanding National Network members' impact.

Average Time per Reporting: The online survey is comprised primarily of closed-ended questions and is designed to be completed by respondents in approximately 25 minutes.

Frequency: Once per year for the duration of the INCLUDES Coordination Hub's cooperative agreement with NSF.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; 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.

Please submit one copy of your comments by only one method. All submissions received must include the agency name and collection name identified above for this information collection. Commenters are strongly encouraged to transmit their comments electronically via email. Comments, including any personal information provided become a matter of public record. They will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

Dated: August 15, 2024.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2024-18653 Filed 8-20-24; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Geosciences (#1755) (Hybrid Meeting).

Date and Time: September 18–19, 2024; 8:30 a.m.–5:00 p.m. (Eastern).

Place: NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314 (Hybrid).

This AG–GEO meeting is an in-person meeting for advisory members only. However, members of the public can view the meeting virtually. Please register using the following link to access the virtual viewing option: https://nsf.zoomgov.com/webinar/register/WN_-eTNTHpJTeW_aQ7zwNyETw.

After registering, you will receive a confirmation email with a unique link to join the meeting.

Type of Meeting: Open.

Contact Persons: Christopher Street, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: 703-292-8568.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to geosciences programs and activities.

Agenda

Wednesday, September 18, 2024; 8:30 a.m.–5:00 p.m.

- COI Ethics Briefing
- Call to Order
- Assistant Director Updates
- Agency/Program Updates
- GEO Division/Office Highlights
- Engagement in Geosciences Discussion
- Closing Remarks

Thursday, September 19, 2024; 8:30 a.m.–5:00 p.m.

- Agency Discussion Continued
- Understanding Perceptions and Value of STEM Degrees
- NSF Chief Science Officer Briefing
- Future Meetings
- Action Item(s) Discussion
- Closing Remarks

Dated: August 16, 2024.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2024-18765 Filed 8-20-24; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION**Notice of NITRD Workshop: Towards a Robust and Sustainable Open-Source Software Ecosystem for Future Wireless Research and Development**

AGENCY: Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO), National Science Foundation (NSF).

ACTION: Notice of NITRD Workshop.

SUMMARY: The workshop, *Towards a Robust and Sustainable Open-Source Software Ecosystem for Future Wireless Research and Development*, will examine the open-source software ecosystem that supports future wireless & spectrum R&D, explore the objectives and constraints of the diverse communities that shape the direction of key OSS projects, and identify opportunities to increase collaboration between Federal R&D and OSS communities required to foster and sustain the robust open-source platforms necessary to drive future wireless innovation.

DATES: September 25, 2024.

ADDRESSES: The workshop, *Towards a Robust and Sustainable Open-Source Software Ecosystem for Future Wireless Research and Development*, will take place on September 25, 2024, from 8:30 a.m. to 4:30 p.m. (ET), at the NCO Office in Washington, DC.

Instructions: Due to space limitations, in-person attendance is by invitation only; remote participation will be available via Zoom. Registration is required. The agenda and registration link are available at: <https://www.nitrd.gov/opensource-wireless/>

Registration will close on September 24, 2024, at 5 p.m. (ET).

FOR FURTHER INFORMATION CONTACT:

Mallory Hinks at (202) 459-9674 or email OS-Software-Workshop-2024@nitrd.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Overview. This notice is issued on behalf of the NITRD Large Scale Networking (LSN) and Wireless Spectrum Research and Development (WSRD) Interagency Working Groups (IWGs). Agencies of the LSN and WSRD IWGs are conducting a workshop focused on the topic of open-source software for wireless R&D.

Background: Future wireless network architectures will transform into multi-

vendor, highly disaggregated distributed systems with open interfaces operating on virtualized computing and networking environments. Emerging 5G and Open RAN architectures are the first generation of standards to embrace this transformation fully. Growing demands and emerging use cases for future wireless networks will require higher spectral efficiency, exploration of new frequency bands, increased energy efficiency, and support for new spectrum-sharing approaches. The availability of robust open-source software (OSS) will catalyze the evolution toward disaggregated and virtualized network architectures. It will fuel innovation and competition in future wireless technology and spectrum utilization. While many disjoint efforts are developing OSS for future wireless systems and supporting virtualization platforms, there is often significant diversity in the maturity of such implementations regarding alignment to standards, feature support, interoperability of distinct components, security and resilience mechanisms, and system scalability and performance. Moreover, the lack of transparency about these issues poses significant challenges to researchers and network operators in adopting current OSS implementations as the basis for future development.

Workshop Objectives. Examine the open-source software ecosystem that supports future wireless & spectrum R&D, explore the objectives and constraints of the diverse communities that shape the direction of key OSS projects, and identify opportunities to increase collaboration between Federal R&D and OSS communities required to foster and sustain the robust open-source platforms necessary to drive future wireless innovation.

Workshop sessions with invited speakers & panelists will focus on:

- Customer and sponsor perspectives on OSS requirements for future wireless & spectrum R&D Constraints and policy issues.
- The current state of the wireless OSS ecosystem.
- Emerging security and resilience requirements.
- Researcher and experimenter perspectives on leveraging OSS to support wireless & spectrum R&D.
- Increasing transparency and confidence in OSS supply chains.

Submitted by the National Science Foundation in support of the Networking and Information Technology Research and Development

(NITRD) National Coordination Office (NCO) on August 15, 2024.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2024-18708 Filed 8-20-24; 8:45 am]

BILLING CODE 7555-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024-508 and CP2024-516; MC2024-509 and CP2024-517; MC2024-510 and CP2024-518]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 23, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT:

David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent

the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s)*: MC2024–508 and CP2024–516; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 220 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: August 15, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Jennaca D. Upperman; *Comments Due*: August 23, 2024.

2. *Docket No(s)*: MC2024–509 and CP2024–517; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 221 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: August 15, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Jennaca D. Upperman; *Comments Due*: August 23, 2024.

3. *Docket No(s)*: MC2024–510 and CP2024–518; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 222 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*:

August 15, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Jennaca D. Upperman; *Comments Due*: August 23, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2024–18738 Filed 8–20–24; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–504 and CP2024–511; MC2024–505 and CP2024–512; MC2024–506 and CP2024–513; MC2024–507 and CP2024–514]

New Postal Products

AGENCY: Postal Regulatory Commission.
ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 22, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

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date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s)*: MC2024–504 and CP2024–511; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 300 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: August 14, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Christopher C. Mohr; *Comments Due*: August 22, 2024.

2. *Docket No(s)*: MC2024–505 and CP2024–512; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail, & USPS Ground Advantage Contract 217 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: August 14, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Christopher C. Mohr; *Comments Due*: August 22, 2024.

3. *Docket No(s)*: MC2024–506 and CP2024–513; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail, & USPS Ground Advantage

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

Contract 218 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: August 14, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Kenneth R. Moeller; *Comments Due*: August 22, 2024.

4. *Docket No(s)*: MC2024–507 and CP2024–514; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail, & USPS Ground Advantage Contract 219 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: August 14, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Kenneth R. Moeller; *Comments Due*: August 22, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2024–18668 Filed 8–20–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100737; File No. SR–CboeEDGX–2024–051]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Regarding Dedicated Cores

August 15, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on August 1, 2024, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX Equities”) proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s

website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule to adopt fees for Dedicated Cores.³

By way of background, the Exchange recently began allowing Users⁴ to assign a Single Binary Order Entry (“BOE”) logical order entry port⁵ to a single dedicated Central Processing Unit (CPU Core) (“Dedicated Core”). Historically, CPU Cores had been shared by logical order entry ports (*i.e.*, multiple logical ports from multiple firms may connect to a single CPU Core). Use of Dedicated Cores however, can provide reduced latency, enhanced throughput, and improved performance since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core instead of sharing that power with other firms. This offering is completely voluntary and is available to all Users that wish to purchase Dedicated Cores.

³ The Exchange initially adopted pricing for Dedicated Cores on July 1, 2024 (SR–CboeEDGX–2024–043). On August 1, 2024, the Exchange withdrew that filing and submitted this filing.

⁴ A User may be either a Member or Sponsored Participant. The term “Member” shall mean any registered broker or dealer that has been admitted to membership in the Exchange, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange. A Sponsored Participant may be a Member or non-Member of the Exchange whose direct electronic access to the Exchange is authorized by a Sponsoring Member subject to certain conditions. See Exchange Rule 11.3.

⁵ Users may currently connect to the Exchange using a logical port available through an application programming interface (“API”), such as the Binary Order Entry (“BOE”) protocol. A BOE logical order entry port is used for order entry.

Users may utilize BOE logical order entry ports on shared CPU Cores, either in lieu of, or in addition to, their use of Dedicated Core(s). As such, Users are able to operate across a mix of shared and dedicated CPU Cores which the Exchange believes provides additional risk and capacity management. Further, Dedicated Cores are not required nor necessary to participate on the Exchange and as such Users may opt not to use Dedicated Cores at all.

The Exchange proposes to assess the following monthly fees for Users that wish to use Dedicated Cores and adopt a maximum limit. First, the Exchange proposes to provide up to two Dedicated Cores to all Users who wish to use Dedicated Cores, at no additional cost. For the use of more than two Dedicated Cores, the Exchange proposes to assess the following fees: \$650 per Dedicated Core for 3–15 Dedicated Cores; \$850 per Dedicated Core for 16–30 Dedicated Cores; and \$1,050 per Dedicated Core for 31 or more Dedicated Cores. The proposed fees are progressive and the Exchange proposes to include the following example in the Fees Schedule to provide clarity as to how the fees will be applied. Particularly, the Exchange will provide the following example: if a User were to purchase 16 Dedicated Cores, it will be charged a total of \$9,300 per month ($\$0 * 2 + \$650 * 13 + \$850 * 1$). The Exchange also proposes to make clear in the Fees Schedule that the monthly fees are assessed and applied in their entirety and are not prorated. The Exchange notes the current standard fees assessed for BOE Logical Ports, whether used with Dedicated or shared CPU cores, will remain applicable and unchanged.⁶

Since the Exchange currently has a finite amount of physical space in its data centers in which its servers (and therefore corresponding CPU Cores) are located, the Exchange also proposes to prescribe a maximum limit on the number of Dedicated Cores that Users may purchase each month. The purpose of establishing these limits is to manage the allotment of Dedicated Cores in a fair manner and to prevent the Exchange from being required to expend large amounts of resources in order to provide an unlimited number of Dedicated Cores. The Exchange previously established a limit for Members of a maximum number of 60 Dedicated Cores and Sponsoring Members a limit of a maximum number of 25 Dedicated Cores for each of their Sponsored

⁶ The Exchange currently assesses \$550 per port per month. Port fees will also continue to be assessed on the first two Dedicated Cores that Users receive at no additional cost. See Cboe EDGX Equities Fee Schedule.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Access relationships.⁷ The Exchange has since been able to procure additional space in its third-party data center, as well as procure additional servers with CPU Cores. Moreover, the Exchange has a better understanding of User demand relative to its available space since the current maximum was adopted last month. As such, the Exchange proposes to increase the caps and provide that Members will be limited to a maximum number of 80 Dedicated Cores⁸ and Sponsoring Members will be limited to a maximum number of 35 Dedicated Cores for each of their Sponsored Access relationships.⁹ The Exchange notes that it will continue monitoring Dedicated Core interest by all Users and allotment availability with the goal of increasing these limits to meet Users' needs if and when the demand is there and the Exchange is able to accommodate additional Dedicated Cores.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and

practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)¹³ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposal is reasonable because the Exchange is offering any Users who wishes to utilize Dedicated Cores up to two Dedicated Cores at no additional cost. For example, of the Users that currently maintain Dedicated Cores, approximately 45% maintain only 1 or 2 Dedicated Cores and therefore pay no additional fees. The Exchange believes the proposed fees are reasonable because Dedicated Cores provide a valuable service in that it can provide reduced latency, enhanced throughput, and improved performance compared to use of a shared CPU Core since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core. The Exchange also emphasizes however, that the use of Dedicated Cores is not necessary for trading and as noted above, is entirely optional. Users can also continue to access the Exchange through shared CPU Cores at no additional cost. Indeed, approximately 20% of the Exchange's Members currently use Dedicated Cores, and as noted above, of those who do, 45% take only 1 or 2 Dedicated Cores at no additional cost. For example, less than half of the members of the Exchange's affiliate Cboe EDGA Exchange, Inc., ("Cboe EDGA") currently use Dedicated Cores on Cboe EDGA. Depending on a firm's specific business needs, the proposal enables Users to choose to use Dedicated Cores in lieu of, or in addition to, shared CPU Cores (or as emphasized, not use Dedicated Cores at all). If a User finds little benefit in having Dedicated Cores based on its

business model and trading strategies, or determines Dedicated Cores are not cost-efficient for its needs or does not provide sufficient value to the firm, such User may continue its use of the shared CPU Cores, unchanged. The Exchange also has no plans to eliminate shared CPU Cores nor to require Users to purchase Dedicated Cores.

The Exchange believes the proposed fees are also reasonable to offset costs incurred in order to make Dedicated Cores available. For example, the Exchange incurred significant costs associated with acquiring additional cabinet space in its third-party data centers, as well as costs associated with the purchase of additional and upgraded servers hosting the Dedicated Cores.

The Exchange also believes that the proposed Dedicated Core fees are equitable and not unfairly discriminatory because they continue to be assessed uniformly to similarly situated users in that all Users who choose to purchase Dedicated Cores will be subject to the same proposed tiered fee schedule. Further all Users are entitled to up to 2 Dedicated Cores at no additional cost. The Exchange believes the proposed ascending fee structure is also reasonable, equitable and not unfairly discriminatory as it is designed so that firms that use a higher allotment of the Exchange's finite number of Dedicated Cores pay higher rates, rather than placing that burden on market participants that have more modest needs who will have the flexibility of obtaining Dedicated Cores at lower price points in the lower tiers. As such, the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the ascending fee structure reflects the (finite) resources consumed by the various needs of market participants—that is, the lowest Dedicated Core consuming Users pay the least, and highest Dedicated Core consuming Users pay the most. Other exchanges similarly assess higher fees to those that consume more Exchange resources.¹⁴ Moreover, those consuming more Dedicated Cores do so if they find a benefit and sufficient value in having higher quantities of Dedicated Cores based on their respective business needs. The proposed tier structure is also designed to encourage firms to manage their needs in a fair manner and to prevent the Exchange from being required to expend large amounts of resources in order to provide an additional number of Dedicated Cores.

⁷ See Securities Exchange Act Release No. 100471 (July 9, 2024) 89 FR 57454 (July 15, 2024) (SR-CboeEDGX-2024-043).

⁸ The prescribed maximum quantity of Dedicated Cores for Members applies regardless of whether that Member purchases the Dedicated Cores directly from the Exchange and/or through a Service Bureau. In a Service Bureau relationship, a customer allows its MPID to be used on the ports of a technology provider, or Service Bureau. One MPID may be allowed on several different Service Bureaus.

⁹ The fee tier(s) applicable to Sponsoring Members are determined on a per Sponsored Access relationship basis and not on the combined total of Dedicated Cores across Sponsored Users. For example, under the proposed changes, a Sponsoring Member that has three Sponsored Access relationships is entitled to a total of 105 Dedicated Cores for those 3 Sponsored Access relationships but would be assessed fees separately based on the 35 Dedicated Cores for each Sponsored User (instead of combined total of 105 Dedicated Cores). For example, a Sponsoring Member with 3 Sponsored Access relationships would pay \$25,450 per month if each Sponsored Access relationship purchased the maximum 35 Dedicated Cores. More specifically, the Sponsoring Member would be provided 2 Dedicated Cores at no additional cost for each Sponsored User under Tier 1 (total of 6 Dedicated Cores at no additional cost) and provided an additional 13 Dedicated Cores at \$650 each for each Sponsored User, 20 Dedicated Cores at \$850 each for each Sponsored User (combined total of 99 additional Dedicated Cores).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² *Id.*

¹³ 15 U.S.C. 78f(b)(4).

¹⁴ See also Cboe U.S. Options Fee Schedule, BZX Options, Options Logical Port Fees, Ports with Bulk Quoting Capabilities.

Moreover, as discussed above and in more detail below, the Exchange cannot currently offer an unlimited number of Dedicated Cores due in part to physical space constraints in the third-party data center. The Exchange believes the proposed ascending fee structure is therefore another appropriate means, in conjunction with an established cap, to manage this finite resource and ensure the resource is apportioned more fairly.

The Exchange believes it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange's data center to accommodate additional Dedicated Cores in the Exchange's respective Order Handler Cabinets. The Exchange will monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional space and power within the third-party data centers and/or CPU Cores to accommodate additional Dedicated Cores.¹⁵ The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand. For example, the Exchange's affiliate Cboe EDGA Exchange, Inc. has increased the prescribed maximum limit twice since the launch of Dedicated Cores on its exchange on February 26, 2024 as a result of evaluating the demand relative to Dedicated Cores availability and intends to raise the maximum again effective August 1, 2024.¹⁶ The proposed limits continue to apply uniformly to similarly situated market participants (*i.e.*, all Members are subject to the same limit and all Sponsored Participants are subject to the same limit, respectively). The Exchange believes it's not unfairly discriminatory to provide for different limits for different types of Users. For example, the Exchange believes it's not unfairly discriminatory to provide for an initial lower limit to be allocated for

Sponsored Participants because unlike Members, Sponsored Participants are able to access the Exchange without paying a Membership Fee. Members also have more regulatory obligations and risk that Sponsored Participants do not. For example, while Sponsored Participants must agree to comply with the Rules of the Exchange, it is the Sponsoring Member of that Sponsored Participant that remains ultimately responsible for all orders entered on or through the Exchange by that Sponsored Participant. The industry also has a history of applying fees differently to Members as compared to Sponsored Participants.¹⁷ Lastly, the Exchange believes its proposed maximum limits, and distinction between Members and Sponsored Users, is another appropriate means to help the Exchange manage its allotment of Dedicated Cores and better ensure this finite resource is apportioned fairly.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because the proposed tiered fee structure will apply equally to all similarly situated Users that choose to use Dedicated Cores. As discussed above, Dedicated Cores are optional and Users may choose to utilize Dedicated Cores, or not, based on their views of the additional benefits and added value provided by utilizing a Dedicated Core. The Exchange believes the proposed fees will be assessed proportionately to the potential value or benefit received by Users with a greater number of Dedicated Cores and notes that Users may determine at any time to cease using Dedicated Cores. As discussed, Users can also continue to access the Exchange through shared CPU Cores at no additional cost. Finally, all Users will be entitled to two Dedicated Cores at no additional cost.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for exchange memberships. Market Participants have numerous alternative venues that they may participate on, including 15 other equities exchanges, as well as off-

exchange venues, where competitive products are available for trading. Indeed, participants can readily choose to submit their order flow to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹⁸ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities* and Exchange Commission, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."¹⁹ Accordingly, the Exchange does not believe its proposed change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁰ and paragraph (f) of Rule 19b-4²¹ thereunder. At any time within

¹⁵ The Exchange notes that approximately 13% of Users that have Dedicated Cores currently are at or near the maximum limits.

¹⁶ See Securities Exchange Act Release No. 99983 (April 17, 2024) 89 FR 30418 (April 23, 2024) (SR-CboeEDGA-2024-014) and Securities Exchange Act Release No. 100300 (June 10, 2024) 89 FR 50653 (June 14, 2024) (SR-CboeEDGA-2024-020).

¹⁷ See *e.g.*, Securities Exchange Act Release No. 68342 (December 3, 2012) 77 FR 73096 (December 7, 2012) (SR-CBOE-2012-114) and Securities Exchange Act Release No. 66082 (January 3, 2012) 77 FR 1101 (January 9, 2012) (SR-C2-2011-041).

¹⁸ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

¹⁹ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²⁰ 15 U.S.C. 78s(b)(3)(A).

²¹ 17 CFR 240.19b-4(f).

60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGX-2024-051 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-CboeEDGX-2024-051. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information

that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeEDGX-2024-051 and should be submitted on or before September 11, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-18702 Filed 8-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100738; File No. SR-ISE-2024-14]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Withdrawal of Proposed Rule Change To Amend ISE Options 4, Section 3 To List and Trade Options on Units That Represent Interests in a Trust That Holds Bitcoin

August 15, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² Nasdaq ISE, LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change to amend Options 4, Section 3(h) to allow the Exchange to list and trade options on units that represent interests in a trust that holds bitcoin ("Proposal").

On March 25, 2024, the Proposal was published for comment in the **Federal Register**.³ On April 24, 2024, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁴ to determine whether to approve or disapprove the Proposal.⁵ The Commission received comments addressing the Proposal.⁶

On July 19, 2024, the Commission designated a longer time for Commission action on the Proposal.⁷ On August 13, 2024, the Exchange

withdrew the Proposal (SR-ISE-2024-14).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-18703 Filed 8-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100735; File No. SR-CboeBZX-2024-075]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Regarding Dedicated Cores

August 15, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 1, 2024, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX Equities") proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/BZX/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 99776 (Mar. 19, 2024), 89 FR 20717.

⁴ 15 U.S.C. 78s(b)(2)(B).

⁵ See Securities Exchange Act Release No. 100024 (Apr. 24, 2024), 89 FR 34290 (Apr. 30, 2024).

⁶ Comment letters on the Proposal are available at <https://www.sec.gov/comments/sr-ise-2024-14/srise202414.htm>.

⁷ See Securities Exchange Act Release No. 100567 (Jul. 19, 2024), 89 FR 60482 (Jul. 25, 2024).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule to adopt fees for Dedicated Cores.³

By way of background, the Exchange recently began to allow Users⁴ to assign a Single Binary Order Entry ("BOE") logical order entry port⁵ to a single dedicated Central Processing Unit (CPU Core) ("Dedicated Core"). Historically, CPU Cores had been shared by logical order entry ports (*i.e.*, multiple logical ports from multiple firms may connect to a single CPU Core). Use of Dedicated Cores however, can provide reduced latency, enhanced throughput, and improved performance since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core instead of sharing that power with other firms. This offering is completely voluntary and is available to all Users that wish to purchase Dedicated Cores. Users may utilize BOE logical order entry ports on shared CPU Cores, either in lieu of, or in addition to, their use of Dedicated Core(s). As such, Users are able to operate across a mix of shared and dedicated CPU Cores which the Exchange believes provides additional risk and capacity management. Further, Dedicated Cores are not required nor necessary to participate on the Exchange and as such Users may opt not to use Dedicated Cores at all.

The Exchange proposes to assess the following monthly fees for Users that wish to use Dedicated Cores and adopt a maximum limit. First, the Exchange

proposes to provide up to two Dedicated Cores to all Users who wish to use Dedicated Cores, at no additional cost. For the use of more than two Dedicated Cores, the Exchange proposes to assess the following fees: \$650 per Dedicated Core for 3–15 Dedicated Cores; \$850 per Dedicated Core for 16–30 Dedicated Cores; and \$1,050 per Dedicated Core for 31 or more Dedicated Cores. The proposed fees are progressive and the Exchange proposes to include the following example in the Fees Schedule to provide clarity as to how the fees will be applied. Particularly, the Exchange will provide the following example: if a User were to purchase 16 Dedicated Cores, it will be charged a total of \$9,300 per month ($\$0 * 2 + \$650 * 13 + \$850 * 1$). The Exchange also proposes to make clear in the Fees Schedule that the monthly fees are assessed and applied in their entirety and are not prorated. The Exchange notes the current standard fees assessed for BOE Logical Ports, whether used with Dedicated or shared CPU cores, will remain applicable and unchanged.⁶

Since the Exchange currently has a finite amount of physical space in its data centers in which its servers (and therefore corresponding CPU Cores) are located, the Exchange also proposes to prescribe a maximum limit on the number of Dedicated Cores that Users may purchase each month. The purpose of establishing these limits is to manage the allotment of Dedicated Cores in a fair manner and to prevent the Exchange from being required to expend large amounts of resources in order to provide an unlimited number of Dedicated Cores. The Exchange previously established a limit for Members of a maximum number of 60 Dedicated Cores and Sponsoring Members a limit of maximum number of 25 Dedicated Cores for each of their Sponsored Access relationship.⁷ The Exchange has since been able to procure additional physical space in its third-party data center as well as additional servers with CPU Cores. The Exchange also has a better understanding of User demand relative to its available space and available Dedicated Cores since the initial maximum was adopted. As such, the Exchange proposes to increase the cap and provide that Members will be limited to a maximum number of 80

Dedicated Cores⁸ and Sponsoring Members will be limited to a maximum number of 35 Dedicated Cores for each of their Sponsored Access relationships.⁹ The Exchange notes that it will continue monitoring Dedicated Core interest by all Users and allotment availability with the goal of increasing these limits to meet Users' needs if and when the demand is there and the Exchange is able to accommodate additional Dedicated Cores.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with

⁸ The prescribed maximum quantity of Dedicated Cores for Members applies regardless of whether that Member purchases the Dedicated Cores directly from the Exchange and/or through a Service Bureau. In a Service Bureau relationship, a customer allows its MPID to be used on the ports of a technology provider, or Service Bureau. One MPID may be allowed on several different Service Bureaus.

⁹ The fee tier(s) applicable to Sponsoring Members are determined on a per Sponsored Access relationship basis and not on the combined total of Dedicated Cores across Sponsored Users. For example, under the proposed changes, a Sponsoring Member that has three Sponsored Access relationships is entitled to a total of 105 Dedicated Cores for those 3 Sponsored Access relationships but would be assessed fees separately based on the 35 Dedicated Cores for each Sponsored User (instead of combined total of 105 Dedicated Cores). For example, a Sponsoring Member with 3 Sponsored Access relationships would pay \$25,450 per month if each Sponsored Access relationship purchased the maximum 25 Dedicated Cores. More specifically, the Sponsoring Member would be provided 2 Dedicated Cores at no additional cost for each Sponsored User under Tier 1 (total of 6 Dedicated Cores at no additional cost) and provided an additional 13 Dedicated Cores at \$650 each for each Sponsored User, 20 Dedicated Cores at \$850 each for each Sponsored User (combined total of 99 additional Dedicated Cores).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

³ The Exchange initially introduced pricing for Dedicated Cores on June 10, 2024 (SR-CboeBZX-2024-054). On August 1, 2024, the Exchange withdrew that filing and submitted this filing.

⁴ A User may be either a Member or Sponsored Participant. The term "Member" shall mean any registered broker or dealer that has been admitted to membership in the Exchange, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange. A Sponsored Participant may be a Member or non-Member of the Exchange whose direct electronic access to the Exchange is authorized by a Sponsoring Member subject to certain conditions. See Exchange Rule 11.3.

⁵ Users may currently connect to the Exchange using a logical port available through an application programming interface ("API"), such as the Binary Order Entry ("BOE") protocol. A BOE logical order entry port is used for order entry.

⁶ The Exchange currently assesses \$550 per port per month. Port fees will also continue to be assessed on the first two Dedicated Cores that Users receive at no additional cost. See Cboe BZX Equities Fee Schedule.

⁷ See Securities Exchange Act Release No. 100395 (June 21, 2024) 89 FR 53687 (June 27, 2024) (SR-CboeBZX-2024-054).

the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)¹³ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposal is reasonable because the Exchange is offering any User who wishes to utilize Dedicated Cores up to two Dedicated Cores at no additional cost.¹⁴ For example, of the Users that currently maintain Dedicated Cores, approximately 45% maintain only 1 or 2 Dedicated Cores and therefore pay no additional fees. The Exchange believes the proposed fees are reasonable because Dedicated Cores provide a valuable service in that it can provide reduced latency, enhanced throughput, and improved performance compared to use of a shared CPU Core since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core. The Exchange also emphasizes however, that the use of Dedicated Cores is not necessary for trading and as noted above, is entirely optional. Users can also continue to access the Exchange through shared CPU Cores at no additional cost. Indeed, only approximately 22% of the Exchange's Members currently use Dedicated Cores and as noted above, of that 22%, nearly half take 1 or 2 Dedicated Cores at no additional cost. Depending on a firm's specific business needs, the proposal enables Users to choose to use Dedicated Cores in lieu of, or in addition to, shared CPU Cores (or as emphasized, not use Dedicated Cores at all). If a User finds little benefit in having Dedicated Cores based on its business model and trading strategies, or determines Dedicated Cores are not cost-efficient for its needs or does not provide sufficient value to the firm, such User may continue its use of the shared CPU Cores, unchanged. The Exchange also has no plans to eliminate shared CPU Cores nor to require Users to purchase Dedicated Cores.

The Exchange believes the proposed fees are also reasonable to offset costs incurred in order to make Dedicated Cores available. For example, the Exchange incurred significant costs

associated with acquiring additional cabinet space in its third-party data centers, as well as costs associated with the purchase of additional and upgraded servers hosting the Dedicated Cores.

The Exchange also believes that the proposed Dedicated Core fees are equitable and not unfairly discriminatory because they continue to be assessed uniformly to similarly situated users in that all Users who choose to purchase Dedicated Cores will be subject to the same proposed tiered fee schedule. Further, all Users are entitled to up to 2 Dedicated Cores at no additional cost. The Exchange believes the proposed ascending fee structure is also reasonable, equitable and not unfairly discriminatory as it is designed so that firms that use a higher allotment of the Exchange's finite number of Dedicated Cores pay higher rates, rather than placing that burden on market participants that have more modest needs who will have the flexibility of obtaining Dedicated Cores at lower price points in the lower tiers. As such, the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the ascending fee structure reflects the (finite) resources consumed by the various needs of market participants—that is, the lowest Dedicated Core consuming Users pay the least, and highest Dedicated Core consuming Users pay the most. Other exchanges similarly assess higher fees to those that consume more Exchange resources.¹⁵ Moreover, those consuming more Dedicated Cores do so if they find a benefit and sufficient value in having higher quantities of Dedicated Cores based on their respective business needs. The proposed tier structure is also designed to encourage firms to manage their needs in a fair manner and to prevent the Exchange from being required to expend large amounts of resources in order to provide an additional number of Dedicated Cores. Moreover, as discussed above and in more detail below, the Exchange cannot currently offer an unlimited number of Dedicated Cores due in part to physical space constraints in the third-party data center. The Exchange believes the proposed ascending fee structure is therefore another appropriate means, in conjunction with an established cap, to manage this finite resource and ensure the resource is apportioned more fairly.

The Exchange believes it is reasonable to limit the number of Dedicated Cores Users can purchase because the

Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange's data center to accommodate additional Dedicated Cores in the Exchange's respective Order Handler Cabinets. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores.¹⁶ The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand. For example, the Exchange's affiliate Cboe EDGA Exchange, Inc. has increased the prescribed maximum limit twice since the launch of Dedicated Cores on its exchange on February 26, 2024 as a result of evaluating the demand relative to Dedicated Cores availability and intends to raise the maximum again effective August 1, 2024.¹⁷ The proposed limits continue to apply uniformly to similarly situated market participants (*i.e.*, all Members are subject to the same limit and all Sponsored Participants are subject to the same limit, respectively). The Exchange believes it's not unfairly discriminatory to provide for different limits for different types of Users. For example, the Exchange believes it's not unfairly discriminatory to provide for an initial lower limit to be allocated for Sponsored Participants because unlike Members, Sponsored Participants are able to access the Exchange without paying a Membership Fee. Members also have more regulatory obligations and risk that Sponsored Participants do not. For example, while Sponsored Participants must agree to comply with the Rules of the Exchange, it is the Sponsoring Member of that Sponsored Participant that remains ultimately responsible for all orders entered on or through the Exchange by that Sponsored

¹² *Id.*

¹³ 15 U.S.C. 78f(b)(4).

¹⁴ Of the Users that currently maintain Dedicated Cores, approximately 35% maintain 1 or 2 Dedicated Cores and therefore pay no additional fees.

¹⁵ See also Cboe U.S. Options Fees Schedule, BZX Options, Options Logical Port Fees, Ports with Bulk Quoting Capabilities.

¹⁶ The Exchange notes that approximately 11% of Users that have Dedicated Cores currently are at or near the maximum limits.

¹⁷ See Securities Exchange Act Release No. 99983 (April 17, 2024) 89 FR 30418 (April 23, 2024) (SR-CboeEDGA-2024-014) and Securities Exchange Act Release No. 100300 (June 10, 2024) 89 FR 50653 (June 14, 2024) (SR-CboeEDGA-2024-020).

Participant. The industry also has a history of applying fees differently to Members as compared to Sponsored Participants.¹⁸ Lastly, the Exchange believes its proposed maximum limits, and distinction between Members and Sponsored Users, is another appropriate means to help the Exchange manage its allotment of Dedicated Cores and better ensure this finite resource is apportioned fairly.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because the proposed tiered fee structure will apply equally to all similarly situated Users that choose to use Dedicated Cores. As discussed above, Dedicated Cores are optional and Users may choose to utilize Dedicated Cores, or not, based on their views of the additional benefits and added value provided by utilizing a Dedicated Core. The Exchange believes the proposed fees will be assessed proportionately to the potential value or benefit received by Users with a greater number of Dedicated Cores and notes that Users may determine at any time to cease using Dedicated Cores. As discussed, Users can also continue to access the Exchange through shared CPU Cores at no additional cost. Finally, all Users will be entitled to two Dedicated Cores at no additional cost.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for exchange memberships. Market Participants have numerous alternative venues that they may participate on, including 15 other equities exchanges, as well as off-exchange venues, where competitive products are available for trading. Indeed, participants can readily choose to submit their order flow to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the

Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁹ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”²⁰ Accordingly, the Exchange does not believe its proposed change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²¹ and paragraph (f) of Rule 19b-4²² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

¹⁹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²⁰ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b–4(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–CboeBZX–2024–075 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2024–075. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2024–075 and should be submitted on or before September 11, 2024.

¹⁸ See e.g., Securities Exchange Act Release No. 68342 (December 3, 2012) 77 FR 73096 (December 7, 2012) (SR–CBOE–2012–114) and Securities Exchange Act Release No. 66082 (January 3, 2012) 77 FR 1101 (January 9, 2012) (SR–C2–2011–041).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–18700 Filed 8–20–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100731; File No. SR–NYSE–2024–45]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List

August 15, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on August 8, 2024, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to revise the requirements for Supplemental Liquidity Providers (“SLPs”) that are also Designated Market Makers (“DMM”) to qualify for SLP Adding Tiers 1–5. The Exchange proposes to implement the fee changes effective August 8, 2024. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to revise the requirements for SLPs that are also DMMs to qualify for SLP Adding Tiers 1–5. Specifically, the Exchange proposes to lower the required adding as a percentage of NYSE consolidated average daily volume (“CADV”) in order for SLPs that are also DMMs with a specific number of DMM registrations to qualify for each tier.

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by modifying the requirements for member organizations to send additional displayed liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective August 8, 2024.³

Background

Current Market and Competitive Environment

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”⁴

While Regulation NMS has enhanced competition, it has also fostered a “fragmented” market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such

competition can lead to the fragmentation of order flow in that stock.”⁵ Indeed, cash equity trading is currently dispersed across 16 exchanges,⁶ numerous alternative trading systems,⁷ and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 20% market share.⁸ Therefore, no exchange possesses significant pricing power in the execution of cash equity order flow. More specifically, the Exchange’s share of executed volume of equity trades in Tapes A, B and C securities is less than 12%.⁹

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm’s reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which the firm routes order flow. Accordingly, competitive forces compel the Exchange to use exchange transaction fees and credits because market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

In response to this competitive environment, the Exchange has established incentives for its member organizations who submit orders that provide liquidity on the Exchange. The proposed changes are designed to continue to attract additional order flow to the Exchange by revising the requirements for SLPs that are also DMMs in SLP Adding Tiers 1–5 in order to further incentivize member organizations to submit additional displayed liquidity to, and quote aggressively in support of the price discovery process on, the Exchange.

⁵ See Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

⁶ See Cboe U.S. Equities Market Volume Summary, available at https://markets.cboe.com/us/equities/market_share. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmr/exchangeshtml.html>.

⁷ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atlist.htm>.

⁸ See Cboe Global Markets U.S. Equities Market Volume Summary, available at https://markets.cboe.com/us/equities/market_share/.

⁹ See id.

³ The Exchange originally filed to amend the Price List on August 1, 2024 (SR–NYSE–2024–43). SR–NYSE–2024–43 was withdrawn on August 8, 2024 and replaced by this filing.

⁴ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (“Regulation NMS”).

²³ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Proposed Rule Change

For SLPs that are also DMMs registered in a minimum number of Tape A securities and subject to Rule 107B(i)(2)(A), current SLP Adding Tier 1, Tier 2, Tier 3, Tier 4, and Tier 5 set forth an additional requirement that the adding average daily volume (“ADV”) represent a fixed percentage of NYSE CADV. The requirement is set forth in the column titled “SLP Adding ADV % Tape A CADV If DMM” and currently ranges from 0.08% to 0.55%. The Exchange proposes to amend those percentages, as follows.

Under current SLP Tier 1, an SLP adding liquidity in Tape A securities receives a credit of \$0.0032, or \$0.0012 if a Non-Displayed Reserve Order, if the SLP (1) meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B, and (2) adds liquidity for all assigned SLP securities in the aggregate (including shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization)¹⁰ of an ADV of more than 1.00% (or 0.080% for SLPs that meet the SLP Cross Tape Tier 1 Incentive) of NYSE CADV or, with respect to an SLP that is also a DMM subject to Rule 107B(i)(2)(a) and registered in at least 500 Tape A issues, more than 0.55% of NYSE CADV. The Exchange proposes to lower the more than 0.55% of NYSE CADV requirement to more than 0.36% of NYSE CADV.

Under current SLP Tier 2, an SLP adding liquidity in Tape A securities receives a credit of \$0.0031, or \$0.0012 if a Non-Displayed Reserve Order, if the SLP (1) meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B, and (2) adds liquidity for all assigned SLP securities in the aggregate (including shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization) of an ADV of more than 0.90% (or 0.75% for SLPs that meet the SLP Cross Tape Tier 1 Incentive) of NYSE CADV or, with respect to an SLP that is also a DMM subject to Rule 107B(i)(2)(a) and registered in at least 500 Tape A issues, more than 0.45% of NYSE CADV. The Exchange proposes to change the more

than 0.45% of NYSE CADV requirement to more than 0.24% of NYSE CADV.

Under current SLP Tier 3, an SLP adding liquidity in Tape A securities receives a credit of \$0.00305, or \$0.00105 if a Non-Displayed Reserve Order, if the SLP (1) meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B, and (2) adds liquidity for all assigned SLP securities in the aggregate (including shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization) of an ADV of more than 0.60% of NYSE CADV or, with respect to an SLP that is also a DMM subject to Rule 107B(i)(2)(a) and registered in at least 500 Tape A issues, more than 0.36% of NYSE CADV. The Exchange proposes to change the more than 0.36% of NYSE CADV requirement to more than 0.18% of NYSE CADV.

Under current SLP Tier 4, an SLP adding liquidity in Tape A securities receives a credit of \$0.0029, or \$0.0009 if a Non-Displayed Reserve Order, if the SLP (1) meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B, and (2) adds liquidity for all assigned SLP securities in the aggregate (including shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization) of an ADV of more than 0.45% of NYSE CADV or, with respect to an SLP that is also a DMM subject to Rule 107B(i)(2)(a) and registered in at least 500 Tape A issues, more than 0.24% of NYSE CADV. The Exchange proposes to change the more than 0.24% of NYSE CADV requirement to more than 0.08% of NYSE CADV.

Once an SLP that is also a DMM subject to Rule 107B(i)(2)(a) and registered in at least 500 Tape A issues adds liquidity for all assigned SLP securities in the aggregate of more than 0.08% of NYSE CADV, that SLP will automatically receive the highest SLP Tier 4 credit of \$0.0029, even if the SLP otherwise qualifies for SLP Tiers 5 or 6. To reflect this in the Price List, the Exchange would replace the existing NYSE CADV requirement in SLP Tiers 5 and 6 of 0.18% of NYSE CADV and 0.08% of NYSE CADV, respectively, with “N/A.”

The proposed changes are not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹² in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

As discussed above, the Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹³ While Regulation NMS has enhanced competition, it has also fostered a “fragmented” market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such competition can lead to the fragmentation of order flow in that stock.”¹⁴

The Proposed Change Is Reasonable

In light of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt to incentivize member organizations to direct order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the credits, thereby contributing to depth and market quality on the Exchange. The Exchange believes that the proposed lower adding as a percentage of NYSE CADV requirements would incentivize market participants to increase the orders sent directly to the Exchange and therefore provide liquidity that supports the quality of price discovery and promotes market transparency. As noted above, the Exchange operates in a highly competitive environment, particularly

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4) & (5).

¹³ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) (“Regulation NMS”).

¹⁴ See Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

¹⁰ Under Rule 107B, an SLP can be either a proprietary trading unit of a member organization (“SLP-Prop”) or a registered market maker at the Exchange (“SLMM”). For purposes of the 10% average or more quoting requirement in assigned securities pursuant to Rule 107B, quotes of an SLP-Prop and an SLMM of the same member organization are not aggregated. However, for purposes of adding liquidity for assigned SLP securities in the aggregate, shares of both an SLP-Prop and an SLMM of the same member organization are included.

for attracting non-marketable order flow that provides liquidity on an exchange.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates fees and credits among market participants because all member organizations that participate on the Exchange may qualify for the proposed credits and fees on an equal basis. The Exchange believes its proposal equitably allocates its fees and credits among its market participants by fostering liquidity provision and stability in the marketplace.

The Exchange believes that the proposed changes would encourage the submission of additional liquidity to a national securities exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations from the substantial amounts of liquidity that are present on the Exchange. The proposed changes would also encourage the submission of additional orders that add liquidity, thus providing liquidity to market participants, providing greater price discovery and increasing the quality of order execution on the Exchange's market, which would benefit all market participants. The proposed changes are equitable because they would apply equally to all qualifying similarly-situated SLPs that submit orders to the NYSE and add liquidity to the Exchange.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, member organizations are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The Exchange believes that the proposal is not unfairly discriminatory because it neither targets nor will it have a disparate impact on any particular category of market participant. The proposed lower adding as a percentage of NYSE CADV requirement that SLPs that are also DMMs must meet to qualify for the SLP adding tiers also does not permit unfair discrimination because the proposed changes would apply to all similarly situated market participants on an equal and non-discriminatory basis and would be provided on an equal basis to all member organizations that add liquidity by meeting the new proposed requirements, who would all be eligible for the same credits on an equal basis. Accordingly, no member organization

already operating on the Exchange would be disadvantaged by this allocation of fees. The proposal does not permit unfair discrimination because the qualification criteria would be applied to all similarly situated member organizations, who would all be eligible for the same credits on an equal basis. Further, as noted, the Exchange believes the proposal would provide an incentive for member organizations to continue to send orders that provide liquidity to the Exchange, to the benefit of all market participants. Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,¹⁵ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for member organizations. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹⁶

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed changes would continue to incentivize market participants to direct order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages member organizations to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. The proposed credits would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market

participants on the Exchange. As noted, the proposal would apply to all similarly situated member organizations on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)¹⁷ of the Act and paragraph (f) thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or

¹⁵ 15 U.S.C. 78f(b)(8).

¹⁶ See Regulation NMS, 70 FR at 37498–99.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

• Send an email to rule-comments@sec.gov. Please include file number SR–NYSE–2024–45 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSE–2024–45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSE–2024–45, and should be submitted on or before September 11, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–18696 Filed 8–20–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100740; File No. SR–EMERALD–2024–18]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make a Cleanup Change to the Fee Schedule

August 15, 2024.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”),² and Rule 19b–4 thereunder,³ notice is hereby given that on July 31, 2024, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Emerald Fee Schedule (the “Fee Schedule”) to make a clarifying edit.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings>, at MIAX Emerald's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 6(d), Historical Market Data, of the Fee Schedule to make a clarifying edit. Currently, the table in Section 6(d) of the Fee Schedule states that there is a monthly fee of \$500 for both Members⁴ and Non-Members that request such historical market data; however, when the fee was established, the intent was to charge a per device fee. In the filing to establish the Historical Market Data fee, the Exchange stated that “[t]he Exchange proposed to charge a flat fee of \$500 per device requested. Each device shall have a maximum storage capacity of 8 terabytes. Users may request up to six months of Historical Market Data per device, subject to the device's storage capacity.”⁵ Furthermore, the Exchange's affiliates, Miami International Securities Exchange, LLC (“MIAX”) and MIAX PEARL, LLC (“MIAX Pearl”) state that the fee for both Members and Non-Members is per device.⁶ The Exchange now proposes to make the clarifying change to Section 6(d) and change the heading in the table from “Monthly Fee” to “Fee Per Device”. The purpose of this proposed change is for clarity and uniformity with the fee schedules of the Exchange's affiliates, MIAX and MIAX Pearl, and to better reflect the original intent of the section. The proposed change will not affect the fee charged, it merely seeks to clarify how the fee is charged. The Exchange notes that it has charged all historical market data requests on a per device basis, as originally intended, and has not charged a monthly fee to date.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act⁸ in particular, in that it is

⁴ The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

⁵ See Securities Exchange Act Release No. 90738 (December 21, 2020), 85 FR 85706 (December 29, 2020) (SR–EMERALD–2020–20) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Establish a Fee for Historical Market Data).

⁶ See MIAX Fee Schedule, Section 6(d); MIAX Pearl Options Fee Schedule, Section 6(c); and MIAX Pearl Equities Fee Schedule, Section 3(c).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

¹⁸ 17 CFR 200.30–3(a)(12).

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed change makes a clarifying edit to the Fee Schedule. The Exchange believes that the proposed change will provide greater clarity to Members and the public regarding the Exchange's Fee Schedule and that it is in the public interest for the Fee Schedule to be accurate and clear so as to eliminate the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not a competitive filing but rather is designed to provide added clarity to the Fee Schedule in order to avoid potential confusion on the part of market participants. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal does not address any competitive issues and is intended to protect investors by providing further transparency regarding the Exchange's Fee Schedule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-EMERALD-2024-18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-EMERALD-2024-18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All

submissions should refer to file number SR-EMERALD-2024-18 and should be submitted on or before September 11, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-18705 Filed 8-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100739; File No. SR-NASDAQ-2024-044]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Credits at Equity 7, Section 118(a)

August 15, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 1, 2024, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's schedule of credits at Equity 7, Section 118(a), as described further below.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

¹⁰ 17 CFR 200.30-3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's schedule of credits, at Equity 7, Section 118(a). Specifically, with respect to its schedule of credits for non-displayed midpoint orders (other than Supplemental Orders) that provide liquidity, the Exchange proposes to (i) add a new credit in Tapes A, B, and C, (ii) cap the maximum credit per share executed that a member organization can receive when certain requirements are met within Section 118(a)(1), and (iii) reorder the schedule of credits.

The Exchange proposes to provide a new credit of \$0.0028 for midpoint orders (excluding buy (sell) orders with Midpoint pegging that receive an execution price that is lower (higher) than the midpoint of the NBBO) if the member provides midpoint liquidity that represents at least 0.30% or more of Consolidated Volume during the month. This change will apply to Tapes A, B, and C. The purpose of the new credit is to incentivize liquidity adding activity and provide incentive to members that provide non-displayed liquidity to the Exchange to do so through midpoint orders. The Exchange believes that if such incentive is effective, then any ensuing increase in liquidity to the Exchange will improve market quality, to the benefit of all participants.

The Exchange currently provides a supplemental credit for midpoint orders (excluding buy (sell) orders with Midpoint pegging that receive an execution price that is lower (higher) than the midpoint of the NBBO), in addition to the other credits provided for non-displayed orders that provide liquidity, if the member executes a requisite ADV of shares through M-ELO, as follows: (a) \$0.0001 per share executed for midpoint orders (excluding buy (sell) orders with Midpoint pegging that receive an execution price that is lower (higher) than the midpoint of the NBBO) if the member executes an ADV of at least 2.5 million up to, but not including 4 million shares through M-ELO; or (b) \$0.0002 per share executed for midpoint orders (excluding buy (sell) orders with Midpoint pegging that receive an execution price that is lower

(higher) than the midpoint of the NBBO) if the member executes an ADV of 4 million or more shares through M-ELO. The Exchange proposes that a member receiving this supplemental credit may receive combined credits (regular and supplemental) of up to a maximum of \$0.0028 per share executed.

The Exchange notes that it proposes to cap combined regular and supplemental credits at \$0.0028 per share executed to manage the costs to the Exchange of providing these incentives. The Exchange has only limited resources available to it for incentive programs, and it must ensure that it allocates such resources appropriately to optimize their intended impacts.

Lastly, for clarifying purposes, the Exchange proposes to reorder the schedule of credits for non-displayed orders (other than Supplemental Orders) that provide liquidity by moving the aforementioned supplemental credit further down in the rebate schedule to immediately precede the other supplemental credits offered.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁴ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposals Are Reasonable

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no

exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."⁵

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."⁶

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

The Exchange believes that it is reasonable to establish a new credit of \$0.0028 for midpoint orders (excluding buy (sell) orders with Midpoint pegging that receive an execution price that is lower (higher) than the midpoint of the NBBO) if the member provides midpoint liquidity that represents at least 0.30% or more of Consolidated Volume during the month for Tapes A, B, and C. This proposal is reasonable because it will incentivize liquidity adding activity and provide incentive to members that provide non-displayed liquidity to the Exchange to do so through midpoint orders. The Exchange believes that if such incentive is effective, then any ensuing increase in liquidity to the Exchange will improve

⁵ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

⁶ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4) and (5).

market quality, to the benefit of all participants.

The Exchange believes that it is reasonable to cap the amount of combined regular and supplemental credits it proposes to offer members who add liquidity through midpoint orders to \$0.0028 per share executed. This cap will allow the Exchange to manage its costs of providing these incentives. The Exchange has only limited resources available to it for incentive programs, and it must ensure that it allocates such resources appropriately to optimize their intended impacts.

The Exchange also believes that it is reasonable to reorder the schedule of credits for non-displayed orders (other than Supplemental Orders) that provide liquidity to increase clarity in the Rules, consistent with the public interest and protection of investors.

The Proposals Are Equitable Allocations of Credits

The Exchange believes that it is equitable to establish a new transaction credit and otherwise increase the amount of credit a member may receive for providing non-displayed liquidity through midpoint orders. To the extent that the Exchange succeeds in increasing the levels of liquidity and activity on the Exchange, the Exchange will experience improvements in its market quality, which stands to benefit all market participants. The Exchange also believes that the proposed clarifying changes (*i.e.*, reordering the schedule of credits) and the proposal to cap rebates at \$0.0028 for members receiving certain supplemental credits is equitable because the changes and the cap will be applied uniformly to all members.

Any participant that is dissatisfied with the proposals is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

The Proposals Are Not Unfairly Discriminatory

The Exchange believes that its proposals are not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their

business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it enhances price discovery and improves the overall quality of the equity markets.

The Exchange believes that its proposals to adopt a new credit for providing non-displayed liquidity through midpoint orders, impose a cap on the amount of combined regular and supplemental credits it proposes to offer members receiving certain supplemental credits, and make clarifying changes, as described above, are not unfairly discriminatory because the changes are not intended to advantage any particular member and will be applied uniformly to all members. Moreover, the proposals stand to improve the overall market quality of the Exchange, to the benefit of all market participants, by incentivizing members to increase the extent of their liquidity adding activity in midpoint orders on the Exchange.

Any participant that is dissatisfied with the proposals is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that its proposals will place any category of Exchange participant at a competitive disadvantage.

As noted above, the Exchange's proposals to add a new transaction credit, impose a cap on the maximum rebate offered to members receiving certain supplemental credits, and make clarifying changes are intended to have market-improving effects, to the benefit of all members. Any member may elect to achieve the level of liquidity in midpoint orders required to qualify for the new credit. The other proposed changes also apply equally and will be applied uniformly to all members.

The Exchange notes that its members are free to trade on other venues to the extent they believe that the Exchange's fee schedule is not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its credits and fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their credit and own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credit or fee changes in this market may impose any burden on competition is extremely limited.

The proposed new and amended credits are reflective of this competition because, as a threshold issue, even as one of the largest U.S. equities exchanges by volume, the Exchange has less than 20% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to credit and fee changes. This is an addition to free flow of order flow to and among off-exchange venues which comprises more than 40% of industry volume in recent months.

The Exchange's proposal to add a new transaction credit is pro-competitive in that the Exchange intends for the credit to increase liquidity addition activity in midpoint orders on the Exchange, thereby rendering the Exchange more attractive and vibrant to participants.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.⁷

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2024-044 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NASDAQ-2024-044. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE,

Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2024-044 and should be submitted on or before September 11, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-18704 Filed 8-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100732; File No. SR-SAPPHIRE-2024-07]

Self-Regulatory Organizations; MIAx Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Describe the Access Methods to the Exchange's Testing Systems Environment and Discontinue One Access Method

August 15, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 5, 2024, MIAx Sapphire, LLC ("MIAx Sapphire" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to describe the three methods to access the Exchange's optional testing systems environment and the timeline and process by which one of the three access methods would be discontinued. The text of the proposed rule change is

available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings>, at MIAx Sapphire's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 15, 2024, the Securities and Exchange Commission ("Commission") approved the Exchange's Form 1 application to register as a national securities exchange under Section 6 of the Exchange Act.³ As previously announced, the Exchange anticipates that it will begin electronic operations on August 12, 2024.⁴

In anticipation of the launch of electronic equity options trading, the Exchange submits this filing to describe the three methods to access the Exchange's optional testing systems environment and the timeline and process by which the 1 Gigabit ("Gb") or 10Gb ultra-low latency ("ULL") connection access method described below would be discontinued.

The testing systems environment is a virtual trading system environment for Members⁵ and non-Members to test (i) upcoming Exchange software and code releases, (ii) product enhancements, and (iii) firm-developed software, prior to

³ See Securities Exchange Act Release No. 100539 (July 15, 2024) (File No. 10-240) (In the Matter of the Application of MIAx Sapphire, LLC for Registration as a National Securities Exchange) (the "Approval Order").

⁴ See MIAx Sapphire Options Alert, dated March 6, 2024, available at <https://www.miaxglobal.com/alert/2024/03/06/miax-sapphire-options-exchange-rescheduled-launch-date-august-12-2024>.

⁵ The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange's Rules for purposes of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

implementation in the Exchange's production (e.g., live trading) environment. Further, the testing systems environment allows unlimited testing of existing functionality, such as order types, order entry, order management, order throughput, acknowledgements, risk settings, mass cancellations, and purge requests. The testing systems environment is built to closely approximate the production environment (once live trading begins) to enable users the ability to test their systems and mimics the real life trading environment.⁶

There are three methods by which Members and non-Members may access the Exchange's testing systems environment. One, Members and non-Members may access the Exchange's testing systems environment via a virtual private network ("VPN") that operates over the internet and provides site-to-site access. VPN access is provided for free to all Members and non-Members. Two, Members and non-Members may also access the testing systems environment via a dedicated cross connection that is available as either a 1Gb or 10Gb ULL connection.⁷ Firms that utilize a VPN or dedicated cross connection to access the testing systems environment of the Exchange are also able to access the testing systems environments of each of the Exchange's affiliated options markets—Miami International Securities Exchange, LLC ("MIAX"), MIAX PEARL, LLC⁸ ("MIAX Pearl Options"),

⁶ Business continuity and disaster recovery testing is performed separately and not within the testing systems environment that is the subject of this filing.

⁷ The Exchange notes that other exchange families offer a similar dedicated connection to their testing environment for their members and non-members. See, e.g., Nasdaq Options Test Facility (NTF) Abstract, Version 1.4.4 (March 2024), available at https://www.nasdaq.com/Nasdaq_Test_Facility_NTF_Guide (last visited July 16, 2024) ("... the Nasdaq Test Facility ... where market participants can test their trading applications with the INET trading system. The NTF environment allows members to test sending and executing quotes and orders offered by our six options exchanges ..."); see also Securities Exchange Act Release No. 100442 (June 27, 2024), 89 FR 55296 (July 3, 2024) (SR–CboeBZX–2024–058) ("... the Exchange also offers corresponding ports which provide Members and non-Members access to the Exchange's certification environment to test proprietary systems and applications ... The certification environment facilitates testing using replicas of the Exchange's production environment process configurations which provide for a robust and realistic testing experience ...").

⁸ All references to "MIAX PEARL" in this filing are to the options trading facility of MIAX PEARL, LLC, referred to herein as "MIAX Pearl Options." Firms that choose to utilize the testing systems environment of MIAX Pearl Equities, the equities trading facility of MIAX PEARL, LLC, must utilize a separate dedicated cross connect as MIAX Pearl Equities' testing systems environment operates on

and MIAX Emerald, LLC ("MIAX Emerald"). The dedicated cross connect to the testing systems environment does not provide access to any of the production environments (i.e., live trading) of the Exchange or its affiliates, or allow the receipt of proprietary real-time market data for which each Member or non-Member may subscribe.

Three, access is also provided through the production connections for each 1Gb⁹ or 10Gb ULL connection for the applicable fee for such connection and no additional charge.¹⁰ Unlike a dedicated cross connection to the testing systems environment described above, these 1Gb and 10Gb ULL connections provide access to the Exchange's production environment (i.e., live trading) and allow the receipt of proprietary real-time market data. Also, unlike VPN, 1Gb, and the dedicated cross connection access described above, the 10Gb ULL connections only provide access the Exchange's testing systems environment and not those of its affiliated options markets. This is because of the nature of those connections, which are utilized to access the Exchange only, not just for testing, but for other Exchange specific items, such as access the Exchange's production environment and for the receipt of proprietary Exchange market data.

Firms that access the testing systems environment through any one of the three available access methods receive functionally the same testing experience. Each firm is free to decide how to access the testing systems environment based on their own needs and trading architecture. Again, use of the testing systems environment is entirely optional and no firm is required by rule or regulation to make use of the testing systems environment.¹¹ Regardless of access method, all firms are provided the same testing systems

a separate network from the affiliated options markets.

⁹ Like VPN access, the 1Gb connection will allow firms to reach all testing systems environments of the Exchange's affiliates, upon launch of the Exchange.

¹⁰ As noted above, the Exchange has not begun live trading at the time of this filing; however, the Exchange anticipates filing a separate rule filing with the Commission to establish fees for connectivity to the production environment ahead of the commencement of live trading. Such fees may also be waived for a period of time, which will be stated in the respective filing. See, e.g., *infra* note 12.

¹¹ Access to the Exchange's testing systems environment was provided to firms prior to the Exchange's Form 1 application being approved. During that time, fourteen firms accessed the testing systems environment via the dedicated cross connections and five firms accessed the testing systems environment via a VPN.

environment experience and are able to perform all of the same functions.

The Exchange will phase out the ability to connect to the testing systems environment via the existing 1Gb and 10Gb ULL production connections over the next 6 to 12 months. The Exchange will issue an alert notifying market participants of the anticipated timeline by which it will phase out access to the testing systems environment via 1Gb and 10Gb ULL production connections. During this phase out period, firms that use a 1Gb or 10Gb ULL production connection to access the testing systems environment would continue to be able to do so. At the end of this period, Members and non-Members that currently elect to access the Exchange's testing systems environment via a 1Gb or 10Gb ULL connection that seek to continue to access the Exchange's testing systems environment would be required to transfer their access to one of the two remaining access methods, a VPN for free or by subscribing to a dedicated cross connection for an amount that is expected to be less than the current fee for a 1Gb or 10Gb ULL production connection.¹²

2. Statutory Basis

The Exchange believes the proposed change is consistent with the requirements of Section 6(b) of the Act,¹³ in general, and Section 6(b)(5),¹⁴ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

This filing simply describes the three methods to access the Exchange's optional testing systems environment and the timeline and process by which one of the three access methods would be discontinued. Access to the Exchange's testing systems environment

¹² The Exchange will submit a separate proposed rule change for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act (15 U.S.C. 78s(b)(3)(A)) and Rule 19b–4(f)(2) (17 CFR 240.19b–4(f)(2)) thereunder to establish a fee for the dedicated cross connect to the testing systems environment. The Exchange anticipates to waive such proposed fee for a period of time and that any potential fees at the end of the waiver prior to be less than the anticipated fees for a 1Gb and 10Gb ULL connection to the production environment.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

is completely voluntary.¹⁵ The testing systems environment is a useful tool for Members and non-Members to test (i) upcoming Exchange software and code releases, (ii) product enhancements, and (iii) firm-developed software, prior to implementation in the Exchange's production environment. In addition, the testing systems environment allows unlimited firm-level testing of order types, order entry, order management, order throughput, acknowledgements, risk settings, mass cancelations, and purge requests.

There is no functional difference between access alternatives. It is simply a technical decision of each firm regarding how to access the testing systems environment. The testing systems environment, whether accessed via the proposed dedicated connection or otherwise, provides firms the same scope of abilities to test their systems and software in the Exchange's testing systems environment, which replicates the Exchange's anticipated production trading environment. The testing systems environment serves to improve live trading on the Exchange and the national market system by permitting Members and non-Members the ability to accurately test software and code changes prior to implementing them in their systems in the live trading environment. This should, in turn, reduce the likelihood of a potentially disruptive issues in the live trading environment, which has the potential to affect all market participants.

The Exchange is not proposing new functionality. This filing simply describes the means of access to the Exchange's testing systems environment and the process by which one of those access methods would be discontinued. Doing so provides clarity to market participants and seeks to avoid potential investor confusion. Therefore, for the above reasons, the Exchange believes the proposed rule change is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. There would be no competitive advantage for firms that access the testing systems environment via one access method versus another. All modes of access allow firms to perform the same testing

functions in the same manner. As such, the Exchange does not believe that the proposed change will impose any burden on intermarket competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes the proposed rule change may have a positive impact on or intramarket competition. Among other things, the proposed rule change is intended to keep pace with technological changes in the industry and evolving customer needs and demands, and believes the dedicated connection to the testing systems environment will contribute to robust competition among national securities exchanges. As noted above, several exchanges already offer similar testing environments to their members and non-members.¹⁶ As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁷ and Rule 19b-4(f)(6) thereunder.¹⁸

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

Commission shall institute proceedings under Section 19(b)(2)(B)¹⁹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-SAPPHIRE-2024-07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-SAPPHIRE-2024-07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-SAPPHIRE-2024-07 and should be

¹⁶ See *supra* note 7.

¹⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁵ As noted above, business continuity and disaster recovery testing is performed separately and not within the testing systems environment that is the subject of this filing.

¹⁹ 15 U.S.C. 78s(b)(2)(B).

submitted on or before September 11, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–18697 Filed 8–20–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100736; File No. SR–CboeEDGA–2024–032]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Regarding Dedicated Cores

August 15, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on August 1, 2024, Cboe EDGA Exchange, Inc. (the “Exchange” or “EDGA”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the “Exchange” or “EDGA Equities”) proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/equities/regulation/rule_filings/edga/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule to adopt fees for Dedicated Cores.³

By way of background, the Exchange recently began to allow Users⁴ to assign a Single Binary Order Entry (“BOE”) logical order entry port⁵ to a single dedicated Central Processing Unit (CPU Core) (“Dedicated Core”). Historically, CPU Cores had been shared by logical order entry ports (*i.e.*, multiple logical ports from multiple firms may connect to a single CPU Core). Use of Dedicated Cores however, can provide reduced latency, enhanced throughput, and improved performance since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core instead of sharing that power with other firms. This offering is completely voluntary and is available to all Users that wish to purchase Dedicated Cores. Users may utilize BOE logical order entry ports on shared CPU Cores, either in lieu of, or in addition to, their use of Dedicated Core(s). As such, Users are able to operate across a mix of shared and dedicated CPU Cores which the Exchange believes provides additional risk and capacity management. Further,

³ The Exchange initially introduced Dedicated Cores and corresponding pricing on March 1, 2024 (SR–CboeEDGA–2024–008). On March 20, 2024, the Exchange refilled the proposed fees (SR–CboeEDGA–2024–009). The Exchange amended the Dedicated Cores fees on April 1, 2024 (SR–CboeEDGA–2024–012). On April 12, 2024, the Exchange withdrew that filing and submitted SR–CboeEDGA–2024–014. On May 13, 2024, the Exchange withdrew SR–CboeEDGA–2024–009. On June 3, 2024, the Exchange also withdrew SR–CboeEDGA–014 and SR–CboeEDGA–2024–020. On August 1, the Exchange withdrew that filing and submitted this filing.

⁴ A User may be either a Member or Sponsored Participant. The term “Member” shall mean any registered broker or dealer that has been admitted to membership in the Exchange, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange. A Sponsored Participant may be a Member or non-Member of the Exchange whose direct electronic access to the Exchange is authorized by a Sponsoring Member subject to certain conditions. See Exchange Rule 11.3.

⁵ Users may currently connect to the Exchange using a logical port available through an application programming interface (“API”), such as the Binary Order Entry (“BOE”) protocol. A BOE logical order entry port is used for order entry.

Dedicated Cores are not required nor necessary to participate on the Exchange and as such Users may opt not to use Dedicated Cores at all.

The Exchange proposes to assess the following monthly fees for Users that wish to use Dedicated Cores and adopt a maximum limit. First, the Exchange proposes to provide up to two Dedicated Cores to all Users who wish to use Dedicated Cores, at no additional cost. For the use of more than two Dedicated Cores, the Exchange proposes to assess the following fees: \$650 per Dedicated Core for 3–10 Dedicated Cores; \$850 per Dedicated Core for 11–15 Dedicated Cores; and \$1,050 per Dedicated Core for 16 or more Dedicated Cores. The proposed fees are progressive and the Exchange proposes to include the following example in the Fees Schedule to provide clarity as to how the fees will be applied. Particularly, the Exchange will provide the following example: if a User were to purchase 11 Dedicated Cores, it will be charged a total of \$6,050 per month ($\$0 * 2 + \$650 * 8 + \$850 * 1$). The Exchange also proposes to make clear in the Fees Schedule that the monthly fees are assessed and applied in their entirety and are not prorated. The Exchange notes the current standard fees assessed for BOE Logical Ports, whether used with Dedicated or shared CPU cores, will remain applicable and unchanged.⁶

Since the Exchange currently has finite amount of physical space in its data centers in which its servers (and therefore corresponding CPU Cores) are located, the Exchange also proposes to prescribe a maximum limit on the number of Dedicated Cores that Users may purchase each month. The purpose of establishing these limits is to manage the allotment of Dedicated Cores in a fair manner and to prevent the Exchange from being required to expend large amounts of resources in order to provide an unlimited number of Dedicated Cores. The Exchange previously established a limit for Members of a maximum number of 60 Dedicated Cores and Sponsoring Members a limit of a maximum number of 25 Dedicated Cores for each of their Sponsored Access relationships.⁷ The Exchange has since been able to procure additional servers with CPU Cores and also has a better understanding of User demand relative to its available space and available Dedicated Cores since the current maximum was adopted two

⁶ The Exchange currently assesses \$550 per port per month. See Cboe EDGA Equities Fee Schedule.

⁷ See Securities Exchange Act Release No. 100300 (June 10, 2024) 89 FR 50653 (June 14, 2024) (SR–CboeEDGA–2024–020).

²⁰ 17 CFR 200.30–3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

months ago. As such, the Exchange proposes to increase that cap and provide that Members will be limited to a maximum number of 80 Dedicated Cores⁸ and Sponsoring Members will be limited to a maximum number of 35 Dedicated Cores for each of their Sponsored Access relationships.⁹ The Exchange notes that it will continue monitoring Dedicated Core interest by all Users and allotment availability with the goal of increasing these limits to meet Users' needs if and when the demand is there and the Exchange is able to accommodate additional Dedicated Cores.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market

system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)¹³ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposal is reasonable because the Exchange is offering any User who wishes to utilize Dedicated Cores up to two Dedicated Cores at no additional cost.¹⁴ For example, of the Users that currently maintain Dedicated Cores, over 40% maintain only 1 or 2 Dedicated Cores and therefore pay no additional fees. The Exchange believes the proposed fees are reasonable because Dedicated Cores provide a valuable service in that it can provide reduced latency, enhanced throughput, and improved performance compared to use of a shared CPU Core since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core. The Exchange also emphasizes however, that the use of Dedicated Cores is not necessary for trading and as noted above, is entirely optional. Users can also continue to access the Exchange through shared CPU Cores at no additional cost. Indeed, only 20% of the Exchange's Members currently use Dedicated Cores and as noted above, of those 20%, over 40% take only 1 or 2 Dedicated Cores at no additional cost. Depending on a firm's specific business needs, the proposal enables Users to choose to use Dedicated Cores in lieu of, or in addition to, shared CPU Cores (or as emphasized, not use Dedicated Cores at all). If a User finds little benefit in having Dedicated Cores based on its business model and trading strategies, or determines Dedicated Cores are not cost-efficient for its needs or does not provide sufficient value to the firm, such User may continue its use of the shared CPU Cores, unchanged. The Exchange also has no plans to eliminate shared CPU Cores nor to require Users to purchase Dedicated Cores.

The Exchange believes the proposed fees are also reasonable to offset costs

incurred in order to make Dedicated Cores available. For example, the Exchange incurred significant costs associated with acquiring additional cabinet space in its third-party data centers, as well as costs associated with the purchase of additional and upgraded servers hosting the Dedicated Cores.

The Exchange also believes that the proposed Dedicated Core fees are equitable and not unfairly discriminatory because they continue to be assessed uniformly to similarly situated users in that all Users who choose to purchase Dedicated Cores will be subject to the same proposed tiered fee schedule. Further, all Users are entitled to up to 2 Dedicated Cores at no additional cost. The Exchange believes the proposed ascending fee structure is also reasonable, equitable and not unfairly discriminatory as it is designed so that firms that use a higher allotment of the Exchange's finite number of Dedicated Cores pay higher rates, rather than placing that burden on market participants that have more modest needs who will have the flexibility of obtaining Dedicated Cores at lower price points in the lower tiers. As such, the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the ascending fee structure reflects the (finite) resources consumed by the various needs of market participants—that is, the lowest Dedicated Core consuming Users pay the least, and highest Dedicated Core consuming Users pay the most. Other exchanges similarly assess higher fees to those that consume more Exchange resources.¹⁵ Moreover, those consuming more Dedicated Cores do so if they find a benefit and sufficient value in having higher quantities of Dedicated Cores based on their respective business needs. The proposed tier structure is also designed to encourage firms to manage their needs in a fair manner and to prevent the Exchange from being required to expend large amounts of resources in order to provide an additional number of Dedicated Cores. Moreover, as discussed above and in more detail below, the Exchange cannot currently offer an unlimited number of Dedicated Cores due in part to physical space constraints in the third-party data center. The Exchange believes the proposed ascending fee structure is therefore another appropriate means, in conjunction with an established cap, to

⁸ The prescribed maximum quantity of Dedicated Cores for Members applies regardless of whether that Member purchases the Dedicated Cores directly from the Exchange and/or through a Service Bureau. In a Service Bureau relationship, a customer allows its MPID to be used on the ports of a technology provider, or Service Bureau. One MPID may be allowed on several different Service Bureaus.

⁹ The fee tier(s) applicable to Sponsoring Members are determined on a per Sponsored Access relationship basis and not on the combined total of Dedicated Cores across Sponsored Users. For example, under the proposed changes, a Sponsoring Member that has three Sponsored Access relationships is entitled to a total of 105 Dedicated Cores for those 3 Sponsored Access relationships but would be assessed fees separately based on the 35 Dedicated Cores for each Sponsored User (instead of combined total of 105 Dedicated Cores). For example, a Sponsoring Member with 3 Sponsored Access relationships would pay \$30,450 per month if each Sponsored Access relationship purchased the maximum 35 Dedicated Cores. More specifically, the Sponsoring Member would be provided 2 Dedicated Cores at no additional cost for each Sponsored User under Tier 1 (total of 6 Dedicated Cores at no additional cost) and provided an additional 8 Dedicated Cores at \$650 each for each Sponsored User, 5 Dedicated Cores at \$850 each for each Sponsored User and 20 Dedicated Cores at \$1,050 each for each Sponsored User (combined total of 99+ additional Dedicated Cores).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² *Id.*

¹³ 15 U.S.C. 78f(b)(4).

¹⁴ Of the Users that currently maintain Dedicated Cores, approximately 35% maintain 1 or 2 Dedicated Cores and therefore pay no additional fees.

¹⁵ See also Cboe U.S. Options Fees Schedule, BZX Options, Options Logical Port Fees, Ports with Bulk Quoting Capabilities.

manage this finite resource and ensure the resource is apportioned more fairly.

The Exchange believes it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange's data center to accommodate additional Dedicated Cores in the Exchange's respective Order Handler Cabinets. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores.¹⁶ The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand. Indeed, since the launch of Dedicated Cores on February 26, 2024, the Exchange has already increased the prescribed maximum limit two times (not including this proposal) as a result of evaluating the demand relative to Dedicated Cores availability and procuring additional physical space and CPU Cores.¹⁷ The proposed increased limits continue to apply uniformly to similarly situated market participants (*i.e.*, all Members are subject to the same limit and all Sponsored Participants are subject to the same limit, respectively). The Exchange believes it's not unfairly discriminatory to provide for different limits for different types of Users. For example, the Exchange believes it's not unfairly discriminatory to provide for an initial lower limit to be allocated for Sponsored Participants because unlike Members, Sponsored Participants are able to access the Exchange without paying a Membership Fee. Members also have more regulatory obligations and risk that Sponsored Participants do not. For example, while Sponsored Participants must agree to comply with the Rules of the Exchange, it is the

Sponsoring Member of that Sponsored Participant that remains ultimately responsible for all orders entered on or through the Exchange by that Sponsored Participant. The industry also has a history of applying fees differently to Members as compared to Sponsored Participants.¹⁸ Lastly, the Exchange believes its proposed maximum limits, and distinction between Members and Sponsored Users, is another appropriate means to help the Exchange manage its allotment of Dedicated Cores and better ensure this finite resource is apportioned fairly.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because the proposed tiered fee structure will apply equally to all similarly situated Users that choose to use Dedicated Cores. As discussed above, Dedicated Cores are optional and Users may choose to utilize Dedicated Cores, or not, based on their views of the additional benefits and added value provided by utilizing a Dedicated Core. The Exchange believes the proposed fee will be assessed proportionately to the potential value or benefit received by Users with a greater number of Dedicated Cores and notes that Users may determine at any time to cease using Dedicated Cores. As discussed, Users can also continue to access the Exchange through shared CPU Cores at no additional cost. Finally, all Users will be entitled to two Dedicated Cores at no additional cost.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for exchange memberships. Market Participants have numerous alternative venues that they may participate on, including 15 other equities exchanges, as well as off-exchange venues, where competitive products are available for trading. Indeed, participants can readily choose to submit their order flow to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition

over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹⁹ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."²⁰ Accordingly, the Exchange does not believe its proposed change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²¹ and paragraph (f) of Rule 19b-4²² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings

¹⁶ The Exchange notes that less than 5% of Users that have Dedicated Cores currently are at or near the maximum limits.

¹⁷ See Securities Exchange Act Release No. 99983 (April 17, 2024) 89 FR 30418 (April 23, 2024) (SR-CboeEDGA-2024-014). See Securities Exchange Act Release No. 100300 (June 10, 2024) 89 FR 50653 (June 14, 2024) (SR-CboeEDGA-2024-020).

¹⁸ See *e.g.*, Securities Exchange Act Release No. 68342 (December 3, 2012) 77 FR 73096 (December 7, 2012) (SR-CBOE-2012-114) and Securities Exchange Act Release No. 66082 (January 3, 2012) 77 FR 1101 (January 9, 2012) (SR-C2-2011-041).

¹⁹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²⁰ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f).

to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGA-2024-032 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeEDGA-2024-032. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeEDGA-2024-032 and should

be submitted on or before September 11, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-18701 Filed 8-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100734; File No. SR-CboeBYX-2024-028]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Regarding Dedicated Cores

August 15, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 1, 2024, Cboe BYX Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the "Exchange" or "BYX Equities") proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/BYX/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule to adopt fees for Dedicated Cores.³

By way of background, the Exchange recently began to allow Users⁴ to assign a Single Binary Order Entry ("BOE") logical order entry port⁵ to a single dedicated Central Processing Unit (CPU Core) ("Dedicated Core"). Historically, CPU Cores had been shared by logical order entry ports (*i.e.*, multiple logical ports from multiple firms may connect to a single CPU Core). Use of Dedicated Cores however, can provide reduced latency, enhanced throughput, and improved performance since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core instead of sharing that power with other firms. This offering is completely voluntary and is available to all Users that wish to purchase Dedicated Cores. Users may utilize BOE logical order entry ports on shared CPU Cores, either in lieu of, or in addition to, their use of Dedicated Core(s). As such, Users are able to operate across a mix of shared and dedicated CPU Cores which the Exchange believes provides additional risk and capacity management. Further, Dedicated Cores are not required nor necessary to participate on the Exchange and as such Users may opt not to use Dedicated Cores at all.

The Exchange proposes to assess the following monthly fees for Users that wish to use Dedicated Cores and adopt a maximum limit. First, the Exchange

³ The Exchange initially adopted pricing for Dedicated Cores on May 6, 2024 (SR-CboeBYX-2024-014). On July 1, 2024 the Exchange withdrew that filing and SR-CboeBYX-2024-024. On August 1, 2024, the Exchange withdrew that filing and submitted this filing.

⁴ A User may be either a Member or Sponsored Participant. The term "Member" shall mean any registered broker or dealer that has been admitted to membership in the Exchange, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange. A Sponsored Participant may be a Member or non-Member of the Exchange whose direct electronic access to the Exchange is authorized by a Sponsoring Member subject to certain conditions. See Exchange Rule 11.3.

⁵ Users may currently connect to the Exchange using a logical port available through an application programming interface ("API"), such as the Binary Order Entry ("BOE") protocol. A BOE logical order entry port is used for order entry.

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

proposes to provide up to two Dedicated Cores to all Users who wish to use Dedicated Cores, at no additional cost. For the use of more than two Dedicated Cores, the Exchange proposes to assess the following fees: \$650 per Dedicated Core for 3–10 Dedicated Cores; \$850 per Dedicated Core for 11–15 Dedicated Cores; and \$1,050 per Dedicated Core for 16 or more Dedicated Cores. The proposed fees are progressive and the Exchange proposes to include the following example in the Fees Schedule to provide clarity as to how the fees will be applied. Particularly, the Exchange will provide the following example: if a User were to purchase 11 Dedicated Cores, it will be charged a total of \$6,050 per month ($\$0 * 2 + \$650 * 8 + \$850 * 1$). The Exchange also proposes to make clear in the Fees Schedule that the monthly fees are assessed and applied in their entirety and are not prorated. The Exchange notes the current standard fees assessed for BOE Logical Ports, whether used with Dedicated or shared CPU cores, will remain applicable and unchanged.⁶

Since the Exchange currently has finite amount of physical space in its data centers in which its servers (and therefore corresponding CPU Cores) are located, the Exchange also proposes to prescribe a maximum limit on the number of Dedicated Cores that Users may purchase each month. The purpose of establishing these limits is to manage the allotment of Dedicated Cores in a fair manner and to prevent the Exchange from being required to expend large amounts of resources in order to provide an unlimited number of Dedicated Cores. The Exchange previously established a limit for Members of a maximum number of 60 Dedicated Cores and Sponsoring Members a limit of a maximum number of 25 Dedicated Cores for each of their Sponsored Access relationships.⁷ The Exchange has since been able to procure additional servers with CPU Cores and also has a better understanding of User demand relative to its available space since the current maximum was adopted last month. As such, the Exchange proposes to increase that caps and provide that Members will be limited to a maximum number of 80 Dedicated Cores⁸ and Sponsoring

Members will be limited to a maximum number of 35 Dedicated Cores for each of their Sponsored Access relationships.⁹ The Exchange notes that it will continue monitoring Dedicated Core interest by all Users and allotment availability with the goal of increasing these limits to meet Users' needs if and when the demand is there and the Exchange is able to accommodate additional Dedicated Cores.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

customer allows its MPID to be used on the ports of a technology provider, or Service Bureau. One MPID may be allowed on several different Service Bureaus.

⁹ The fee tier(s) applicable to Sponsoring Members are determined on a per Sponsored Access relationship basis and not on the combined total of Dedicated Cores across Sponsored Users. For example, under the proposed changes, a Sponsoring Member that has three Sponsored Access relationships is entitled to a total of 105 Dedicated Cores for those 3 Sponsored Access relationships but would be assessed fees separately based on the 35 Dedicated Cores for each Sponsored User (instead of combined total of 105 Dedicated Cores). For example, a Sponsoring Member with 3 Sponsored Access relationships would pay \$30,450 per month if each Sponsored Access relationship purchased the maximum 35 Dedicated Cores. More specifically, the Sponsoring Member would be provided 2 Dedicated Cores at no additional cost for each Sponsored User under Tier 1 (total of 6 Dedicated Cores at no additional cost) and provided an additional 8 Dedicated Cores at \$650 each for each Sponsored User, 5 Dedicated Cores at \$850 each for each Sponsored User and 20 Dedicated Cores at \$1,050 each for each Sponsored User (combined total of 99 additional Dedicated Cores).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² *Id.*

The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)¹³ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposal is reasonable because the Exchange is offering any Users who wishes to utilize Dedicated Cores up to two Dedicated Cores at no additional cost.¹⁴ For example, of the Users that currently maintain Dedicated Cores, over 40% maintain only 1 or 2 Dedicated Cores and therefore pay no additional fees. The Exchange believes the proposed fees are reasonable because Dedicated Cores provide a valuable service in that it can provide reduced latency, enhanced throughput, and improved performance compared to use of a shared CPU Core since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core. The Exchange also emphasizes however, that the use of Dedicated Cores is not necessary for trading and as noted above, is entirely optional. Users can also continue to access the Exchange through shared CPU Cores at no additional cost. Indeed, less than 20% of the Exchange's Members currently use Dedicated Cores and as noted above, of those who do, over 40% take only 1 or 2 Dedicated Cores at no additional cost. Depending on a firm's specific business needs, the proposal enables Users to choose to use Dedicated Cores in lieu of, or in addition to, shared CPU Cores (or as emphasized, not use Dedicated Cores at all). If a User finds little benefit in having Dedicated Cores based on its business model and trading strategies, or determines Dedicated Cores are not cost-efficient for its needs or does not provide sufficient value to the firm, such User may continue its use of the shared CPU Cores, unchanged. The Exchange also has no plans to eliminate shared CPU Cores nor to require Users to purchase Dedicated Cores.

The Exchange believes the proposed fees are also reasonable to offset costs incurred in order to make Dedicated Cores available. For example, the Exchange incurred significant costs associated with acquiring additional cabinet space in its third-party data centers, as well as costs associated with

¹³ 15 U.S.C. 78f(b)(4).

¹⁴ Of the Users that currently maintain Dedicated Cores, approximately 35% maintain 1 or 2 Dedicated Cores and therefore pay no additional fees.

⁶ The Exchange currently assesses \$550 per port per month. See Choe BYX Equities Fee Schedule.

⁷ See Securities Exchange Act Release No. 100476 (July 9, 2024) 89 FR 57482 (July 15, 2024) (SR-ChoeBYX-2024-024).

⁸ The prescribed maximum quantity of Dedicated Cores for Members applies regardless of whether that Member purchases the Dedicated Cores directly from the Exchange and/or through a Service Bureau. In a Service Bureau relationship, a

the purchase of additional and upgraded servers hosting the Dedicated Cores.

The Exchange also believes that the proposed Dedicated Core fees are equitable and not unfairly discriminatory because they continue to be assessed uniformly to similarly situated users in that all Users who choose to purchase Dedicated Cores will be subject to the same proposed tiered fee schedule. Further all Users are entitled to up to 2 Dedicated Cores at no additional cost. The Exchange believes the proposed ascending fee structure is also reasonable, equitable and not unfairly discriminatory as it is designed so that firms that use a higher allotment of the Exchange's finite number of Dedicated Cores pay higher rates, rather than placing that burden on market participants that have more modest needs who will have the flexibility of obtaining Dedicated Cores at lower price points in the lower tiers. As such, the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the ascending fee structure reflects the (finite) resources consumed by the various needs of market participants—that is, the lowest Dedicated Core consuming Users pay the least, and highest Dedicated Core consuming Users pay the most. Other exchanges similarly assess higher fees to those that consume more Exchange resources.¹⁵ Moreover, those consuming more Dedicated Cores do so if they find a benefit and sufficient value in having higher quantities of Dedicated Cores based on their respective business needs. The proposed tier structure is also designed to encourage firms to manage their needs in a fair manner and to prevent the Exchange from being required to expend large amounts of resources in order to provide an additional number of Dedicated Cores. Moreover, as discussed above and in more detail below, the Exchange cannot currently offer an unlimited number of Dedicated Cores due in part to physical space constraints in the third-party data center. The Exchange believes the proposed ascending fee structure is therefore another appropriate means, in conjunction with an established cap, to manage this finite resource and ensure the resource is apportioned more fairly.

The Exchange believes it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including

Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange's data center to accommodate additional Dedicated Cores in the Exchange's respective Order Handler Cabinets. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores.¹⁶ The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand. Indeed, the Exchange has already increased the prescribed maximum since the launch of Dedicated Cores on May 6, 2024 as a result of evaluating the demand relative to Dedicated Cores availability.¹⁷ The proposed increased limits continue to apply uniformly to similarly situated market participants (*i.e.*, all Members are subject to the same limit and all Sponsored Participants are subject to the same limit, respectively). The Exchange believes it's not unfairly discriminatory to provide for different limits for different types of Users. For example, the Exchange believes it's not unfairly discriminatory to provide for an initial lower limit to be allocated for Sponsored Participants because unlike Members, Sponsored Participants are able to access the Exchange without paying a Membership Fee. Members also have more regulatory obligations and risk that Sponsored Participants do not. For example, while Sponsored Participants must agree to comply with the Rules of the Exchange, it is the Sponsoring Member of that Sponsored Participant that remains ultimately responsible for all orders entered on or through the Exchange by that Sponsored Participant. The industry also has a history of applying fees differently to Members as compared to Sponsored Participants.¹⁸ Lastly, the Exchange believes its proposed maximum limits,

and distinction between Members and Sponsored Users, is another appropriate means to help the Exchange manage its allotment of Dedicated Cores and better ensure this finite resource is apportioned fairly.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because the proposed tiered fee structure will apply equally to all similarly situated Users that choose to use Dedicated Cores. As discussed above, Dedicated Cores are optional and Users may choose to utilize Dedicated Cores, or not, based on their views of the additional benefits and added value provided by utilizing a Dedicated Core. The Exchange believes the proposed fee will be assessed proportionately to the potential value or benefit received by Users with a greater number of Dedicated Cores and notes that Users may determine at any time to cease using Dedicated Cores. As discussed, Users can also continue to access the Exchange through shared CPU Cores at no additional cost. Finally, all Users will be entitled to two Dedicated Cores at no additional cost.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for exchange memberships. Market Participants have numerous alternative venues that they may participate on, including 15 other equities exchanges, as well as off-exchange venues, where competitive products are available for trading. Indeed, participants can readily choose to submit their order flow to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to

¹⁶ The Exchange notes that no Users that take Dedicated Cores are at or near the maximum limits.

¹⁷ See Securities Exchange Act Release No. 100476 (July 9, 2024) 89 FR 57482 (July 15, 2024) (SR-CboeBYX-2024-024).

¹⁸ See *e.g.*, Securities Exchange Act Release No. 68342 (December 3, 2012) 77 FR 73096 (December 7, 2012) (SR-CBOE-2012-114) and Securities Exchange Act Release No. 66082 (January 3, 2012) 77 FR 1101 (January 9, 2012) (SR-C2-2011-041).

¹⁵ See also Cboe U.S. Options Fees Schedule, BZX Options, Options Logical Port Fees, Ports with Bulk Quoting Capabilities.

investors and listed companies.”¹⁹ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’. . . .”²⁰ Accordingly, the Exchange does not believe its proposed change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²¹ and paragraph (f) of Rule 19b-4²² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2024-028 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBYX-2024-028. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBYX-2024-028 and should be submitted on or before September 11, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-18699 Filed 8-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35296; File No. 812-15549]

Oaktree Strategic Credit Fund, et al.

August 15, 2024.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of application for an order (“Order”) under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to amend a previous order granted by the Commission that permits certain business development companies and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Oaktree Strategic Income, LLC, Oaktree Strategic Credit Fund, LLC, Oaktree Specialty Lending Corporation, Oaktree Gardens OLP, LLC, Oaktree Capital Management, L.P., Oaktree Fund Advisors, LLC, Oaktree Capital Management (UK) LLP, Oaktree Capital Management (Europe) LLP, Oaktree Capital Management (International) Limited, LFE European Asset Management S.à r.l., Oaktree High Yield Bond Fund, L.P., Oaktree High Yield Fund II, L.P., Oaktree Expanded High Yield Fund, L.P., Oaktree Global High Yield Bond Fund, L.P., Oaktree European High Yield Fund, L.P., Oaktree Senior Loan Fund, L.P., Oaktree Enhanced Income Fund III, L.P., Oaktree Enhanced Income Fund III (Parallel), L.P., Oaktree CLO 2014-1 Ltd., Oaktree CLO 2014-2 Ltd., Oaktree CLO 2015-1 Ltd., Oaktree CLO 2018-1 Ltd., Oaktree CLO 2019-1 Ltd., Oaktree CLO 2019-2 Ltd., Oaktree CLO 2019-3 Ltd., Oaktree CLO 2019-4 Ltd., Oaktree CLO 2020-1 Ltd., Oaktree CLO 2021-1, Ltd., Oaktree CLO 2021-2, Ltd., Oaktree CLO 2022-1, Ltd., Oaktree CLO 2022-2, Ltd., Oaktree CLO 2022-3, Ltd., Oaktree CLO 2023-1, Ltd., Oaktree CLO 2023-2, Ltd., Oaktree CLO Equity Fund I, L.P., Oaktree Strategic Credit Fund A, L.P., Oaktree Strategic Credit Fund B, L.P., Ace Strategic Credit Holdings (Cayman), L.P., Exelon Strategic Credit Holdings, LLC, Oaktree-Minn Strategic Credit, LLC, INPRS Strategic Credit Holdings, LLC, Oaktree-NGP Strategic Credit, LLC, Oaktree-TBMR Strategic Credit Fund,

¹⁹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²⁰ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f).

²³ 17 CFR 200.30-3(a)(12).

LLC, Oaktree-TBMR Strategic Credit Fund C, LLC, Oaktree-TBMR Strategic Credit Fund F, LLC, Oaktree-TBMR Strategic Credit Fund G, LLC, Oaktree-TCDRS Strategic Credit, LLC, Oaktree-TSE 16 Strategic Credit, LLC, Oaktree AZ Strategic Lending Fund, L.P., Oaktree Jalapeno Investment Fund, L.P., Oaktree PRE Life Sciences Fund, L.P., Oaktree PRE Life Sciences AIF, L.P., Oaktree Life Sciences Lending Fund, L.P., Oaktree Life Sciences Lending Fund (Parallel), L.P., Oaktree Life Sciences Lending Fund (Parallel 2), L.P., Oaktree Life Sciences Lending Fund, SCSp, Oaktree Life Sciences Lending Fund (Parallel), SCSp, Oaktree Loan Acquisition Fund, L.P., INPRS Emerging Markets Total Return Holdings, LLC, Investin Pro RED Holdings, LLC, Investin Pro RED Holdings S.à.r.l., Oaktree Gilead Investment Fund, L.P., Oaktree Gilead Investment Fund AIF (Delaware), L.P., Oaktree Direct Lending Fund, L.P., Oaktree Direct Lending Fund Unlevered, L.P., Oaktree Direct Lending Fund (Parallel), L.P., Oaktree Direct Lending Fund Unlevered (Parallel), L.P., Oaktree Debt Acquisition Fund (Parallel 2), L.P., Oaktree Direct Lending Fund, SCSp, Oaktree Alpha Credit Fund, L.P., Oaktree Mezzanine Fund IV, L.P., Oaktree Mezzanine Fund V, L.P., Oaktree Mezzanine Fund V (Parallel), SCSp, Oaktree SBIC Fund, L.P., Oaktree Middle-Market Direct Lending Fund, L.P., Oaktree Middle-Market Direct Lending Unlevered Fund, L.P., Oaktree Middle-Market Direct Lending Fund (Parallel), L.P., Oaktree Middle-Market Direct Lending Unlevered Fund (Parallel), L.P., Oaktree Middle-Market Direct Lending Fund (Parallel 2), L.P., Oaktree European Capital Solutions Fund (Parallel), L.P., Oaktree European Capital Solutions Fund, L.P., Oaktree European Capital Solutions Fund II, L.P., Oaktree European Capital Solutions Fund II, SCSp, Oaktree European Capital Solutions Fund, SCSp-RAIF, Oaktree European Capital Solutions Fund III, L.P., Oaktree European Capital Solutions Fund III, SCSp, Oaktree Mercury Investment Fund, L.P., Oaktree European Special Situations Fund, L.P., Oaktree Maritime and Transportation Fund, L.P., Oaktree Emerging Markets Debt Total Return Fund, L.P., Oaktree Boulder Investment Fund, L.P., Oaktree Epsilon Investment Fund, L.P., Oaktree Opportunities Fund X, L.P., Oaktree Opportunities Fund X (Parallel), L.P., Oaktree Opportunities Fund X (Parallel 2), L.P., Oaktree Opportunities Fund Xb, L.P., Oaktree Opportunities Fund Xb (Parallel), L.P., Oaktree Opportunities Fund Xb (Parallel 2), L.P., Oaktree

Opportunities Fund XI, L.P., Oaktree Opportunities Fund XI (Parallel), L.P., Oaktree Opportunities Fund XI (Parallel 2), SCSp, Oaktree Opportunities Fund XI (Parallel 3), L.P., Oaktree Latigo Investment Fund, L.P., Oaktree Opportunities Fund XII, L.P., Oaktree Opportunities Fund XII (Parallel), L.P., Oaktree Opportunities Fund XII (Parallel 2), SCSp, Oaktree Opportunities Fund XII (Parallel 3), L.P., Oaktree Opportunities Fund XII (Parallel 4), SCSp, Oaktree Huntington Investment Fund II, L.P., Oaktree Cascade Investment Fund I, L.P., Oaktree Cascade Investment Fund II, L.P., Oaktree Cascade Investment Fund III, L.P., Oaktree Value Opportunities Fund, L.P., Oaktree Phoenix Investment Fund, L.P., Oaktree Glacier Investment Fund, L.P., Oaktree TX Emerging Market Opportunities Fund, L.P., Oaktree Emerging Market Opportunities Fund, L.P., Oaktree Glacier Investment Fund II, L.P., Oaktree Moraine Co-Investment Fund, L.P., Oaktree Emerging Markets Opportunities Fund II, L.P., Oaktree FF Emerging Markets Opportunities Fund, L.P., Oaktree Oasis Investment Fund, L.P., Oaktree Special Situations Fund, L.P., Oaktree Special Situations Fund II, L.P., OCM Avalon Co-Investment Fund, L.P., Oaktree Avalon Co-Investment Fund II, L.P., Oaktree Star Investment Fund II, L.P., Oaktree Special Situations Fund III, L.P., Oaktree Special Situations Fund III (Parallel 2), SCSp, Oaktree European Principal Fund IV, L.P., Oaktree European Principal Fund IV, S.C.S., Oaktree Power Opportunities Fund IV, L.P., Oaktree Power Opportunities Fund IV (Parallel), L.P., Oaktree European Principal Fund V, L.P., Oaktree European Principal Fund V, SCSp, Oaktree Power Opportunities Fund V, L.P., Oaktree Power Opportunities Fund V (Parallel), L.P., Oaktree Power Opportunities Fund VI, L.P., Oaktree Power Opportunities Fund VI (Parallel 3), L.P., Oaktree Transportation Infrastructure Fund, L.P., Oaktree Transportation Infrastructure Fund (Parallel), L.P., Oaktree Transportation Infrastructure Fund (Parallel 2), L.P., Oaktree Transportation Infrastructure Fund (Parallel 3), L.P., Oaktree Transportation Infrastructure Capital Partners, L.P., Oaktree Transportation Infrastructure Capital Partners (Parallel), L.P., Oaktree Transportation Infrastructure Capital Partners (Parallel 2), L.P., Oaktree Baltimore Investment Fund, L.P., Oaktree TICP Managed Co-Investment Fund, L.P., Oaktree Ports America Capital Partners, L.P., Oaktree Real Estate Opportunities Fund VII, L.P., Oaktree Real Estate Opportunities Fund

VII (Parallel), L.P., Oaktree Real Estate Opportunities Fund VII (Parallel 2), L.P., Oaktree Real Estate Opportunities Fund VII (Parallel 3), L.P., Oaktree Real Estate Opportunities Fund VII (Parallel 4), L.P., Oaktree Real Estate Opportunities Fund VIII, L.P., Oaktree Real Estate Opportunities Fund VIII (Parallel), L.P., Oaktree Real Estate Opportunities Fund VIII (Parallel), S.C.Sp, Oaktree Real Estate Opportunities Fund VIII (Parallel) 2, L.P., Oaktree Real Estate Opportunities Fund VIII (Parallel) 3, L.P., Oaktree Real Estate Opportunities Fund VIII (Parallel) 4, L.P., Oaktree Real Estate Opportunities Fund VIII (Parallel) 5, L.P., Oaktree Real Estate Opportunities Fund VIII (Parallel) 6, L.P., Oaktree Real Estate Opportunities Fund IX, L.P., Oaktree Pinnacle Investment Fund, L.P., Oaktree Real Estate Debt Fund II, L.P., Oaktree Real Estate Debt Fund II (Parallel), L.P., Oaktree Real Estate Debt Fund III, L.P., Oaktree Real Estate Debt Fund III (Lux), S.C.Sp, Oaktree Real Estate Debt Fund III (Parallel), L.P., Oaktree Real Estate Debt Fund IV, L.P., Oaktree-TSE 16 Real Estate Debt, LLC, Oaktree (Lux.) FS S.C.SP. SICAV RAIF, Oaktree Patriot Investment Fund, L.P., Tirro Fund, L.P., Oaktree Real Estate Income Fund, L.P., Oaktree Real Estate Income Fund (Parallel), L.P., Oaktree Real Estate Income Fund (Parallel II), L.P., Oaktree Real Estate Income Fund (Parallel III), L.P., Oaktree Emerging Markets Equity Fund, L.P., Oaktree Value Equity Fund, L.P., Oaktree Private Investment Fund IV, L.P., Oaktree-Forrest Multi-Strategy, LLC, Oaktree TT Multi-Strategy Fund, L.P., Oaktree Global Credit Fund, L.P., Oaktree GC Super Fund, L.P., Oaktree Huntington-GCF Investment Fund, L.P., Oaktree Huntington-GCF Investment Fund (Direct Lending AIF), L.P., Oaktree Absolute Return Income Fund, L.P., Oaktree Global Credit Plus Fund, L.P., Oaktree Broadgate Multi-Strategy Fund, L.P., Oaktree Route 66 Multi-Strategy Fund, L.P., and Oaktree Emerging Market Debt Fund, L.P.

FILING DATES: The application was filed on February 13, 2024, and amended on May 17, 2024.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at Secretaries-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant

Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on, September 9, 2024, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Mary Gallegly, Managing Director, Oaktree Capital Management, L.P., at *mgallegly@oaktreecapital.com*; and William G. Farrar, Esq., Sullivan & Cromwell LLP, at *farrarw@sullcrom.com*.

FOR FURTHER INFORMATION CONTACT: Kieran G. Brown, Senior Counsel, or Terri Jordan, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' first amended and restated application, dated May 17, 2024, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024–18664 Filed 8–20–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100733; File No. SR–ISE–2024–34]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Withdrawal of Proposed Rule Change To Amend ISE Options 4, Section 3 To List and Trade Options on Units That Represent Interests in a Trust That Holds Ether

August 15, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b–4 thereunder,² Nasdaq ISE, LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Options 4, Section 3(h) to allow the Exchange to list and trade options on units that represent interests in a trust that holds ether (“Proposal”). The Proposal was published for comment in the **Federal Register** on August 12, 2024.³ The Commission received no comments addressing the Proposal. On August 13, 2024, the Exchange withdrew the Proposal (SR–ISE–2024–34).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024–18698 Filed 8–20–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35297; File No. 812–15548]

CMFG Variable Annuity Account, et al.

August 16, 2024.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of application for an order (“Order”) approving the substitution of certain securities pursuant to section 26(c) of the Investment Company Act of 1940 (the “Act”).

Summary of Application: Applicants request an order pursuant to Section 26(c) of the Act approving the proposed substitution of shares of the Vanguard Total International Stock Market Index Portfolio and the Vanguard High Yield Bond Portfolio for shares of,

respectively, the USF International Stock Fund and the USF High Income Fund (each a series of the Ultra Series Fund trust) held by the Separate Accounts (defined below) as investment options for certain variable life insurance and variable annuity contracts issued by CMFG Life Insurance Company.

Applicants: CMFG Life Insurance Company and CMFG Variable Annuity Account and CMFG Variable Life Insurance Account (the “Separate Accounts”).

Filing Dates: The application was filed on February 9, 2024, and amended on July 1, 2024.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on September 10, 2024, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Britney Schnathorst, *Britney.Schnathorst@trustage.com*.

FOR FURTHER INFORMATION CONTACT: Kris Easter Guidroz, Senior Counsel, or Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' amended and restated application, dated July 1, 2024, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, at <http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 100663 (Aug. 6, 2024), 89 FR 65685 (Aug. 12, 2024).

⁴ 17 CFR 200.30–3(a)(12).

the SEC's Public Reference Room at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2024-18777 Filed 8-20-24; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA-2024-1532; Summary Notice No. 2024-36]

Petition for Exemption; Summary of Petition Received; Airbus SAS

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 10, 2024.

ADDRESSES: Send comments identified by docket number FAA-2024-1532 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments,

without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kara White, 800 Independence Ave. SW, Washington, DC 20591; telephone: 202-267-3793.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Melissa S. Smith,

Director, Regulatory Support Division, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA-2024-1532.

Petitioner: Airbus SAS.

Section(s) of 14 CFR Affected:
§ 25.1438.

Description of Relief Sought: Airbus SAS seeks relief from 14 CFR 25.1438 to allow Airbus time to incorporate a pneumatic bleed monitoring system software update and certify the installation of an improved engine compressor high pressure bleed valve (HPV) to address a leaking HPV on A330-941 and A330-841 models operated in the United States.

[FR Doc. 2024-18724 Filed 8-20-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA-2024-0059]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) to approve a new information collection. We are required to publish this notice

in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by September 20, 2024.

ADDRESSES: You may submit comments identified by DOT Docket ID Number FHWA-2024-0059 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Fax: 1-202-493-2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Tashia J. Clemons, Office of Infrastructure, 202-493-0551, tashia.clemons@dot.gov, Federal Highway Administration, 1200 New Jersey Ave. SE, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We published a **Federal Register** Notice with a 60-day public comment period on this information collection on May 30, 2024, at [89 FR 46985].

FHWA received one comment, a letter from the Virginia Department of Transportation (VDOT) that addressed several subjects, which are summarized below with FHWA's responses:

Comment: FHWA's estimates of the burden hours and costs to develop the AMP and the new resilience and extreme weather analyses are too low; VDOT's estimated level of effort to develop its AMP is significantly higher than FHWA's estimate.

Response: FHWA's estimates of the level of effort and cost to develop the AMP and new resilience and extreme weather analyses are an average across all State Departments of Transportation (State DOTs) that are subject to the requirement to develop and implement an AMP. Some individual State DOTs may have higher costs to comply with this collection of information, and some State DOT costs may be lower. VDOT notes that it has the "3rd largest state-maintained transportation system in the

nation.”¹ so it stands to reason that VDOT’s estimated burden would be higher than average for all State DOTs.

Comment: VDOT already develops a State AMP that covers assets beyond what is required under 23 U.S.C. 119(e) and 23 CFR part 515, and VDOT already develops a State Resilience Plan that should fulfill the requirements for extreme weather and resilience analyses now required in a Federal AMP. Requiring a Federal AMP with these analyses is an added burden and an unfunded mandate, and VDOT should be able to meet these requirements using its existing State AMP and Resilience Plan.

Response: The requirement for a State DOT to develop and implement an AMP that now must include consideration of extreme weather and resilience is statutory, and FHWA does not have the authority to waive it for any State DOT.

Comment: The funding used for these unfunded mandates would be better served to go to pavement and structure work that will then impact the network performance.

Response: The requirement for a State DOT to develop and implement an AMP that now must include consideration of extreme weather and resilience is statutory, and FHWA does not have the authority to waive it for any State DOT.

Title: Risk-Based Asset Management Plans.

Background: Under 23 U.S.C. 119(e) and implementing regulations at 23 CFR part 515, State DOTs are required to develop Risk-Based Asset Management Plans (AMP) for the National Highway System (NHS) to improve or preserve the condition of the assets on and the performance of the NHS. Each State DOT must also annually demonstrate to FHWA that it has implemented an AMP that meets the requirements of 23 U.S.C. 119(e) and 23 CFR part 515 (23 CFR 515.13(b)(2)), and each State DOT must submit its processes for the development of its AMP to FHWA for certification and recertification every four years following the year of initial certification (23 U.S.C. 119(e)(6)). Section 11105(3) of the Bipartisan Infrastructure Law (BIL) (Pub. L. 117–58) added the requirement in 23 U.S.C. 119(e)(4)(D) that risk management and lifecycle cost analyses in AMPs discuss extreme weather and resilience.

Respondents: There are 52 State DOTs that are required to submit information to demonstrate implementation of an

AMP and to recertify their processes for developing an AMP.² Of these, 17 State DOTs already conduct extreme weather and resilience analyses, so 35 State DOTs would be required to conduct extreme weather and resilience analyses.

Frequency: Annually (to demonstrate implementation of an AMP) and every 4 years (when submitting processes for the development of an AMP for recertification).

Estimated Average Burden per Response: Per State DOT, the estimated annual burden is 884 hours for the general AMP preparation, plus an additional 1,560 burden hours per State DOT that does not already perform extreme weather and resilience analyses.

Estimated Total Annual Burden Hours: Total estimated average annual burden is 100,568 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA’s performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB’s clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: August 16, 2024.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2024–18736 Filed 8–20–24; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2024–0006]

Enhanced Driver Licensing and Vehicle Registration Data Reporting Specifications for 500-Series Program Purposes

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice; Request for comments.

SUMMARY: This notice requests comments on FHWA’s forthcoming reporting specifications for licensed driver and registered vehicle data. The reporting specifications that are the subject of this notice are enhancements to the current reporting guidance. States are required to annually submit licensed driver and registered vehicle data to FHWA in accordance with specifications outlined in the Agency’s ‘Guide to Reporting Highway Statistics,’ which serves as the guiding document issued to State agencies for 500-Series Program execution purposes. These enhancements are necessary to support new and forthcoming regulatory, program and policy objectives, as well as inform Federal-aid system investment needs, analyses, and decisionmaking. The FHWA is targeting an implementation year of 2028, when States will be required to submit their data for 2027 per the new reporting guidance.

DATES: Comments must be received on or before October 21, 2024. Late-filed comments will be considered to the extent practicable.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit comments by only one of the following means:

- *Federal eRulemaking Portal:* www.regulations.gov. This website allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590 between 9:00 a.m. and 5:00 p.m., ET, Monday through Friday, except Federal holidays.

• *Instructions:* You should identify the docket number at the beginning of your comments. Late comments will be considered to the extent practicable. Note that all comments received will be posted without change to www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Allison Weber, Office of Policy & Governmental Affairs, Allison.Weber@dot.gov, office hours are from 8:00 a.m. to 4:30 p.m., ET, Monday through Friday, except Federal holidays, or Ms. Dawn Horan, Office of the Chief Counsel, Dawn.M.Horan@dot.gov, (202) 366–9615, office hours are from 8:00

¹ VDOT, Comment Letter on FHWA Information Collection; Risk-Based Asset Management Plans (July 29, 2024) at 2, <https://www.regulations.gov/comment/FHWA-2024-0043-0002>.

² The District of Columbia and Puerto Rico are considered States for the purposes of the Federal-aid highway program. See 23 U.S.C. 101(a)(28).

a.m. to 4:30 p.m., ET, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Offices are open Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Additional information on the forthcoming changes and the related data specifications can be found on the FHWA Office of Highway Policy Information website at the following link: https://www.fhwa.dot.gov/policyinformation/data_collection_federal_register_notice.cfm.

Electronic Access

A copy of this notice, all comments received on this notice, and all background material may be viewed online at: www.regulations.gov using the docket number listed above. Electronic retrieval assistance and guidelines are also available at: www.regulations.gov. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at: www.FederalRegister.gov and the U.S. Government Publishing Office's website at: www.GovInfo.gov.

Background

The FHWA's Office of Highway Policy Information serves as the national source for highway data, providing DOT, Congress, and the transportation community with informational products in a timely manner to inform the development and implementation of decisions, policies, legislation, programs, and performance goals. Per 23 CFR 1.5 and 23 CFR 420.105(b), State departments of transportation (State DOT) must provide data that supports FHWA's responsibilities to Congress and to the public. The 500-Series Program is a series of reporting forms, designed by FHWA in consultation with the States, for State DOTs to collect data on State and local highway system funding, motor fuel distribution, licensed drivers, and registered motor vehicles. The series of reporting forms is a mechanism that State DOTs use to submit the data to FHWA and fulfill statutory obligations. The Guide to Reporting Highway Statistics serves as a reference for State DOTs to report the data required for the 500-Series Program.

The FHWA's Motor Fuel and Highway Funding Team, which manages the 500-Series Program, currently collects aggregate motor vehicle registration and licensed driver data annually from the States through FHWA-Form 561 and FHWA-Form 562.¹ The purpose is to capture a

summary of active registrations, licenses, and related information on taxation and fees. This information allows policy and decisionmakers to understand transportation fleet composition and driver population trends over time, and the related revenue yields associated with licensed driver and registered vehicle-related transactions. The FHWA utilizes this data to support Federal-aid system investment analysis and decisionmaking, and to perform roadway safety/crash and vehicle fuel economy studies. The National Highway Traffic Safety Administration and the American Association of Motor Vehicle Administrators (AAMVA) use vehicle registration data as input to determine safety grant program funding and data system user fees, respectively, to allocate to and levy against States and jurisdictions.

Discussion of Changes

Through the development and implementation of enhanced data reporting specifications, FHWA will transition to the collection of non-Personally Identifiable Information (PII), record-based, raw/unprocessed registered vehicle and licensed driver data annually from State agencies (e.g., State DOTs, Departments of Motor Vehicles (DMV)). This data collection method will help address longstanding data concerns evident in the current reported data; help obtain data at a high level of granularity needed to support various regulatory activities and research initiatives, both existing and forthcoming; facilitate States' collection of data for reporting purposes; ensure the completeness and consistency of reported data; and contribute to determinations regarding allocations of AAMVA-related program fees.

Request for Comments

Although comments may address any component of the enhanced data reporting specifications, FHWA is specifically requesting comments on the data elements to be reported by the States per the enhanced data reporting guidance. This information is published on the web page referenced under **SUPPLEMENTARY INFORMATION** section in this notice.

Shailen P. Bhatt,

Administrator, Federal Highway Administration.

[FR Doc. 2024-18640 Filed 8-20-24; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2006-25837]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated May 20, 2024, the Charlotte Area Transit System (CATS) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 219 (Control of Alcohol and Drug Use). The relevant Docket Number is FRA-2006-25837.

Specifically, CATS requests relief for its fixed guideway public transit Blue Line (LYNX BLE) operation that shares limited connections in a corridor with Norfolk Southern Railway's (NS) freight operations. CATS and NS share 3 highway-rail grade crossings (East Hebron Street, Sweden Road, and East 16th Street), but they "do not share any trackage or train control systems."

In support of its request, CATS states that it "has already adopted and enforces a comprehensive set of drug and alcohol policies compliant with the Federal Transit Administration's (FTA) . . . requirements for covered employees that apply to the entirety of the CATS light rail service."¹ Further, CATS states that the relief will "preserve consistency throughout the CATS System with regard to its already-existing drug and alcohol policies." Without the requested relief, CATS would be required to comply with Part 219 only at the 3 named highway-rail grade crossings. CATS asserts that "preserving the system-wide applicability of the rules rather than having a set of different regulations applicable at these three (3) locations, would avoid confusion, promote consistency and, thus, enhance safety."

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire

¹ See Petition at 8, "CATS employees are fully subject to, and CATS complies with FTA's Part 655 Requirements."

¹ <https://www.fhwa.dot.gov/eforms/mv-dl.htm>.

an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at www.regulations.gov. Follow the online instructions for submitting comments.

Communications received by October 21, 2024 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of the Department of Transportation's (DOT) dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.transportation.gov/privacy. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2024-18717 Filed 8-20-24; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2002-12409]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated July 17, 2024, Port Authority Trans-Hudson Corporation (PATH) petitioned the Federal Railroad Administration (FRA) to extend the existing waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 238 (Passenger Equipment Safety Standards). The relevant Docket Number is FRA-2002-12409.

Specifically, PATH requests continued relief from § 238.305(c)(10) and (d), *Interior calendar day*

mechanical inspection of passenger cars, and § 238.317(a)(1), *Class II brake test*, for its fleet of passenger vehicles. PATH seeks an extension of its waiver from the requirement that a car must be removed from service on the day following its calendar day interior mechanical inspection and seeks permission for a car to remain in service up to eight calendar days following notification, so the car can be brought to the PATH running repair or main repair facility. In support of this request, PATH states that “due to the confined geography of the system and limited track storage areas, cutting cars from consists . . . cannot be done during the workday without having significant adverse effect upon passenger service.”

Further, PATH requests continued relief from the requirement to perform a Class II brake test during specific periods of time at terminal locations. PATH explains that terminal dwell times are less than five minutes and “the [c]onductor does not have adequate time to remain at the rear of the train while the [e]ngineer changes operating position to perform the [b]rake [t]est, and then walk forward to the conductor operating position between the first and second car.” In support of its request, PATH states that “the typical train will undergo a Class II test approximately ten times every day.”

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at www.regulations.gov. Follow the online instructions for submitting comments.

Communications received by October 21, 2024 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of the U.S. Department of Transportation's (DOT) dockets by the name of the individual submitting the comment (or signing the

document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2024-18718 Filed 8-20-24; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; American Honda Motor Co., Inc.

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the American Honda Motor Co., Inc.'s (Honda) petition for exemption from the Federal Motor Vehicle Theft Prevention Standard (theft prevention standard) for its Acura (confidential) vehicle line beginning in model year (MY) 2025. The petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard. Honda also requested confidential treatment for specific information in its petition. Therefore, no confidential information provided for purposes of this notice has been disclosed.

DATES: The exemption granted by this notice is effective beginning with the 2025 model year.

FOR FURTHER INFORMATION CONTACT:

Carlita Ballard, Office of International Policy, Fuel Economy, and Consumer Programs, NHTSA, West Building, W43-439, NRM-310, 1200 New Jersey Avenue SE, Washington, DC 20590. Ms. Ballard's phone number is (202) 366-5222. Her fax number is (202) 493-2990.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. chapter 331, the Secretary of Transportation (and the National Highway Traffic Safety Administration (NHTSA) by delegation) is required to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. NHTSA promulgated regulations at 49 CFR part 541 (theft prevention standard) to require parts-marking for specified passenger motor vehicles and light trucks. Pursuant to 49 U.S.C. 33106, manufacturers that are subject to the parts-marking requirements may petition the Secretary of Transportation for an exemption for a line of passenger motor vehicles equipped with an antitheft device as standard equipment that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. In accordance with this statute, NHTSA promulgated 49 CFR part 543, which establishes the process through which manufacturers may seek an exemption from the theft prevention standard.

49 CFR 543.5 provides general submission requirements for petitions and states that each manufacturer may petition NHTSA for an exemption of one vehicle line per model year. Among other requirements, manufacturers must identify whether the exemption is sought under section 543.6 or section 543.7. Under section 543.6, a manufacturer may request an exemption by providing specific information about the antitheft device, its capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements. Section 543.7 permits a manufacturer to request an exemption under a more streamlined process if the vehicle line is equipped with an antitheft device (an “immobilizer”) as standard equipment that complies with one of the standards specified in that section.¹

¹ 49 CFR 543.7 specifies that the manufacturer must include a statement that their entire vehicle line is equipped with an immobilizer that meets one of the following standards:

(1) The performance criteria (subsections 8 through 21) of C.R.C. c. 1038.114, Theft Protection and Rollaway Prevention (in effect March 30, 2011), as excerpted in appendix A of [part 543];

(2) National Standard of Canada CAN/ULC-S338-98, Automobile Theft Deterrent Equipment and Systems: Electronic Immobilization (May 1998);

(3) United Nations Economic Commission for Europe (UN/ECE) Regulation No. 97 (ECE R97), Uniform Provisions Concerning Approval of Vehicle Alarm System (VAS) and Motor Vehicles with Regard to Their Alarm System (AS) in effect August 8, 2007; or

Section 543.8 establishes requirements for processing petitions for exemption from the theft prevention standard. As stated in section 543.8(a), NHTSA processes any complete exemption petition. If NHTSA receives an incomplete petition, NHTSA will notify the petitioner of the deficiencies. Once NHTSA receives a complete petition the agency will process it and, in accordance with section 543.8(b), will grant the petition if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541.

Section 543.8(c) requires NHTSA to issue its decision either to grant or to deny an exemption petition not later than 120 days after the date on which a complete petition is filed. If NHTSA does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.² Exemptions granted under part 543 apply only to the vehicle line or lines that are subject to the grant and that are equipped with the antitheft device on which the line’s exemption was based, and are effective for the model year beginning after the model year in which NHTSA issues the notice of exemption, unless the notice of exemption specifies a later year.

Sections 543.8(f) and (g) apply to the manner in which NHTSA’s decisions on petitions are to be made known. Under section 543.8(f), if the petition is sought under section 543.6, NHTSA publishes a notice of its decision to grant or deny the exemption petition in the **Federal Register** and notifies the petitioner in writing. Under section 543.8(g), if the petition is sought under section 543.7, NHTSA notifies the petitioner in writing of the agency’s decision to grant or deny the exemption petition.

This grant of petition for exemption considers American Honda Motor Co., Inc.’s (Honda) petition for its Acura (confidential) vehicle line beginning in MY 2025.

I. Specific Petition Content Requirements Under 49 CFR 543.6

Pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention*, Honda petitioned for an exemption for its specified vehicle line

from the parts-marking requirements of the theft prevention standard, beginning in MY 2025. Honda petitioned under 49 CFR 543.6, *Petition: Specific content requirements*, which, as described above, requires manufacturers to provide specific information about the antitheft device installed as standard equipment on all vehicles in the line for which an exemption is sought, the antitheft device’s capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements.

More specifically, section 543.6(a)(1) requires petitions to include a statement that an antitheft device will be installed as standard equipment on all vehicles in the line for which the exemption is sought. Under section 543.6(a)(2), each petition must list each component in the antitheft system, and include a diagram showing the location of each of those components within the vehicle. As required by section 543.6(a)(3), each petition must include an explanation of the means and process by which the device is activated and functions, including any aspect of the device designed to: (1) facilitate or encourage its activation by motorists; (2) attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; (3) prevent defeating or circumventing the device by an unauthorized person attempting to enter a vehicle by means other than a key; (4) prevent the operation of a vehicle which an unauthorized person has entered using means other than a key; and (5) ensure the reliability and durability of the device.³

In addition to providing information about the antitheft device and its functionality, petitioners must also submit the reasons for their belief that the antitheft device will be effective in reducing and deterring motor vehicle theft, including any theft data and other data that are available to the petitioner and form a basis for that belief,⁴ and the reasons for their belief that the agency should determine that the antitheft device is likely to be as effective as compliance with the parts-marking requirements of part 541 in reducing and deterring motor vehicle theft. In support of this belief, the petitioners should include any statistical data that are available to the petitioner and form the basis for the petitioner’s belief that a line of passenger motor vehicles equipped with the antitheft device is likely to have a theft rate equal to or less

(4) UN/ECE Regulation No. 116 (ECE R116), Uniform Technical Prescriptions Concerning the Protection of Motor Vehicles Against Unauthorized Use in effect on February 10, 2009.

² 49 U.S.C. 33106(d).

³ 49 CFR 543.6(a)(3).

⁴ 49 CFR 543.6(a)(4).

than that of passenger motor vehicles of the same, or a similar line which have parts marked in compliance with part 541.⁵

The following sections describe Honda's petition information provided pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention*. To the extent that specific information in Honda's petition is subject to a properly filed confidentiality request, that information was not disclosed as part of this notice.⁶

II. Honda's Petition for Exemption

In a petition dated March 19, 2024, Honda requested an exemption from the parts-marking requirements of the theft prevention standard for the Acura (confidential) vehicle line beginning with MY 2025.

In its petition, Honda provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Acura (confidential) vehicle line. Honda stated that its MY 2025 Acura (confidential) vehicle line will be installed with an ignition immobilizer device as standard equipment, as required by 543.6(a)(1). Honda stated that it will offer a "smart entry remote" (keyless key) system on its vehicle line. Honda also stated that the Acura (confidential) vehicle line will offer two types of remotes, one with remote engine start and one without remote start. Key components of the antitheft system will include a passive immobilizer, "smart entry" remote, powertrain control module (PCM), and body control module (BCM). Honda further stated that its vehicle line will be installed with a vehicle security alarm system as standard equipment which will activate a visible and audible alarm whenever unauthorized access is attempted.

Pursuant to Section 543.6(a)(3), Honda explained that its "smart entry and start" system is part of the normal operation of the ignition key and activates automatically when the ignition switch is in the "OFF" position. Honda further explained that if a smart entry remote without a matching code is within operating range and the engine start/stop button is pressed, the PCM will prevent fueling of the engine and the engine will be inoperable. Honda also stated that the immobilizer system is deactivated when a valid smart entry remote and matching codes are verified, allowing the engine to continue normal operations. Honda further stated that the security indicator flashes continuously

when the immobilizer is activated, and turns off when it is deactivated.

Honda stated that the audible and visible vehicle security alarm system installed on its Acura (confidential) vehicles will monitor any attempts of unauthorized entry and attract attention to an unauthorized person attempting to enter its vehicles without the use of a "smart entry" remote or its built-in mechanical door key. Specifically, Honda stated that whenever an attempt is made to open one of its vehicle doors, hood or trunk without using the "smart entry" remote or turning a key in the key cylinder to disarm the vehicle, the vehicle's horn will sound and its lights will flash. Honda stated that its vehicle security system is activated when all of the doors are locked and the hood and trunk are closed and locked. Honda further stated that its vehicle security system is deactivated by using the key fob buttons to unlock the vehicle doors or having the "smart entry" remote within operating range when the operator grabs either of the vehicle's front door handles.

Honda also stated that in addition to the standard security system on all 2025 MY Acura (confidential) models, additional security features include counterfeit resistant vehicle identification number (VIN) plates, secondary VINs, a hood release located inside the vehicle, and its smart entry remote will utilize rolling codes for the lock and unlock functions of its vehicles.

As required in section 543.6(a)(3)(v), Honda provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Honda provided a list of requirements for the characteristics and durability testing along with its results. Honda stated that its device does not require the presence of a "smart entry" remote battery to function nor does it have any moving parts (*i.e.*, the PCM, BCM, "smart entry" remote and the corresponding electrical components found within its own housing units), which it believes reduces the chance for deterioration and wear from normal use.

Honda believes that installation of the antitheft immobilizer device as standard equipment reduces the vehicle theft rate by making conventional methods of theft obsolete, *i.e.*, punching out the steering column or hot-wiring the ignition. Additionally, Honda stated that because its confidential vehicle is a new model to the Acura brand, there is no existing data supporting the effectiveness of the immobilizer system for this specific new model. Honda also stated that the immobilizer installed on

its confidential line is installed in its 2003–2014 MY Acura RDX vehicles. Honda believes the system's effectiveness in the new Acura model will perform similarly in reducing and deterring theft as the system did for the 2003–2014 MY RDX. Honda referenced the Highway Loss Data Institute's (HLDI) information for certain applicable years for the Acura RDX's theft rate data to support this argument. In accordance with 49 CFR 543.6(a)(5), Honda stated that the Acura RDX and Acura (confidential) vehicle lines are similar in such that they both occupy the entry level luxury passenger vehicle market and are equipped in comparable configurations. In addition, Honda stated that the immobilizer system in the MY 2025 Acura (confidential) is similar in design and function to the immobilizer system installed in the Acura RDX. Honda further stated that data for the Acura RDX shows a low theft rate and has performed consistently over various years. Honda stated that the immobilizer on its proposed vehicle will be no less effective than similar designed immobilizer systems applied to the MY 2014 Civic, 2015 Accord, 2016 CR–V, 2017 Pilot, 2018 MDX, 2019 Passport, 2020 TLX, 2021 HR–V, 2022 RDX and the 2023 Integra, all of which have been granted exemptions by the agency.

III. Decision To Grant the Petition

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.8(b), the agency grants a petition for exemption from the parts-marking requirements of part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Honda has provided adequate support for its belief that the antitheft device for its vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard. This conclusion is based on the information Honda provided about its antitheft device. NHTSA believes, based on Honda's supporting evidence, the antitheft device described for its vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard.

The agency concludes that Honda's antitheft device will provide the five types of performance features listed in section 543.6(a)(3): promoting

⁵ 49 CFR 543.6(a)(5).

⁶ 49 CFR 512.20(a).

activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the theft prevention standard for a given model year. 49 CFR 543.8(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the theft prevention standard.

If Honda decides not to use the exemption for its requested vehicle line, the manufacturer must formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Honda wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.8(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, section 543.10(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in the exemption."

The agency wishes to minimize the administrative burden that section 543.10(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if Honda contemplates making any changes, the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

For the foregoing reasons, the agency hereby grants in full Honda's petition for exemption for the Acura

(confidential) vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with its MY 2025 vehicles.

Issued under authority delegated in 49 CFR 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2024–18713 Filed 8–20–24; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Release of Non-Public Information

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, "Release of Non-Public Information."

DATES: Comments must be received by October 21, 2024.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* prainfo@occ.treas.gov.
- *Mail:* Chief Counsel's Office,

Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0200, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

- *Fax:* (571) 293–4835.

Instructions: You must include "OCC" as the agency name and "1557–0200" in your comment. In general, the OCC will publish comments on www.reginfo.gov without change, including any business or personal information provided, such as name and address information, email addresses, or

phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to www.reginfo.gov. Hover over the "Information Collection Review" tab and click on "Information Collection Review" from the drop-down menu. From the "Currently under Review" drop-down menu, select "Department of Treasury" and then click "submit." This information collection can be located by searching by OMB control number "1557–0200" or "Release of Non-Public Information." Upon finding the appropriate information collection, click on the related "ICR Reference Number." On the next screen, select "View Supporting Statement and Other Documents" and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating www.reginfo.gov, please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include 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 title 44 generally requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of

information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal/revision of this collection.

Title: Release of Non-Public Information.

OMB Control No.: 1557–0200.

Type of Review: Regular.

Affected Public: Businesses or other for-profit; individuals.

Description: The information collection requirements require individuals who are requesting non-public OCC information to provide the OCC with information regarding the legal grounds for the request. The release of non-public OCC information to a requester without sufficient legal grounds to obtain the information would inhibit open consultation between a bank and the OCC thereby impairing the OCC's supervisory and regulatory mission. The OCC is entitled, under statute and case law, to require requesters to demonstrate that they have sufficient legal grounds for the OCC to release non-public OCC information. The OCC needs to identify the requester's legal grounds to determine if it should release the requested non-public OCC information.

The information requirements in 12 CFR part 4, subpart C, are as follows:

- 12 CFR 4.33: Request for non-public OCC records or testimony;
- 12 CFR 4.35(b)(3): Third parties requesting testimony;
- 12 CFR 4.37(a)(2): OCC former employee notifying the OCC of subpoena;
- 12 CFR 4.37(a) and (b): Prohibition on dissemination of released information;
- 12 CFR 4.38(a) and (b): Restrictions on dissemination of released information; and
- 12 CFR 4.39(d): Request for authenticated records or certificate of nonexistence of records.

The OCC uses the information to process requests for non-public OCC information and to determine if

sufficient grounds exist for the OCC to release the requested information or provide testimony that would include a discussion of non-public information. This information collection facilitates the processing of requests and expedites the OCC's release of non-public information and testimony to the requester, as appropriate.

Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 2.

Estimated Total Annual Burden: 6 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC'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 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.

Patrick T. Tierney,

Assistant Director, Office of the Comptroller of the Currency.

[FR Doc. 2024–18666 Filed 8–20–24; 8:45 am]

BILLING CODE 4810–33–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 individual, seven entities, and seven vessels 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 and vessels are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Bradley Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for 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 Action(s)

On August 15, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons and vessels are blocked under the relevant sanctions authority listed below.

BILLING CODE 4810–AL–P

Individual

1. KHOT, Arif Ibrahim, Mumbai, India; DOB 21 Aug 1970; POB Mumbai, India; nationality India; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport Z6684898 (India) expires 10 Mar 2032 (individual) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism," 66 FR 49079 (E.O. 13224), as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041 (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Entities

1. ARAFAT SHIPPING COMPANY (a.k.a. ARAFAT SHIPPING CO), Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 19 Jan 2024; Identification Number IMO 6474740; Registration Number 12831 (Marshall Islands) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. ONX TRADING FZE, P6-ELOB Office No. E-12F-16 Hamriyah Free Zone, Sharjah, United Arab Emirates; Hamriyah Free Zone Phase-1, Sharjah, United Arab Emirates; Dubai, United Arab Emirates; Website www.onxtrading.com; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 18 Sep 2023; License 31337 (United Arab Emirates); Economic Register Number (CBLS) 12175035 (United Arab Emirates) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad)

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. DP SHIPPING LIMITED, Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 12 Aug 2022; Identification Number IMO 6341738; Registration Number 115748 (Marshall Islands) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

4. KDS SHIPPING LIMITED, Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 27 Jun 2023; Identification Number IMO 6420851; Registration Number 120646 (Marshall Islands) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

5. K F D GENERAL TRADING L.L.C (Arabic: كي اف دي للتجارة العامة ش.ذ.م.م.), Al Zarooni Building, Office #219, Naif, Deira, Dubai, United Arab Emirates; Website <https://www.kfdgeneraltrading.com>; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 04 May 2023; License 1182400 (United Arab Emirates); Economic Register Number (CBLS) 12056923 (United Arab Emirates) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

6. TRANSMARINE NAVIGATION M SDN. BHD., No. 43A, Jalan Gaya 27, Taman Gaya, Ulu Tiram, Johor Bahru, Johor 81800, Malaysia; Wisma B, Unit 2.10, 2nd Floor, Pelabuhan, Tanjung Pelepas Geland Patah, Johor Bahru, Johor 81560, Malaysia; Website mytransmarine.com; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 14 Sep 2011; Trade License No. 960156-A (Malaysia); alt. Trade License No. 201101032021 (Malaysia) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAD MUHAMMAD AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

7. KAI HENG LONG GLOBAL ENERGY LIMITED (Chinese Traditional: 開興隆環球能源有限公司) (a.k.a. KAI HENG LONG GLOBAL ENERGY), Room 1901, 19th Floor, Lee Garden One, 33 Hysan Avenue, Hong Kong, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 22 Aug 2013; Identification Number IMO 6165181; Business Registration Number 61926180 (Hong Kong) [SDGT] (Linked To: TALAQI GROUP).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, TALAQI GROUP, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Vessels

1. RAHA GAS (T8A4761) LPG Tanker Palau flag; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 8818219; MMSI 511101405 (vessel) [SDGT] (Linked To: ARAFAT SHIPPING COMPANY).

Identified as property in which ARAFAT SHIPPING COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

2. DIVINE POWER (T8A4414) Chemical/Products Tanker Palau flag; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9171357; MMSI 511101150 (vessel) [SDGT] (Linked To: DP SHIPPING LIMITED).

Identified as property in which DP SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

3. LPG OM (T8A4415) LPG Tanker Palau flag; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Vessel Registration Identification IMO 9160475; MMSI 511101151 (vessel) [SDGT] (Linked To: KDS SHIPPING LIMITED).

Identified as property in which KDS SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

4. FENGSHUN (a.k.a. VENUS 7) (H9ZK) LPG Tanker Eswatini flag; Vessel Registration Identification IMO 9007386; MMSI 374350000 (vessel) [SDGT] (Linked To: KAI HENG LONG GLOBAL ENERGY LIMITED).

Identified as property in which KAI HENG LONG GLOBAL ENERGY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

5. LADY LIBERTY (3FTM2) LPG Tanker Sao Tome and Principe flag; Vessel Registration Identification IMO 9005065; MMSI 668116262 (vessel) [SDGT] (Linked To: KAI HENG LONG GLOBAL ENERGY LIMITED).

Identified as property in which KAI HENG LONG GLOBAL ENERGY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

6. PARVATI (3E3842) LPG Tanker Panama flag; Vessel Registration Identification IMO 8519966; MMSI 352002268 (vessel) [SDGT] (Linked To: KAI HENG LONG GLOBAL ENERGY LIMITED).

Identified as property in which KAI HENG LONG GLOBAL ENERGY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

7. VICTORIA (S9Z6) LPG Tanker Sao Tome and Principe flag; Vessel Registration Identification IMO 9113379; MMSI 668116259 (vessel) [SDGT] (Linked To: KAI HENG LONG GLOBAL ENERGY LIMITED).

Identified as property in which KAI HENG LONG GLOBAL ENERGY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

On August 15, 2024, OFAC updated the entry on the SDN List for the following vessel, which continues to be

blocked under the relevant sanctions authorities listed below.

1. ARTURA (3E3496) Crude Oil Tanker Panama flag; Vessel Registration Identification IMO 9150365; MMSI 352002279 (vessel) [SDGT] (Linked To: CAP TEES SHIPPING CO., LIMITED).

-to-

OHAR (a.k.a. ARTURA) (8RCL2) Crude Oil Tanker Guyana flag; Vessel Registration Identification IMO 9150365; MMSI 750177000 (vessel) [SDGT] (Linked To: CAP TEES SHIPPING CO., LIMITED).

Identified as property in which CAP TEES SHIPPING CO., LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

Dated: August 15, 2024.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2024-18706 Filed 8-20-24; 8:45 am]

BILLING CODE 4810-AL-C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request on Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information collection requirements related to distributions from pensions, annuities, retirement or profit-sharing plans, IRAs, insurance contracts, etc.

DATES: Written comments should be received on or before October 21, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB control number 1545-0119 or Distributions From Pensions, Annuities, Retirement or Profit-sharing Plans, IRAs, Insurance Contracts, etc., in the subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317-5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at Kerry.L.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Distributions From Pensions, Annuities, Retirement or Profit-sharing Plans, IRAs, Insurance Contracts, etc.

OMB Number: 1545-0119.

Form Number: 1099-R.

Abstract: Form 1099-R is used to report distributions from pensions, annuities, profit-sharing or retirement plans, IRAs, and the surrender of insurance contracts. This information is

used by the IRS to verify that income has been properly reported by the recipient.

Current Actions: There is no change to the form, however the agency has updated the estimated number of responses based on the most recent filing data. The agency estimates 9,729,300 more responses, increasing overall burden by 4,280,892 hours.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, not for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 8,000.

Estimated Number of Responses: 115,703,400.

Estimated Time per Response: 26 minutes.

Estimated Total Annual Burden Hours: 50,909,496 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 16, 2024.

Kerry L. Dennis

Tax Analyst.

[FR Doc. 2024-18759 Filed 8-20-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0797]

Agency Information Collection Activity under OMB Review: GI Bill® School Feedback Tool

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. 2900-0797."

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, 202-461-8900, vacopaperworkreductact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: GI Bill® School Feedback Tool, No Form.

OMB Control Number: 2900-0797, <https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: Executive Order 13607, Establishing Principles of Excellence, which is now identified as the GI Bill School Feedback Tool is used for Educational Institutions serving service members, Veterans, spouses, and other family members, requires the establishment of a centralized complaint system for students receiving federal military and Veteran educational benefits. The purpose of the complaint system is to provide a standardized method to submit a complaint against an educational institution alleging fraudulent and unduly aggressive recruiting techniques, misrepresentation, payment of incentive compensation, failure to meet state authorization requirements, or failure to

adhere to the Principles of Excellence as outlined in the Executive Order. The VA's Principles of Excellence GI Bill® School Feedback Tool leverages the Salesforce platform to collect and manage complaints. The complainants access the complaint system through the GI Bill website and eBenefits portal. Veterans, family members, or other members of the public are able to open links at the VA website location and enter the requested information. Complainants are offered the opportunity to review the information in their complaint prior to clicking on the submit button. Once a complaint is submitted, the complainant receives an email verifying that the complaint was received.

At this point, the complaint is stored in the complaint system and is available to select VA employees for review. VA reviews the complaint, and on behalf of the complainant, shares the complaint with the institution which is subject of the complaint. VA requests the institution to formally respond to the complaint within 90 days. If an institution fails to respond within 90 days, VA will contact the institution and request a status update.

Once VA receives a response from the institution, VA will forward the response to the complainant. At this point, VA will close the case. Valid complaints received are transmitted to the central repository at FTC Consumer Sentinel. The information in the central repository is the same information provided by the complainant. Authorized law enforcement officials who have been granted access to the FTC Consumer Sentinel database have access to view all complaints. The respondent submits a complaint about an educational institution online through either the GI Bill website or the eBenefit portal. The information gathered can only be obtained from the individual respondents. Valid complaints will be accepted from third parties. The Feedback Tool process for VA's complaint system data elements include:

Institution/Employer: There are over 36,000 educational institutions that are approved for VA education benefits.

Anonymous Complaints: The Feedback Tool Complaint System allows for a user to file anonymous

complaints. Based on working group discussions with CFPB and FTC, VA believes that allowing anonymous complaints will garner more ground truth on what is happening with Veterans using their education benefits at different schools.

Required fields: As a result of allowing anonymous complaints, many of the fields will not be required by VA.

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 51392, June 17, 2024.

Affected Public: Individuals and Households.

Estimated Annual Burden: 305 hours.

Estimated Average Burden Time per Respondent: 15 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 1,222.

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. 2024-18723 Filed 8-20-24; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0379]

Agency Information Collection Activity Under OMB Review: Time Record (Work-Study Program)

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. 2900-0379."

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, 202-461-8900, vacopaperworkreduct@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Time Record (Work Study Program), VA Form 22-8690.

OMB Control Number: 2900-0379, <https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: The VA uses the information collected on VA Form 22-8690 to ensure that the amount of benefits payable to the student who is pursuing Work Study is correct. Without this information, VA would not have a basis upon which to make the Work Study payment.

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 48965, June 10, 2024.

Affected Public: Individuals and Households.

Estimated Annual Burden: 6,022 hours.

Estimated Average Burden Time per Respondent: 5 minutes.

Frequency of Response: Occasionally.

Estimated Number of Respondents: 72,271.

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. 2024-18693 Filed 8-20-24; 8:45 am]

BILLING CODE 8320-01-P



FEDERAL REGISTER

Vol. 89

Wednesday,

No. 162

August 21, 2024

Part II

Department of Health and Human Services

45 CFR Parts 1301, 1302, 1303, et al.

Supporting the Head Start Workforce and Consistent Quality Programming;
Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES**45 CFR Parts 1301, 1302, 1303, 1304, and 1305**

RIN 0970–AD01

Supporting the Head Start Workforce and Consistent Quality Programming

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule makes regulatory changes to the Head Start Program Performance Standards (HSPPS) to support and stabilize the Head Start workforce and improve the quality of services Head Start programs provide to children and families. These changes include requirements for wages and benefits, breaks for staff, and enhanced support for staff health and wellness. The changes also include enhancements to mental health services to better integrate mental health into every aspect of program service delivery. Enhancements are also included in the areas of family service worker family assignments, identifying and meeting community needs, ensuring child safety, services for pregnant women and other pregnant people, and alignment with State early childhood systems. Finally, the changes include minor clarifications to promote better transparency and clarity of understanding for grant recipients.

DATES:

Effective date: August 21, 2024.

Compliance date: The compliance date for many of the requirements in this final rule is October 21, 2024, or 60 days after this final rule is published in the **Federal Register**. However, there is a subset of requirements where we expect programs may need more time to implement the regulatory changes. In these cases, we specify an alternate timeline for compliance. See further discussion of these dates in the section entitled *Effective and Compliance Dates*.

FOR FURTHER INFORMATION CONTACT: Jessica Bialecki, Office of Head Start, 202–240–3901 or Jessica.Bialecki@acf.hhs.gov.

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I. Statutory Authority

This final rule is being issued under the authority granted to the Secretary of Health and Human Services by sections 640(a)(5)(A)(i) and (B)(viii), 641A, 644(c), 645, 645A, 648A, and 653 of the Head Start Act (the Act) (42 U.S.C. 9835,

9836a, 9839(c), 9840, 9840a, 9843a, and 9848), as amended by the Improving Head Start for School Readiness Act of 2007 (Pub. L. 110–134). Under these sections, the Secretary is required to establish performance standards and other regulations for Head Start and Early Head Start programs. Specifically, the Act requires the Secretary to “. . . modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs . . .”¹ and explicitly directs the Secretary to prescribe eligibility standards, establish staff qualification goals, and assure the comparability of wages. This rule meets the statutory requirements Congress put forth in its 2007 bipartisan reauthorization of the Head Start Act and addresses Congress's mandate that called for the Secretary to review and revise the performance standards. The Secretary has determined that the modifications to performance standards contained in this final rule are appropriate and needed to effectuate the goals of the performance standards and the purposes of the Act. The requirements outlined in this final rule shall not be construed to supersede or preempt the requirement for Head Start agencies to comply with other laws, including title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act, as amended, the Genetic Information Nondiscrimination Act of 2008, the Pregnant Workers Fairness Act of 2022, the Fair Labor Standards Act, and any other applicable Federal, state, or local labor standards laws when implementing workforce performance standards.

II. Background

The Federal Head Start program provides early education and other comprehensive services to well over half a million children prenatal to age five in center- and home-based settings across the country. Since its inception in 1965, Head Start has been a leader in providing high-quality services that support the development of children from low-income families, helping them enter kindergarten more prepared to succeed in school and in life. Evidence continues to support the positive outcomes for children and families who participate in and graduate from Head Start programs.² The most essential

¹ See section 641A(a)(1) and (2) of the Act.

² Deming, D. (2009). Early Childhood Intervention and Life-Cycle Skill Development: Evidence from Head Start. *American Economic Journal: Applied Economics*, 1:3, 111–134.; Lipscomb, S.T., Pratt, M.E., Schmitt, S.A., Pears, K.C., and Kim, H.K. (2013). School readiness is

component to accomplishing Head Start's mission of providing high-quality early childhood education and comprehensive services is the workforce of approximately 248,000 staff³ who provide the services to children and families each day.

Early educators provide a critical foundation for children to learn and develop⁴ and positively impact children's outcomes.⁵ Strong, stable relationships between young children and educators are the key to promoting early development. If programs cannot retain high-quality staff, these relationships are disrupted and outcomes for children and families are negatively impacted.⁶ Currently, Head Start programs across the nation are experiencing a severe staff shortage with turnover at its highest point in two decades.⁷ This severely impacts the ability of programs to fully enroll classrooms and provide consistent high-quality services to children and families. Low wages and poor benefits—despite increased expectations and requirements for staff—are a key driver of rapidly increasing staff turnover among Head Start teachers and staff. Research indicates that well-compensated early childhood teachers and staff have lower turnover rates and provide higher quality services.⁸

children living in non-parental care: Impacts of Head Start. *Journal of Applied Developmental Psychology*, 31 (1), 28–37.

³ Source: Head Start 2022 Program Information Report (PIR).

⁴ Burchinal, M., Zaslow, M., & Tarullo, L. (eds.) (2016). Quality thresholds, features, and dosage in early care and education: Secondary data analyses of child outcomes. *Monographs of the Society for Research in Child Development*, 81(2).

⁵ Choi, Y., Horm, D., Jeon, S. & Ryu, D. (2019). Do Stability of Care and Teacher-Child Interaction Quality Predict Child Outcomes in Early Head Start? *Early Education and Development*, 30(3), 337–356.

⁶ Hamre, B., Hatfield, B., Pianta, R., Jamil, F. (2013). *Evidence for General and Domain-Specific Elements of Teacher-Child Interactions: Associations with Preschool Children's Development*. *Child Development*, 85(3); Grunewald, R., Nunn, R., Palmer, V. (2022). *Examining teacher turnover in early care and education*. Federal Reserve Bank of Minneapolis.

⁷ Source: Head Start 2022 PIR.

⁸ Bassok, D., Dornomal, J., Michie, M., & Wong, V. (2021). *The Effects of Financial Incentives on Teacher Turnover in Early Childhood Settings: Experimental Evidence from Virginia*. EdPolicyWorks at the University of Virginia.; Whitebook, M., Howes, C., & Phillips, D. (2014). *Worthy Work, STILL Unlivable Wages: The Early Childhood Workforce 25 Years after the National Child Care Staffing Study*. Center for the Study of Child Care Employment. <https://csce.berkeley.edu/publications/report/worthy-work-still-unlivable-wages/>; Whitebook, M., Sakai, L., Gerber, E., & Howes, C. (2001). *Then & Now: Changes in Child Care Staffing, 1994–2000*. Washington, DC: Center for the Child Care Workforce and Institute of Industrial Relations, University of California, Berkeley. <https://csce.berkeley.edu/publications/>

Conversely, a higher rate of turnover among early care and education (ECE) staff is associated with lower quality services and care, as well as poorer developmental outcomes for children.⁹ For instance, research has demonstrated that turnover among early care and education professionals is linked to worse cognitive and social developmental outcomes for children birth to age 5.¹⁰ For decades, the Head Start program has been subsidized by low paid workers committed to the mission; now is the time to enact clear Federal requirements for staff compensation.

Through the *Improving Head Start for School Readiness Act of 2007* (the 2007 Reauthorization), which amended the Head Start Act (the Act), Congress required the Department of Health and Human Services (HHS) to ensure children and families receive the highest quality Head Start services possible. In line with this, Congress instituted a number of changes to increase qualifications and other requirements for Head Start staff, particularly education staff, and mandated HHS to revise the Head Start Program Performance Standards (HSPPS). The HSPPS, first published in the 1970s, are the foundation on which programs design and deliver high-quality, comprehensive services to children and their families. The HSPPS set forth the requirements local grant recipients must meet to support the cognitive, social, emotional, and healthy development of children enrolled in the program. They include requirements to provide education, health, mental health, nutrition, and family and community engagement services, as well as requirements for local program governance and Federal administration of the program. In response to requirements in the 2007 Reauthorization, HHS conducted a major revision of the performance standards through a final rule published in 2016. The 2016 overhaul of the HSPPS updated and enhanced program standards to reflect the latest science on child development, while also streamlining requirements where possible, to promote stronger transparency and support programs to

report/then-and-now-changes-in-child-care-staffing-1994-2000/.

⁹ Hale-Jinks, C., Knopf, H., & Kemple, K. (2006). Tackling teacher turnover in childcare: Understanding causes and consequences, identifying solutions. *Childhood Education*, 82, 219–226.

¹⁰ Hale-Jinks, Knopf, & Kemple (2006). Tackling teacher turnover in childcare: Understanding causes and consequences, identifying solutions. *Childhood Education*, 82, 219–226.

deliver more efficient and effective services.

Although the 2016 revision to the HSPPS gave careful attention to the type and quality of early education and comprehensive services to be provided to children and their families, as well as requirements for training, professional development, and qualifications for staff, other supports for the Head Start workforce were not included. The 2007 Reauthorization and the 2016 revision to the HSPPS resulted in enhanced requirements and responsibilities for program staff, but lacked specific requirements for staff pay, benefits, and other supports for staff wellness necessary to sustain a workforce that could implement those quality provisions. For instance, while qualifications for Head Start preschool teachers have increased dramatically over the past decade (52 percent nationwide had a bachelor's degree in 2010 compared to 68 percent in 2023), inflation-adjusted salary for these teachers increased by less than 1 percent during this same timeframe, from \$41,389 in 2010 to \$41,691 in 2023.¹¹ Given the increased expectations and requirements for these staff positions without any significant increases in wages, it is unsurprising that turnover among Head Start classroom teachers, as well as other staff positions, has increased markedly over the past decade, a situation that was exacerbated by the COVID–19 pandemic.¹² In 2023, turnover across all staff positions was 17 percent, a large jump from 13.5 percent in 2019 (prior to the pandemic), although marginally improved from an high of 19 percent in 2022. Turnover for teachers (across both preschool and infant and toddler teachers) was even higher in 2023, at 19 percent.¹³ Indeed, the workforce challenges in Head Start have remained intractable even after some other industries have regained pre-pandemic employment levels. The unprecedented rate of turnover and staff vacancies programs are experiencing threaten the stability and future of the national Head Start program and the quality of services it provides, which are a critical resource for hundreds of thousands of families annually. Because Head Start serves the children and families most in need, it is critical the workforce is well-positioned to be stable as communities recover from the pandemic and during and after future emergencies.

While high staff turnover rates are an issue for the entire ECE sector in the

¹¹ Source: Head Start 2023 PIR.

¹² Source: Head Start 2010–2023 PIR.

¹³ Source: Head Start 2023 PIR.

United States, HHS has the authority and opportunity to address the systemic problems driving high turnover in Head Start, and stronger workforce supports are necessary to meet the purpose of the Act of promoting school readiness for low-income children (42 U.S.C. 9831). The Act authorizes the Secretary to modify the program performance standards as necessary, and, while the changes through this final rule retain the level of flexibility and discretion that Head Start programs are accustomed to, it is evident by the lagging compensation and other workforce supports that additional guardrails are necessary to maintain quality. Head Start's standards have historically provided a nationwide benchmark for high-quality early childhood programs. This final rule affirms that higher wages and benefits are a key driver of quality in early childhood.

In addition to post-pandemic workforce challenges related to compensation and turnover, mental and behavioral health issues have risen among children and adults over the last decade. Head Start programs must adapt and evolve to continue leading the sector in quality programming for children and families. The final rule enhances requirements for mental health services to integrate mental health more fully into every aspect of program services, as well as elevate the role of mental health consultation. Infant and early childhood mental health consultation services are provided by licensed or licensed-eligible mental health professionals with specialized knowledge in child development, such as social workers or psychologists, who build the capacity of adults to support the mental health and social and emotional development of children. Prior to this final rule, requirements in the performance standards in these areas were broad and contributed to wide variation in the quality of the implementation of those standards.

This final rule also promotes improvements in the quality of program service delivery. The enhancements in this final rule will promote more consistent implementation of program services across a variety of areas, ultimately improving outcomes for enrolled children and their families. For instance, the rule improves services to families by limiting the number of families to which an individual family service worker can be assigned. Additionally, since the inception of the 2016 revision to the HSPPS, ACF received feedback about areas where standards have not been implemented

as intended in the field, or areas where standards are not clear. This final rule enhances and clarifies the performance standards across a variety of areas, codifies certain essential best practices, and streamlines processes for programs implementing the standards, with the goal of further improving the quality of Head Start services.

The changes to the HSPPS promulgated through this final rule are necessary to maintain the quality of the Head Start program and respond to the current early childhood landscape, which has changed dramatically since the HSPPS were first published in the 1970s and even since the 2016 overhaul of the HSPPS. Establishing the new or enhanced standards described in this final rule—particularly for the workforce—will promote higher-quality services for children in Head Start programs across the country and are necessary to ensure there is a stable workforce to maintain consistent operations.

The Head Start program is facing unprecedented levels of programs that are not fully enrolled. ACF is aware of many programs that have waiting lists but cannot open classrooms because they cannot hire teachers at current wage and benefit levels. Thus, many Head Start programs face the conundrum of having vacant slots, but no staff to serve additional children. Short staffing places additional stress on current staff, exacerbating burnout and turnover.

This rule offers a path forward by requiring more competitive wages and benefits to attract and retain staff and align actual and funded enrollment levels. For many programs, costs can be partially or mostly offset through reductions in funded slots that are currently vacant. In addition, while there are costs associated with the rule, ACF notes that there are also costs associated with high staff turnover and vacant slots.

Moreover, the policy changes in this final rule are necessary for the Head Start program to continue to operate effectively and meet its mission and remain the gold standard of early care and education services for young children, particularly for those furthest from opportunity. As noted above, many programs have unfilled slots, providing an opportunity to restructure the budget to support fewer slots in some programs to ensure higher quality of services delivered, including higher wages and benefits for staff without reducing the number of children actually enrolled in the program. In addition to the goal of stabilizing the Head Start workforce that will help minimize empty classrooms,

the policies in the final rule seek to mitigate slot loss by providing a longer implementation timeline for wage and benefit requirements (see a further discussion on this in the sections on *Workforce Supports*), allowing for both program planning as well as future congressional investments in quality improvement. The final rule also includes different wage and benefit requirements for small Head Start agencies (those with 200 or fewer funded slots). Absent additional funding, smaller agencies may have a more challenging time increasing wages and benefits without disproportionately impacting the number of funded slots in their agencies. Finally, in the event that appropriation increases for Head Start are below 1.3% on average for a period of four years, the rule also includes a flexibility for the Secretary to establish a limited waiver process for most of the rule's wage requirements, for programs determined to be meeting quality benchmarks and that would otherwise have to reduce enrolled Head Start slots to implement these requirements.

Overall, for the reasons summarized above, the current staffing shortage needs to be addressed urgently, and regulatory action is warranted and necessary. Failure to put in place a glidepath to higher wages and benefits would further threaten the ability of Head Start to continue to recruit and retain effective staff and thereby deliver high-quality services. This action carefully balances the ability of programs to maintain staffing with the goal of serving as many children as possible, while helping to stabilize the Head Start program over the long-term. Further, the establishment of new or enhanced expectations in program quality through the changes described in this final rule provides a better foundation for more consistent implementation of high-quality services.

III. Executive Summary

This final rule amends the HSPPS to: (1) support and stabilize the Head Start workforce through new requirements for staff wages, benefits, and wellness supports; (2) strengthen mental health services for children, families, and staff by integrating mental health into all aspects of program service delivery; and (3) improve the quality of services provided to children and families across a variety of other service areas. The rule also makes some technical and other changes to the HSPPS for improved clarity. The final rule makes changes from the notice of proposed rulemaking (NPRM), published on November 20, 2023 (88 FR 80818), based on public comment. These changes are designed

to increase flexibility for Head Start programs in achieving the goals and intended outcomes of the final rule. Key changes from the policies in the NPRM to the final rule include modifications to the wage and benefit requirements for small Head Start agencies with a funded enrollment level that is at or below 200 slots; an option for the Secretary to establish a process in 2028 for a limited waiver authority for the final rule's wage requirements, to mitigate slot loss in programs determined to be meeting quality benchmarks, in the absence of a four year annual average increase in Head Start appropriations of at least 1.3 percent; a four year (rather than a two year) timeline for phasing in benefit requirements; removal of the requirement to provide paid family and medical leave beyond the existing requirements in the Family and Medical Leave Act (FMLA); additional flexibility to implement monthly mental health supports; more flexibility in how programs prevent exposure of children to lead in water and paint of Head Start facilities; and maintaining the prior policy of allowing up to seven days for programs to report child safety incidents to the Office of Head Start (as opposed to three days as proposed in the NPRM), as well as further clarification that only serious incidents that should be reported to OHS, including definitions and examples.

Improving Wages, Benefits, and Wellness Supports for the Head Start Workforce

This final rule makes changes to the HSPPS to support and stabilize the Head Start workforce through new requirements for staff wages, benefits, and wellness supports. First, the final rule adds a set of new requirements for wages to promote competitive salaries for Head Start staff. Specifically, by August 1, 2031, programs must implement a set of four interrelated standards for staff wages. First, programs must establish or update a salary scale or pay structure that promotes competitive wages for all staff positions and takes into account responsibilities, qualifications, experience, and schedule or hours worked. Programs must review this pay structure at least once every 5 years. Second, programs must ensure annual salaries for Head Start educators are at least comparable to those of preschool teachers in public school settings, adjusted for responsibilities, qualifications, experience, and schedule or hours worked. To support implementation of this requirement, the final rule adds an alternative option to ensure their education staff salaries are

comparable to at least 90 percent of public kindergarten teacher salaries (adjusted for responsibilities, qualifications, experience, and schedule or hours worked), in communities where public preschool does not exist or where data on public preschool teacher salaries is hard to access. This alternative benchmark for teacher salaries is described further below in the more detailed discussion of the wage requirements. Overall, this standard for education staff salaries will ensure that programs make measurable progress towards pay parity with public school kindergarten through third grade teachers in local elementary schools, and programs must track data on progress towards pay parity over time. Third, programs must ensure all Head Start staff receive pay that is at least sufficient to cover basic costs of living in their geographic area. Finally, programs must ensure wages are comparable across Head Start Preschool and Early Head Start programs for staff serving in similar positions with similar qualifications and experience.

The final rule includes an option for the Secretary to establish in 2028 a limited waiver process for most of the rule's wage requirements, for eligible programs, if the prior four years of appropriation increases for Head Start are less than an annual average of 1.3 percent. If the Secretary decides to invoke a waiver due to low appropriations, the waiver would only be available to eligible grant recipients that demonstrate that they meet four conditions: (1) the program would have to reduce enrolled Head Start slots to implement these requirements; (2) the program is meeting quality benchmarks including protecting health and safety and demonstrated improvements in staff wages during the preceding four years, to the greatest extent practicable; (3) the program held the Head Start grant for the service area prior to August 21, 2024 (the effective date of this rule); and (4) the program agrees to make continued progress on wages for Head Start staff over time, to the greatest extent practicable. These eligibility criteria are discussed in more detail below in the section by section discussion of comments and regulatory provisions. Next, this final rule adds a set of requirements for staff benefits. The compliance date for these requirements is August 1, 2028, which is two years later than the timeline initially proposed in the NPRM. For full-time staff—defined as those working 30 hours or more per week while the program is in session—Head Start programs must: provide or facilitate

access to high-quality affordable health care coverage; offer paid personal leave; and offer access to short-term, free or minimal cost behavioral health services. The final rule includes changes from the NPRM including requiring paid personal leave more generally, rather than separate paid personal and paid sick time; aligning with existing FMLA requirements rather than adding new requirements for Head Start programs for paid family and medical leave; and removing specific requirements for the number of behavioral health sessions, while still requiring that programs provide access to behavioral health services for staff.

For part-time staff, programs must facilitate access to high-quality, affordable health care coverage. For any staff member who may be eligible, programs must facilitate access to affordable child care and to the Public Service Loan Forgiveness (PSLF) program or other applicable student loan debt relief programs. Finally, at least once every 5 years, and to the extent practicable, programs must determine if their benefits packages are at least comparable to those provided to elementary school staff. Programs are encouraged to offer additional benefits if feasible.

In recognition of the particular challenges potentially faced by small Head Start agencies (defined as those with 200 or fewer funded slots) in implementing the policies for wages and benefits, this final rule includes different requirements for these agencies in response to comments on the NPRM. Specifically, small Head Start agencies are required to make improvements in wages and benefits for staff over time to reduce disparities between wages and benefits in Head Start educators and preschool teachers in public schools. Further, the statutory requirement that agencies maintain full enrollment (as part of the Full Enrollment Initiative) will continue to apply to these agencies. Small agencies are also required to establish or update a salary scale or pay structure that promotes competitive wages for all staff and takes into account responsibilities, qualifications, experience, and schedule or hours worked. While small agencies have flexibility to phase in wage and benefit increases according to their budgets, ACF strongly encourages these programs to invest in higher compensation by restructuring their budgets, targeting the annual cost-of-living adjustment (COLA) to compensation, and seeking other available funding sources that can be used to enhance compensation.

ACF will monitor progress and work with grant recipients to reduce

disparities between wages and benefits offered in small and larger Head Start agencies, to reduce disparities in pay in small programs and avoid the unintended consequence of staff leaving small agencies to work in programs that offer higher compensation. Further, it is ACF's expectation that *all* Head Start programs will work to steadily improve staff compensation over time, and prior to the compliance dates for the full set of wages and benefits requirements in this final rule.

Lastly, this final rule adds a few requirements to support the wellness of the Head Start workforce. First, programs must cultivate a program-wide culture of wellness that empowers staff as professionals and supports them to effectively accomplish daily job responsibilities in a high-quality manner. Second, by August 1, 2027, programs must provide each staff member with regular breaks during their work shifts that are of adequate length based on hours worked. The final rule provides more flexibility than the NPRM for how programs implement break schedules, removing the requirement for unscheduled five-minute breaks as well as the specificity for length of breaks, as proposed in the NPRM. The final rule also removes the requirement proposed in the NPRM for adult sized furniture in classrooms.

Taken together, ACF strongly believes these new standards will support and stabilize the Head Start workforce over the long term. Head Start must be able to effectively recruit and retain high-quality staff in order to keep classrooms open and continue to provide the quality services for which Head Start is known.

Strengthening Mental Health Services for Children, Families, and Staff

The final rule makes changes to integrate and elevate mental health across the entire Head Start program and incorporates changes from the NPRM based on comments specifically concerned about the lack of mental health professionals available to some Head Start programs. The final rule, like the NPRM, includes important revisions to incorporate strengths-based mental health language throughout the standards and to clarify that mental health supports should promote staff and family well-being, in addition to child well-being. In addition, this final rule strengthens, clarifies, and enhances specific program standards for mental health. The final rule requires that programs use a multidisciplinary approach, rather than a multidisciplinary team as proposed in the NPRM, to support a program-wide

culture that promotes mental health, social and emotional well-being, and overall health and safety for children and adults. This change better reflects the intent of centering mental health in all aspects of program services as an integral part of Head Start. A multidisciplinary approach will support programs to better promote program-wide wellness by leveraging knowledge and skills across disciplines in the program, rather than taking a siloed approach. The final rule also clarifies the role, qualifications, and responsibilities of mental health consultants and the services they provide to build the capacity of adults to support the mental health and social and emotional development of children. The final rule revises the expectations for mental health consultants to be available at least once a month. The final rule includes additional flexibility to support implementation of the frequency of mental health services. Specifically, the final rule includes a new provision that allows other licensed mental health professionals or behavioral health support specialists to work in coordination and consultation with the mental health consultant to provide mental health supports on at least a monthly basis. This change maintains the requirement for every program to have a mental health consultant and ongoing mental health supports integrated regularly into programs while also recognizing the reality of the mental health workforce shortage. Together these changes in the final rule are designed to enhance mental health support for everyone involved in Head Start programs.

Improving the Quality of Head Start Services

Finally, this rule includes numerous other changes to improve the quality of services that are a hallmark of Head Start programs. First, this rule, as proposed in the NPRM, establishes a maximum family assignment ratio of 40:1, with some exceptions, to address the long-standing problem of excessive family assignments for many staff who work with families. This change is consistent with section 648A(c)(2) of the Act, which provides ACF with the authority to review and, if necessary, revise requirements related to family assignments, as suggested by best practice, to improve the quality and effectiveness of staff providing services to families. We believe this change will improve staff well-being and the quality of services families receive.

Next, this rule strengthens the ability of programs to meet community needs. First, we emphasize that the community

assessment process is an intentional process for Head Start programs to understand the community they serve, design their services accordingly, and strategically review and update their community assessment. We clarify that the comprehensive community assessment is only required once in the five-year grant period, with an annual review to determine if changes in the community may impact services and necessitate an update to the community assessment. Second, we require programs to use their community assessment to identify the population of eligible children and families as well as potential barriers to enrollment and attendance, including access to transportation for the highest need families. Programs are encouraged to address identified barriers where possible, such as by providing or facilitating transportation services. Finally, we allow programs to make an adjustment to a family's gross income calculation for the purposes of determining eligibility in order to account for excessive housing costs. Adjusting income for housing expenses is an effective way to provide additional flexibility for families who are making above or near poverty wages, but face high housing costs, and would be eligible for Head Start services if those housing costs were considered when determining eligibility.

In addition, this final rule strengthens a variety of health and safety provisions to ensure children remain safe in Head Start programs with some changes to the policies as proposed in the NPRM in response to concerns raised by commenters. The rule enhances requirements for programs to prevent and address lead exposure in the water and paint of facilities that serve Head Start children but provides more flexibility for programs compared to the NPRM proposals to determine how they approach prevention of exposure to lead. Specifically, we require programs to ensure Head Start children are not exposed to lead in the water or paint of facilities through regular testing, inspection, and, as needed, remediation or abatement actions. Instead of prescribing specific lead prevention and abatement procedures as proposed in the NPRM, the final rule requires programs have a plan in place to mitigate exposure to lead.

Additionally, we clarify several requirements related to submitting incident reports to ACF to ensure accurate and necessary information is reported in a timely manner. The NPRM proposed a three-day timeframe for reporting child safety incidents to OHS. However, the final rule codifies the

prior policy that programs must submit incident reports immediately but no later than seven calendar days following an incident. The final rule also clarifies which incidents affecting the health and safety of children require a report to ACF, in terms of involved participants, settings, and types of incidents. Based on comments received in response to the NPRM, the final rule clarifies that only serious incidents that involve child maltreatment or endangerment should be reported to OHS and provides definitions and examples of what rises to this level. For example, we clarify that those Standards of Conduct pertaining to child maltreatment or endangerment of children must be reported. The final rule also includes several modifications to align ACF descriptions of child maltreatment with Federal guidance and laws related to mandated reporting of child abuse and neglect. Finally, the final rule strengthens several requirements intended to prevent child health and safety incidents, such as annual trainings on mandated reporting of child abuse and neglect and on positive strategies to support social and emotional development.

Effective and Compliance Dates

Effective date: This final rule is effective August 21, 2024.

Compliance date: The compliance date for all requirements in this final rule is October 21, 2024, or 60 days after this final rule is published in the **Federal Register**, unless otherwise noted in this section. For § 1302.47(b)(10), while the effective date is upon publication of the final rule, programs will not be monitored on the new regulatory requirements until 1 year after publication of the final rule to give programs additional time to adjust to the new regulatory requirements.

Programs may require more time to implement several sections in this final rule. Therefore, we maintain the timeline as proposed in the notice of proposed rulemaking (NPRM), and programs have until August 1, 2025, or approximately 1 year after publication of the final rule, to comply with the following sections: §§ 1302.11(b); 1302.14(d); and 1302.16(a)(2)(v); the changes made to remove “assistant provider” in §§ 1302.23(b); 1302.45(a); and 1302.82(a).

The following sections also have longer implementation timelines, as outlined below:

- Section 1302.52(d)(2), Family Service Worker Ratios: August 1, 2027, or approximately 3 years after publication of the final rule;

- Section 1302.80(e), Enrolled pregnant women: December 19, 2024, or 120 days after publication of the final rule;

- Section 1302.80(f), Enrolled pregnant women: February 18, 2025, or 180 days after publication of final rule;

- Section 1302.90(e), Staff wages: August 1, 2031, or approximately 7 years after publication of the final rule;

- Section 1302.90(f), Staff benefits: August 1, 2028, or approximately 4 years after publication of the final rule; and

- Section 1302.93(c), Staff Health and Wellness: August 1, 2027, or approximately 3 years after publication of the final rule.

Severability

This is a comprehensive rule containing many subparts that address many distinct aspects of the Head Start program. To the extent any subpart or portion of a subpart is declared invalid by a court, ACF intends for all other subparts to remain in effect. For example, ACF expects that if a court were to invalidate subpart D of part 1302 (or any of subpart D’s discrete provisions) relating to Health Program Services, changes to the Head Start Program Performance Standards in all other subparts—such as subpart E (Family and Community Engagement Program Services), subpart F (Additional Services for Children with Disabilities), subpart G (Transition Services), etc.—may continue to operate and should remain operative independently of the invalidated subpart.

Additionally, each subpart also contains many distinct provisions, many of which may also operate independently of one another; thus, the invalidation of one particular provision within a particular subpart would not necessarily have implications for other aspects of that subpart. For example, within subpart D, the requirement pertaining to preventing and addressing lead exposure at § 1302.47 would not be impacted by the invalidation of the requirements related to mental health consultation at § 1302.45 or the provision of family support services for health, nutrition, and mental health at § 1302.46. ACF intends that if one or more provisions within a subpart are invalidated, that all other provisions of that subpart (and all other subparts of the rule) remain in effect.

IV. Development of Regulation

Since the 2007 Reauthorization of Head Start and the last major update to the HSPPS in 2016, ACF has listened to and learned from Head Start programs,

families, and community members; assessed the evolving ECE landscape; examined the successes and challenges in the reauthorized Act’s implementation; and tracked the impact and implications of the COVID–19 public health emergency on Head Start programs. The policies in this final rule are informed by these lessons and are designed to improve on the work of the past and build a stronger Head Start program that more effectively supports the development of children from low-income families, helping them enter kindergarten more prepared to succeed in school and in life.

ACF published an NPRM in the **Federal Register** on November 20, 2023 (88 FR 80818), proposing revisions to the HSPPS regulations. We provided a 60-day comment period during which interested parties could submit comments in writing or electronically. During the public comment period, OHS engaged with the Head Start community through a series of round table discussions with Head Start program leadership in multiple locations around the country and virtually to encourage discussion on the NPRM and generate interest in submitting public comments.

ACF received 1,300 public comments, of which 1,133 were unique comments, on the proposed rule (public comments on the proposed rule are available for review on www.regulations.gov), including comments from numerous Head Start programs; national, regional, and state Head Start associations, including those representing Tribal and Migrant and Seasonal Head Start programs; groups representing community action agencies; labor unions; early childhood researchers and research organizations; individual Head Start staff and families; other notable national organizations focused on early childhood education; individual members of the public; and members of the U.S. Congress. Public comments informed the development of content for this final rule. In sections below, we describe the changes we made to provisions in this final rule, in response to the public comments. To support the analysis of public comments, ACF used a large language model, a type of artificial intelligence, as a tool to tag public comments by topic, sentiment, and intent, alongside topic-based summaries. The output of the model was further analyzed and refined by content experts based on further review of public comments.

The changes outlined in this final rule affect the many local Head Start grant recipients that operate Head Start programs for children and families. ACF has and will continue to provide

technical assistance throughout the implementation of this final rule.

V. General Comments and Cross-Cutting Issues

This final rule includes changes in key areas in the HSPPS. ACF received comments on all the significant proposed changes in the NPRM, and we revised various proposals in this final rule in response to these comments. Many comments responded to broader themes that cut across policy proposals, including concerns around the loss of enrollment slots associated with implementing the proposed provisions absent additional Federal funds, the differential impacts of proposals from the NPRM on small and rural programs, the administrative burden of implementing what some commenters described as overly prescriptive requirements, and issues specific to Tribal programs. Other commenters expressed strong support for the requirements proposed in the NPRM and encouraged ACF to strengthen requirements in the final rule. We believe it is clearer for us to respond to these cross-cutting comments if we group them by theme. We also discuss specific comments on each proposed policy area in the section-by-section analysis later in this final rule.

Impact on Enrollment Slots Absent Additional Federal Funds

Commenters were generally supportive of the intent behind the proposed changes to improve staff compensation, benefits, and supports for wellness, as well as to enhance mental health services and child safety within Head Start programs. Overall, the majority of the 1,133 unique public comments reflected an appreciation for the goals and intentions of the NPRM proposals. However, many commenters expressed concern that while increasing staff wages and benefits is a positive step towards equity and sustainability within the Head Start workforce, these changes would lead to a reduction in the number of children and families Head Start programs can serve and would lessen Head Start's impact on communities in need if Congress does not appropriate sufficient additional funding. Some commenters expressed support for a more nuanced approach that considers the unique circumstances of programs and communities, rather than a one-size-fits-all mandate. Others requested a reevaluation of the funding formula and a phased-in approach to compensation increases that is directly tied to the availability of Federal funding. In summary, the commenters who expressed concerns on this issue

conveyed a request for additional funding to support the wage and benefit increases for Head Start staff proposed in the NPRM. Without additional funding, this group of commenters expressed concern that programs will need to make difficult decisions that result in fewer children and families receiving Head Start services in future years.

ACF acknowledges commenters' concerns about the costs associated with these changes and the possible reduction in slots absent additional appropriations from Congress, and we have given these comments extensive consideration. In response to comments, the final rule includes flexibility for the Secretary to establish a limited waiver process for most of the rule's wage requirements, for programs determined to be meeting quality benchmarks and that would otherwise have to reduce enrolled Head Start slots to implement these requirements. The Secretary must establish this waiver process between January 1, 2028, and December 31, 2028, and only if increases in Federal appropriations for the Head Start program remain below 1.3 percent, on average, in the four fiscal years preceding the waiver establishment. If the waiver process is established, the responsible HHS official will determine whether individual programs are eligible for the waiver, based on the criteria described in other parts of this rule. With the inclusion of this limited waiver authority, we believe the final rule strikes an appropriate balance between the urgent need for improved compensation for Head Start staff and the potential impacts of these regulatory changes on the number of children served, absent additional congressional investment.

We maintain that we are at a critical moment for Head Start, and we must recognize the real costs of providing high-quality early education services to the most vulnerable children and families in our country, including competitive compensation for program staff. Right now, many Head Start programs have empty slots because of workforce shortages. While workforce shortages have become acute in recent years, turnover among Head Start classroom teachers has grown steadily over the last decade. We know programs across the country have waiting lists but closed classrooms because they do not have qualified staff. At the same time, we have not seen meaningful increases in compensation that allow programs to recruit and retain and appropriately compensate qualified educators, leading to unprecedented rates of turnover and staff vacancies. We believe we need to

take purposeful action to stabilize and support the valuable Head Start workforce in the face of this crisis, and to ensure that children and families continue to receive Head Start services at the level of quality defined in the Head Start Act for years to come. That said, we acknowledge commenters' concerns that meeting these requirements could have a differential impact on some Head Start programs that may need to reduce enrolled slots, absent congressional investment. We believe adding this limited waiver authority will help alleviate this concern.

Even with limited waiver authority, ACF fully recognizes that these changes, without additional funding, may require programs to make tradeoffs that include restructuring budgets to reduce the number of funded slots—essentially focusing on how to strengthen services for currently enrolled children. We know that many Head Start programs do not want to reduce funded slots, even if they are currently vacant, especially given the number of eligible children and families who would potentially benefit from Head Start services. However, without additional congressional investment, these steps are necessary to stabilize and sustain the Head Start program for the long term. In addition to including the limited waiver discussed above, we have also intentionally provided a delayed implementation timeline for the most significant policy changes in this final rule, both to give programs time to plan and to create an opportunity for future congressional investments in quality improvement. We also note that, historically, Congress has steadily increased Head Start appropriations, particularly in response to efforts to improve quality. We also note that, even in the absence of additional funding beyond what is needed to keep pace with inflation, the regulatory impact analysis of this rule estimates that Head Start would continue to serve roughly the same number of children actually enrolled today.

Concern That Wage and Benefit Requirements Need To Be Strengthened

As mentioned above, the vast majority of commenters expressed support for the goals and intention of the wage and benefit requirements proposed in the NPRM. In addition, several commenters—including labor unions, professional membership organizations, and Head Start staff—suggested that ACF issue a final rule to strengthen wage and benefit requirements and create additional mechanisms for accountability. These commenters

stressed the importance of Head Start staff and their contributions to enrolled children and families as well as their communities. They stressed the need for policies to reflect the value of Head Start staff and ensure that flexibility for programs does not undermine the intent of the wage and benefit provisions. For example, commenters suggested that ACF require Head Start programs to benchmark early educators' salaries to the total value of the compensation package in a public school, inclusive of salaries and benefits and account for the number of hours worked, which some commenters indicated could be higher in Head Start. They requested a requirement for Head Start programs to publish their salary scale to create additional accountability, as well as specific enforcement mechanisms by the Office of Head Start. Commenters also suggested a shorter timeline to implement wage and benefit requirements given the urgency of the workforce shortage. Commenters urged more stringent requirements for Head Start programs as they develop their wage and salary scale, including prohibiting or limiting wages from being adjusted downward if a staff member does not have a degree, licensure, or credential and requiring programs to benchmark to either preschool teachers in public schools or kindergarten to third grade teachers in public schools, whichever is higher. Finally, several comments urged ACF to expand the benefits proposed in the NPRM, including requiring retirement benefits with an employer contribution and expanding benefits to part-time staff.

ACF acknowledges the input from these commenters. After careful review, we believe that we have struck an appropriate balance by requiring a wage and salary scale with minimum requirements to benchmark to preschool teachers in public schools or at least 90 percent of kindergarten teacher salaries, adjusting for experience, qualifications, and responsibilities. Given the variation in preschool services around the country, including differences in the availability, auspices, and funding structure in state and local preschool programs, ACF believes this flexibility is needed to account for the differential experiences of local Head Start agencies and the availability of comparable preschool teachers in local public schools. We appreciate that Head Start teachers may work longer hours than teachers in local elementary schools, especially those working in Early Head Start programs that often operate year-round and for an extended day. We have incorporated this feedback to clarify that

wages and salaries should reflect hours worked, including time spent for lesson planning, family engagement, administrative paperwork, and other activities outside of hours when children are present. As described in § 1302.90(f)(5), we encourage programs to offer additional benefits not specified in the rule to their staff, including enhanced health benefits, retirement savings plans, flexible savings accounts, or life, disability, and long-term care insurance to remain competitive with other employers in their area.

Throughout the implementation process, OHS will provide technical assistance to support programs in developing a wage and salary scale that appropriately considers qualifications, credentials, and experience. OHS will update its monitoring protocol to include wages and benefits as well as other provisions of the rule.

Differential Impacts on Small and Rural Head Start Programs

Many commenters expressed concerns that implementing the policies in the NPRM without additional Federal funding would require reducing the number of children served or require programs to close, with an acute impact on small and rural programs. They contended that these closures would then exacerbate the existing challenges in early childhood education access in rural and small communities. Commenters highlighted the importance of integrating mental health supports into everyday programming to prevent staff burnout and to address children's behavioral issues but noted the shortage of mental health professionals that particularly impacts rural areas. Some commenters identified other proposals in the NPRM that could be challenging to implement in rural areas, including locating certified assessors for lead testing and adopting modern technology to facilitate family engagement. In general, many commenters expressed support for consideration of the unique circumstances of small and rural Head Start programs to ensure that the changes do not inadvertently reduce access to essential services for children and families in these communities.

We recognize the specific challenges of small and rural Head Start programs, and we also recognize small programs are particularly important in rural communities where Head Start may be one of the few licensed center-based early childhood options available for children and families. We have made changes in the final rule to provide some accommodations for small agencies, consistent with section 644(c) of the Act, which allows the Secretary,

where appropriate, to establish special or simplified requirements for smaller agencies or agencies operating in rural areas. We discuss these changes more fully later in this final rule, but, in brief, the final rule includes different wages and benefits requirements for small Head Start agencies, defined as those with 200 or fewer funded slots, that provides additional flexibility to implement higher wages and benefits for staff. The policy for small agencies acknowledges that implementation of the wages and benefits policies required of larger agencies could be difficult in an agency that does not benefit from the economies of scale available to larger agencies.

More specifically, small agencies are exempt from the requirement to provide wages that are at least comparable to preschool teachers in public schools, setting a wage floor that covers basic living expenses, and wage parity between Head Start and Early Head Start educators. Instead, small programs must show measurable progress over time toward these outcomes. Small agencies are also required to develop or update a pay scale that promotes competitive wages for all staff. While making these accommodations to address potential differential impacts, ACF remains committed to supporting and stabilizing the workforce in all Head Start programs and thus is still requiring small agencies to make measurable improvements in staff wages and benefits over time to reduce disparities between Head Start educators and preschool teachers in public schools. ACF will provide technical assistance to small agencies as needed to support implementation of improvement in staff compensation over time.

We made revisions across several other policy areas that address or mitigate concerns raised about possible differential impacts of the proposed changes in the NPRM, including, for example, mental health and staff benefits. In revising expectations around mental health consultation services, the final rule specifies that if a mental health consultant cannot be available to a program at least once a month, a program must supplement the work of a mental health consultant with other licensed mental health professionals or behavioral health support specialists certified and trained in their profession. This revision broadens the pool of available practitioners to provide programs with mental health supports in recognition of the challenge of securing mental health consultation in many parts of the country, and particularly in rural areas. We have also

made changes to staff benefits, including the removal of the paid family leave policy and making the remaining paid leave policy more flexible for all programs.

Concerns Related to Administrative Burden From Overly Prescriptive Requirements

Many commenters expressed concerns with increased administrative burden associated with proposals in the NPRM. Specifically, some commenters noted the administrative complexity of implementing pay parity across multiple jurisdictions; lead testing, monitoring, and remediation; and adjusting income for excessive housing costs, among others. In reporting concerns with the administrative burden associated with the proposed policies in the NPRM, some commenters described the proposals as overly prescriptive and reminiscent of the HSPPS prior to the revisions through the final rule published in 2016. Commenters suggested that ACF should provide training and technical assistance (TTA), flexibility, and clear guidance to support programs in implementing the changes.

We have made numerous changes in the final rule that are responsive to commenters' concerns about increased administrative burden, while at the same time retaining the critical requirements that reflect the standards all programs need to meet to achieve high-quality early childhood programming. Regarding commenters' assertions about the prescriptive nature of the NPRM proposals, ACF believes that all the proposed requirements in the NPRM were aligned to the overarching goals of the regulatory changes, including supporting the workforce, enhancing program mental health services, and improving overall program service quality. However, we also recognize that it is important to balance Federal requirements for Head Start with local program flexibility to implement those requirements in a way that best meets individual community needs. Our changes in this final rule strike this appropriate balance.

We highlight three examples of relevant changes here but discuss these and other changes in detail in section V. First, we revised the requirements for programs to prevent and address lead exposure in the water and paint of facilities that serve Head Start children. In the final rule, we include a new simpler, more streamlined standard that requires programs to ensure Head Start children are not exposed to lead in the water or paint of facilities through regular testing, inspection, and, as

needed, remediation or abatement actions.

Second, in response to public comments, we have removed the NPRM proposals for adult size furniture in classrooms and for brief unscheduled breaks for staff. We believe these are important aspects of promoting the well-being of classroom staff. However, we understand that it is more prudent for programs to determine how to implement such approaches in their own programs.

Third, this final rule retains the requirement from the previous program standards related to child health and safety that only those Standards of Conduct pertaining to the maltreatment or endangerment of children by staff, consultants, contractors, and volunteers require an incident report. Based on the comments, ACF agrees that some of the proposed changes in the NPRM to the Standards of Conduct could undermine child safety by creating confusion and over-reporting of less serious incidents. With these changes, we think the final rule is clearer and focuses incident reporting on more serious incidents, thereby allowing Head Start resources at the Federal and program level to focus on protecting children's safety and reducing administrative burden.

Tribal Programs

ACF received many comments focused specifically on how the NPRM would affect Tribal programs, and these comments highlighted concerns both with the rulemaking process and with specific proposed policies. First, commenters reported concerns about the lack of meaningful Tribal consultation prior to the release of the NPRM. Responses shared concern that Tribal leaders were not at the table during the decision-making process and that the timing of the NPRM release was problematic, as it coincided with significant cultural and leadership transitions for many Tribes. These commenters requested that ACF honor Tribal sovereignty, engage in meaningful Tribal consultation, and consider the unique needs and cultural practices of Tribal communities in the rulemaking process.

Second, while many commenters supported the goals of the NPRM, they expressed concerns that the lack of additional funding to implement the proposed changes could lead to reduced enrollment slots, staff shortages, and program closures, particularly affecting Tribal programs. Some commenters suggested that the costlier proposed changes should be noted as best practices until appropriate funding and consultation opportunities are made

available. Many of the commenters from Tribal communities expressed concern about the prescriptive nature of some of the proposed standards, which could conflict with Tribal employment infrastructure and philosophies. For example, some expressed concerns that increases in wages and benefits for Head Start staff would affect wages and benefits across the Tribal government and usurp the Tribes' sovereign right to set its own conditions of employment. Several comments highlighted other unique challenges faced by Tribal communities, such as the need for flexibility in meeting program hour requirements due to cultural and traditional events, and the importance of culturally relevant curricula and assessments. Some commenters requested local autonomy in determining health benefits and other employee benefits. Several comments reported concerns that the proposed changes, such as those that address incident reporting, would add additional administrative burden on overworked staff, noting that Tribes already have internal incident reporting practices in place. Finally, many commenters from Tribal communities called for categorical Head Start eligibility for American Indian and Alaska Native (AIAN) children, similar to other categorical eligibility allowances, such as those for children experiencing homelessness and families receiving Supplemental Nutrition Assistance Program (SNAP) benefits. These commenters emphasized the importance of ensuring AIAN children in their communities receive comprehensive and culturally relevant services through Tribal Head Start programs.

We appreciate the important feedback received from AIAN communities through ongoing Tribal consultations and the public comment process. ACF conducts an average of five Tribal consultations each year for those Tribes operating Head Start programs. The consultations are held in geographic areas across the country: Southwest, Northwest, Midwest (Northern and Southern), and Eastern. The consultations are often held in conjunction with other Tribal meetings or conferences, to ensure opportunities for most of the 150 Tribes served through Head Start to be able to attend and voice their concerns and issues. The Tribal consultation held on December 5, 2023, in Costa Mesa, California, provided an opportunity for Tribes in attendance to share reactions and input specifically about the NPRM, which was released on November 20, 2023, and

was a main focus of discussion during that Tribal consultation. ACF acknowledges that a set of commenters expressed the view that the existing Tribal consultation process has fallen short of their expectations. ACF is committed to improving the nation-to-nation relationship with Tribes and will continue to seek ways to enhance engagement, including formal consultations and listening sessions or meetings.

Through the NPRM and public comment process for this rule, we also received comments from many Tribal communities and stakeholders, including from the National Indian Head Start Directors Association, which directly informed the development of this final rule. We highlight three examples here. First, as noted previously and discussed in more detail in subsequent sections, the final rule includes an exemption from the rule's wages and benefits requirements for small agencies, defined as those with 200 or fewer funded slots for the reasons discussed above. At the time of the development of this final rule, ACF estimates that 78 percent of Tribal Head Start agencies meet the definition of a small agency; therefore, we anticipate that this small agency exemption will be particularly impactful for programs in Tribal communities.

Second, the final rule makes changes to program requirements related to mental health consultation that will have an important impact on Tribal programs. In revising expectations around mental health consultation services, the final rule specifies that a mental health consultant should be available to a program at a frequency of at least once a month; however, if services by a mental health consultant are not available at that frequency, other licensed mental health professionals or behavioral health support specialists certified and trained in their profession, including traditional practitioners recognized by their Tribal governments, must be used in coordination and consultation with the mental health consultant. This change in the final rule recognizes both the concerns about the availability of mental health professionals broadly, and specifically in rural areas, as well as the traditional practices that are an integral part of many AIAN communities' approach to wellness.

Third, the final rule does not maintain the NPRM proposal for Early Head Start (EHS) duration, which proposed to require that the 1,380 hours of planned class operations for children in EHS center-based programs occur across a minimum of 46 weeks per year. We

know this is significant for Tribal programs as they expressed in public comments that the ability to be flexible about how to meet the 1,380 hours requirement through the calendar year has supported traditional Tribal practices and important local and cultural events. Although it is a long-standing expectation of ACF that EHS programs provide continuous, year-round services for enrolled children, ACF is committed to prioritizing flexibility for local programs to determine the program schedule that best meets their community needs, while still achieving the required 1,380 annual hours of services for children.

On a final note, ACF revises language in the final rule to conform to language in the Consolidated Appropriations Act, 2024 (Pub. L. 118–47), which includes a provision that allows Tribes to consider all children in a Tribal Head Start program's service area to be eligible for services regardless of income. The provision emphasizes that Tribes have the discretion to determine and use selection criteria to enroll those children who would benefit from the program, including children and families for which a child, a family member, or a member of the same household, is a member of an Indian Tribe. This change is consistent with Administration priorities as outlined in the fiscal year (FY) 2025 President's Budget to Congress, and is responsive to a key priority for Tribal leaders.

VI. Section-by-Section Discussion of Comments and Regulatory Provisions

We received comments about changes we proposed to specific subparts of the regulation. Below, we identify each subpart, summarize the comments, and respond to them accordingly.

Definition of Head Start and Related Terms (§ 1305.2)

Section 1305.2 establishes definitions for key terms used throughout the HSPPS. These include terms to define programs that operate Head Start services, including *Early Head Start Agency*, *Head Start Agency*, and *Program*. We add to § 1305.2 a definition for *Head Start* that states that *Head Start* refers to any program authorized under the Head Start Act. Similarly, we add to § 1305.2 a definition for *Head Start Preschool* so that programs that provide services to children from age three to compulsory school age will be referred to as *Head Start Preschool (HSP)* and a definition of *Early Head Start* that refers to a program that serves pregnant women and children from birth to age three. The term *Head Start* was not previously

defined in the HSPPS nor was it used consistently throughout the standards. Consequently, this inconsistency was also present throughout sub-regulatory policy and TTA documents published by ACF. This inconsistency may be challenging for those who are new to Head Start and troublesome for the field in general.

We also revise two other definitions to align with the revised terms above. First, we revise the the definition of *Program* by striking “a Head Start” and adding “any funded Head Start Preschool;” striking “migrant, seasonal, or” and replacing with “Migrant or Seasonal Head Start;” and striking the word “program” and adding “or other program authorized” after the comma.

Furthermore, we revise the definition of *Head Start Agency* to add the word “Preschool” after “Head Start” and replace the words after “program” with “, an Early Head Start program, or Migrant or Seasonal Head Start program pursuant to the Head Start Act.” We also update the usage of these terms as they are used throughout the HSPPS to align with these above changes. Finally, we remove the term *Early Head Start Agency* as well as implement a nomenclature change of “grantee” to “grant recipient”.

ACF acknowledges the necessity of maintaining consistent and transparent terminology within this area and is confident that these terminology updates will effectively address those needs.

Comment: ACF received very few comments overall regarding the “Definition of Head Start and Related Terms.” Of the comments received, the majority were in support of the new terminology, citing increased clarity and consistency. However, a few commenters were concerned about the potential confusion caused by the term *Head Start Preschool*, especially in light of widespread expansion of other preschool programs. A few also worried that the use of the term *Preschool* undermines the unique dual-generation approach to comprehensive services that is characteristic of *Head Start* programs.

Response: ACF maintains the changes proposed in the NPRM related to the definition of *Head Start* and related terms. The public agreed with ACF that the use of *Head Start* as an umbrella term to represent all program types authorized under the Act, as well as related changes, promote more consistent or clear use of the terms. Specifically, the differentiation between *Head Start Preschool* and the overall *Head Start* program aims to improve comprehension for both experienced

and novice readers of the HSPPS and codifies the colloquial use of the term Head Start. ACF acknowledges the concerns raised by the commenters regarding the potential overlap in naming with other Preschool programs but does not believe the changes diminish the distinctive approach and comprehensive services provided by Head Start programs.

Workforce Supports: Staff Wages
(§ 1302.90)

The prior version of the HSPPS did not contain any requirements for salaries or wages for Head Start staff. In this final rule, we add a new paragraph (e) to § 1302.90 that lays out requirements for staff wages to support and stabilize the Head Start workforce. These requirements will ensure that programs make measurable progress towards pay parity with kindergarten to third grade teachers for Head Start educators, as well as improve wages for all other Head Start staff. The final rule includes most of the provisions proposed in the NPRM but includes some refinements as well as two notable changes in recognition of some of the particular challenges noted by commenters. First, the final rule provides a more flexible approach for small agencies with 200 or fewer funded slots that exempts them from most of the rule's wage (and benefit) requirements that apply to larger agencies. Second, the final rule includes a flexibility for the Secretary to establish a waiver process for most of the wage requirements, in the absence of average annual increases in appropriations of at least 1.3 percent for Head Start in the preceding four years. Programs will be eligible for the waiver if they are determined to be meeting quality benchmarks and would otherwise have to reduce enrolled slots. We discuss both of these changes in more detail later in this section.

Specifically, in this final rule we require that, by August 1, 2031, programs with greater than 200 funded slots must: (1) establish or update a salary scale or pay structure that promotes competitive wages for all staff positions and takes into account responsibilities, qualifications, experience, and schedule or hours worked (§ 1302.90(e)(1)); (2) ensure annual salaries for Head Start educators match those of preschool teachers in public school settings, or at least 90 percent of public school kindergarten teacher salaries, adjusted for responsibilities, qualifications, experience, and schedule or hours worked (§ 1302.90(e)(2)); (3) ensure all Head Start staff receive pay that is at

least sufficient to cover basic costs of living in their geographic area (§ 1302.90(e)(3)); and (4) ensure wages are comparable across Head Start Preschool and Early Head Start programs for staff serving in similar positions with similar qualifications and experience (§ 1302.90(e)(4)).

These new wage provisions aim not only to enhance the recruitment and retention of qualified staff through competitive compensation but to improve quality for children and families served in the program by reducing turnover and increasing access to effective teaching and learning practices. These policies go into effect August 1, 2031, approximately seven years after publication of the final rule. We believe this longer implementation window allows programs sufficient time to plan for the needed wage increases and to make improvements in staff wages over time and to implement wage changes in a manner that minimizes disruptions to enrolled children by incrementally phasing in wage increases while adjusting program budgets and funded enrollment. It also provides opportunities for additional appropriations from Congress or for the Secretary to establish a limited waiver for certain programs if Head Start appropriations are very low in the four fiscal years preceding 2028.

In response to public comments, the final rule provides some additional flexibilities beyond the policies proposed in the NPRM to support successful implementation and mitigate potential unintended consequences. First, as described previously, we provide an exemption for small Head Start agencies, defined as those with 200 or fewer funded Head Start slots, from the majority of the new wage policies (§ 1302.90(e)(5)) and instead require a more flexible approach to increasing wages. As noted previously, section 644(c) of the Act allows the Secretary, where appropriate, to establish special or simplified requirements for smaller agencies, which provides the basis and authority for a different approach to small agencies. Small agencies are still required to establish or update a salary scale or pay structure that promotes competitive wages for all staff positions. Small agencies must also make measurable improvements in staff wages over time, including reducing disparities in wages between Head Start education staff and public school preschool teachers. This approach is discussed in further detail below.

Second, to provide programs more flexibility in determining comparison salaries in public schools for Head Start education staff salaries, we add a

clarification that programs can choose to benchmark education staff salaries to at least 90 percent of kindergarten teacher salaries, as an alternative to preschool teacher salaries (§ 1302.90(e)(2)(iv)). Third, we clarify that education staff salaries can be adjusted for schedule or hours worked, in addition to adjusting for responsibilities, qualifications, and experience (§ 1302.90(e)(2)(i) and (ii)). Finally, we clarify that our intent is for the pay parity standards for education staff to apply to staff who are employees as well as those whose salaries are funded by Head Start through a contract (§ 1302.90(e)(2)(iii)).

Third, as noted previously, we include a flexibility for the Secretary to establish in 2028 a limited waiver of most of the final rule's wage requirements, in the absence of an average annual increase of at least 1.3 percent in Head Start appropriations in the preceding four years for eligible programs. Programs would be eligible for the waiver if they: demonstrate they would have to reduce enrolled slots; demonstrate improvements in wages over the four years preceding the waiver, to the greatest extent practicable; have not been designated for competition under the Designation Renewal System (DRS) after the effective date of this rule; and do not have significant child health, safety, or quality concerns as determined by the responsible HHS official. Any programs granted this waiver are still required to make improvements in wages for Head Start staff over time, to the greatest extent practicable; and to establish or update a salary scale or pay structure that promotes competitive wages for all staff and takes into account staff responsibilities, qualifications, experience, and schedule or hours worked. This waiver is discussed in further detail below.

The majority of comments submitted on the NPRM provided input on the proposed wage policies, with comments addressing the wage policies numbering approximately 850. The comments included a nuanced spectrum of viewpoints, reflecting both strong endorsement of the proposed wage policies and pointed concerns about the practical aspects of implementing the policies and the potential impact on services for children and families.

Many Head Start educators, as well as labor unions, enthusiastically welcomed the new requirements and expressed positive support for proposed wage improvements, advocating for enhancements such as indexing wages to inflation and advocating for the policies to be implemented and effective on a faster timeline. Many provided

personal testimony about the low wages and working conditions they endure, including stories of educators who are laid off and collect unemployment every summer, and who rely on public benefits or work additional jobs to provide for their families, as well as stories of qualified and skilled educators who leave Head Start to pursue better wages, benefits, and financial stability. Most educators highlighted the urgent need for increased compensation, applauding ACF for making an important step forward to address longstanding workforce challenges. This enthusiasm underscored the importance of workforce compensation on educators' personal and professional lives, and on programs' ability to retain and recruit qualified staff.

Conversely, many Head Start program leaders as well as national and local organizations representing Head Start programs, while supportive of the intentions behind the wage increases, voiced apprehension primarily centered around the financial implications of such policies. They raised concerns regarding the availability of funds, the practicality of the proposed timeline, and the potential repercussions on service delivery. Commenters expressed fears that these repercussions could include reductions in slots or the number of children and families served as well as potential program closures. Another common theme was the financial strain that the proposed wage provisions could place specifically on small, rural, and Tribal programs. Suggestions for mitigating these challenges included phased implementations, more substantial Federal funding, and the development of clear, achievable benchmarks for progress towards wage parity and improvements. There was a consensus in the comments on the need for ACF to offer comprehensive support, guidance, and flexibility to enable programs to adapt to and meet the new wage requirements effectively.

ACF strongly believes that Head Start program staff are the cornerstone of the Head Start mission to provide high-quality early education and comprehensive services to children and families who need them. Improving wages for Head Start staff is a critical mechanism to enable staff recruitment and retention and program quality in Head Start. Therefore, in this final rule, we maintain the proposed wage provisions, with the additional flexibilities discussed above. We discuss the comments and our rationale for any changes to the regulatory text below.

Cross-Cutting Comments and Themes on Staff Wages

Comment: Many comments expressed concern about the increased operational costs that would result from the proposed wage adjustments and the uncertainty about accompanying Federal funding increases. Many commenters expressed that without additional funding, programs with limited funding would face difficult choices, and would need to reduce the number of slots or children and families served, and in some cases would need to close programs, thereby reducing access to Head Start services for children and families. In light of these financial concerns, some commenters proposed innovative financial strategies to mitigate the impact of wage increases on program operations. Specifically, they suggested that Head Start programs could leverage multiple funding streams and braid funds from Federal, state, local, and private sources as a potential solution to support wage improvements. The comments suggested that this approach would not only address the immediate financial challenges posed by the proposed wage adjustments but also contribute to the long-term sustainability of programs.

Commenters also raised concerns that the cost implications of the proposed wage policies in the NPRM would be particularly acute for small, community-based programs that already operate with tight budgets and could be at risk for program closure when wage requirements go into effect. Some commenters who strongly supported wage increases clarified that this is only if sufficient funding is provided to avoid a reduction in services for children and families, noting the important role Head Start plays in providing access to quality early care and education. Some comments proposed tying wage policies to appropriations increases and including flexibility for the Secretary of HHS to remove or reduce the wage requirements if funding is not sufficient. Other commenters proposed allowing incremental increases over time, demonstrating progress without reaching parity requirements. Some commenters expressed concerns about making additional enrollment reductions following reductions that programs made by choice in previous years to increase staff compensation.

Response: ACF acknowledges the complexities surrounding the proposed wage adjustments within the Head Start program, particularly related to the availability of funding and the potential impact on program slots. It is essential to recognize, however, that the chronic

issue of unfilled staff positions and the inability of programs to operate at full capacity stem from the challenges in recruiting and retaining qualified staff, primarily due to noncompetitive wages. This situation inadvertently results in many Head Start slots going unfilled, thereby already limiting the program's reach to children and families who could benefit from its services.

We agree with commenters that it is important to balance any quality improvements with the capacity of Head Start to reach children and families in need of services. In response to comments, the final rule includes an option for the Secretary to establish a limited waiver from most of the rule's wage requirements for eligible programs if Federal appropriations for Head Start are less than an average annual increase of 1.3 percent over the proceeding four years. In order to be eligible for the waiver, programs must meet quality benchmarks and demonstrate they would need to reduce enrolled slots in order to implement the wage requirements. The criteria for this waiver are discussed in more detail in the following paragraphs.

First, if the Secretary decides to establish this waiver process, the program must demonstrate that it would otherwise have to reduce enrolled Head Start slots to implement the wage requirements. A Head Start slot is considered vacant when a child leaves the program (either because the family removes the child or the child ages out) and the Head Start program does not enroll another child within 30 days (exclusive of summer months if the program is closed). (Separate from this possible waiver process, programs are expected to reduce their funded enrollment to eliminate vacant slots, as needed, to meet the requirements of the final rule.)

Second, if the Secretary establishes a waiver, Head Start agencies must meet quality benchmarks to demonstrate that they are protecting child safety and improving staff wages over time. This approach ensures that flexibility does not undermine child health and safety or quality, for programs that struggle to implement the wage requirements in the absence of additional appropriations. Head Start agencies are not eligible for a waiver if they were designated for competition under the DRS after the effective date of this rule. Further, programs are ineligible if they have significant child health, safety, or quality concerns, as determined by the responsible HHS official. The latter criterion is intended to encompass serious incidents of child maltreatment or a pattern of child safety incidents that

may have happened too recently to trigger competition in the DRS. In addition, to meet this criterion, the responsible HHS official must not have significant concerns about program quality that seriously impact the delivery of education and child development program services required in part 1302, subpart C, of the HSPPS. Programs must also demonstrate improvements in staff wages during the four years preceding the start of the waiver to the greatest extent practicable.

Third, a Head Start agency can only be granted a waiver if they held the grant for the service area prior to August 21, 2024 (the effective date of this rule). New grant recipients should apply for Head Start funding with a proposed budget to meet the wage requirements and other provisions of the final rule.

Fourth, any programs granted this waiver are to continue to make improvements in wages for Head Start staff over time, to the greatest extent practicable. These programs are also required to establish or update a salary scale or pay structure that promotes competitive wages for all staff and takes into account staff responsibilities, qualifications, experience, and schedule or hours worked.

Waivers are granted for the duration of the program's five-year grant period. Waiver eligibility will be reassessed for each successive grant period and may be renewed if appropriation increases are below 1.3 percent for the preceding four years and the grant recipient continues to meet the criteria described above.

ACF also recognizes the challenges that some Head Start agencies—particularly small agencies—may face in implementing new policies for wage requirements absent additional appropriations. In this final rule, we also provide an exemption from most of the rule's wage requirements for small Head Start agencies. This exemption is discussed in further detail below, along with wage requirements for small programs that offer more flexibility in how small agencies go about increasing wages over time. The rationale behind the wage requirements is rooted in a strategic effort to address longstanding challenges that have led to poverty level wages for many Head Start staff, which have in turn led to severe staff shortages and closed Head Start classrooms. By supporting the workforce through improved compensation, ACF aims to enhance the ability of Head Start programs to attract and retain the qualified staff necessary for delivering high-quality programming. This is a critical step toward ensuring that the Head Start mission of supporting the development of children from low-

income families through comprehensive services can be fully realized. It is also central to the mission of Head Start, which includes disrupting intergenerational poverty in communities, to ensure that our Federal program investments do not perpetuate poverty level wages that force staff to rely on public benefits themselves. Ultimately, increasing wages for staff will increase Head Start's ability to serve more children over time, as it will put the program on a more sustainable path. ACF agrees with commenters who highlighted the potential of leveraging multiple funding streams and braiding funds as a strategy to support the implementation of wage improvements and program stability. Further, ACF supports programs exploring and utilizing a variety of funding sources, including Federal, state, local, and private funds, which can provide a more robust financial foundation for programs to address wage adjustments without compromising service delivery. Layering funds is an acceptable and encouraged practice that can enhance quality in early childhood programs. This approach aligns with ACF's commitment to innovative and sustainable solutions that support the financial health of Head Start programs while advancing our goal of equitable compensation for all staff. We encourage programs to explore these options as part of their strategic planning for implementing the new wage requirements, while also recognizing that states and localities vary significantly in the availability of non-Federal early childhood investments.

Differential Impacts on Different Program Types

Comment: Many comments highlighted the differential impact of the proposed wage changes on small programs, noting that small Head Start entities will face unique challenges implementing wage improvements, due to their size. Commenters noted that slot reductions are not a viable option for smaller programs because the volume of slots that would need to be reduced to facilitate compliance with the wage policies in the absence of additional funding would impact financial viability of such programs and potentially lead to program closures. Some commenters raised concerns in particular around small programs that are fully enrolled and fully staffed. Other commenters stressed that small programs that are also rural may be the only high-quality early education option in a community. Commenters urged ACF to consider special provisions or flexibilities for small programs.

Response: ACF understands the unique challenges faced by small agencies that operate on thin margins and need to maintain a sufficient number of funded Head Start slots to ensure their agencies are viable in terms of economies of scale. Section 644(c) of the Head Start Act also acknowledges that some requirements may need to differ for small agencies and allows the Secretary, where appropriate, to establish special or simplified requirements for smaller agencies. Therefore, as described previously, the final rule includes an exemption from most of the rule's wages and benefits requirements for small Head Start agencies, defined as those with 200 or fewer funded slots, and creates a simplified requirement for small agencies with more flexibility. As of December 2023, small Head Start agencies with 200 or fewer funded slots represented 35 percent of all Head Start agencies and eight percent of all Head Start funded slots nationally.

The approach that Head Start agencies take to implement the wage requirements will depend on a number of specific variables including current wages and the gap between wages in Head Start and preschool teachers in local public schools, current enrollment levels and the number of vacant slots, and the size and flexibility of their budget especially in relation to fixed costs. Most Head Start programs currently have vacant slots, meaning that their funded enrollment exceeds the number of children who are actually enrolled in their program. However, the number of slots impacted by lower enrollment and the budgetary impact varies significantly by the size of the program. Most costs in Head Start are not tied to the individual child or family, but rather to the staff, space, supplies, and equipment needed to operate each classroom. For example, consider a small program with 150 funded slots and a larger program with 1,000 funded slots. Assume that both programs are at 90 percent enrollment, meaning that 90 percent of the slots are currently occupied by an enrolled child and 10 percent are vacant. The small program has 15 empty slots and the large program has 100 empty slots. In Head Start, there are generally 17–20 children in a preschool classroom. The large program can reduce the number of classrooms in the program by five and reallocate the budget to increases in staff wages in other classrooms, without significantly impacting actual enrollment. The small program is not able to reduce the number of classrooms without potentially impacting slots that

are currently occupied by enrolled children.

Moreover, small programs are limited by the fact that fixed costs represent a higher proportion of their budget. There are many fixed or relatively fixed costs involved in running a Head Start program that exist regardless of agency size or number of classrooms. These include, but may not be limited to: building space, utilities, insurance, marketing, outreach to and enrollment of families, custodial services, curriculum, administrative staff, and staff needed to implement required Head Start comprehensive services (e.g., family service workers, mental health professionals, health services staff, disabilities services staff, etc.). These fixed costs, in general, represent a lower proportion of overall costs in larger Head Start agencies because they can be shared across more classrooms, whereas they represent a larger proportion of overall costs in small agencies. Small Head Start agencies also suffer from a lack of economies of scale in relation to their purchasing and negotiating power, resulting in higher rates for everything from cleaning supplies to health insurance. If a smaller agency reduces or streamlines classrooms in order to reallocate funding towards compensation, the agency will still bear many—if not all—of their fixed costs, and would be spreading those fixed costs across fewer classrooms.

Leading cost modelers have documented that operating an ECE program that serves fewer than 100 children is very difficult and may not always be financially viable.¹⁴ This threshold arguably may be higher for the Head Start context, since Head Start includes more comprehensive services than a typical child care program. OHS has provided related guidance in past funding opportunities for EHS and Early Head Start—Child Care Partnership (EHS-Child Care Partnership) expansion, encouraging applicants to consider proposing to operate no fewer than 72 EHS slots to ensure they will have the economies of scale necessary to sustain program operations and meet all Head Start program requirements.¹⁵ In this final rule, the small agency

exemption applies to those agencies with 200 or fewer funded slots. In the absence of additional appropriations from Congress in the near future, a program with 200 or fewer funded slots would likely need to reduce or streamline the number classrooms and could quickly fall below the research-based recommendation for the minimum number of funded slots to sustainably operate an ECE program.

In addition, of the agencies with fewer than 50 employees, the majority (87 percent) of them also have 200 or fewer funded slots and will therefore be included in the small agency flexibility.¹⁶ Several other existing Federal laws provide flexibilities and exemptions to small businesses, including for those with 50 or fewer employees (e.g., employer mandate of the Affordable Care Act (ACA); FMLA).

This exemption reflects ACF's understanding that small programs play a critical role in their communities, particularly in rural and Tribal communities where a large proportion of Head Start agencies would qualify for the small agency exemption. This exemption also applies to Head Start interim service providers that provide services to children and families temporarily in place of a Head Start agency that would have qualified for the small agency exemption (§ 1302.90(e)(6)). In such instances, the interim service provider is temporarily providing Head Start services for a particular service area, in place of a grant recipient that either relinquished or lost their Head Start grant. Therefore, these interim providers are still operating within the same economies of scale constraints as the small agency that previously served that particular service area. Further, when a new permanent service provider is awarded the grant for that service area, that future provider will also likely be a small agency operating under the same financial constraints.

Though Head Start agencies with 200 or fewer funded slots are exempt from most of the wage requirements, they must still have a pay scale or structure that promotes competitive wages for staff; must make measurable progress over time to increase wages and reduce the gap between wages offered to Head Start educators and preschool teachers in public schools (or 90% of kindergarten teacher salaries in public schools); and must increase wages over time for the lowest paid staff to cover basic living expenses.

In addition, the workforce in small Head Start agencies remains impacted

by the current ECE workforce challenges happening nationwide, and the potential impact on services for children and families in the face of ongoing staff shortages may continue without investment in staff compensation. This is why, as part of the exemption policy, ACF requires small agencies to continue to improve staff wages (and benefits) over time. This flexibility is designed to promote significant wage improvements without unduly compromising service capacity for small agencies. This approach also provides a clear mechanism and expectation for small agencies to increase wages and benefits when Congress provides additional funds through annual appropriations targeted to COLA increases or quality improvement. It underscores ACF's intention to implement the wage adjustments in a manner that is both equitable and pragmatic, ensuring that the benefits of improved compensation extend to all Head Start staff and families while acknowledging the operational realities of smaller Head Start agencies.

We also note that the wage and benefit requirements in the final rule are intended to address concerns related to child health and safety and quality as well. OHS will continue to provide technical assistance and monitor all programs, including small programs, to support child health and safety and adherence to quality standards. Specific changes related to protecting child safety and supporting mental health are further discussed below and apply to all programs regardless of size.

Comment: Many commenters noted that it would be particularly challenging for rural programs to implement the wage policies, as they have more limited access to alternative funding sources to support wage improvements, face more severe economic barriers, experience more challenges finding qualified staff and service providers, and for some communities, may be the only early care and education option serving a large geographic area. Therefore, meaning a reduction in slots or program closure could have an outsized impact on the community and its economy. Many requested consideration of the unique circumstances of rural Head Start programs to ensure that the changes do not inadvertently reduce access to essential services for children and families in these communities.

Response: ACF acknowledges the critical role that Head Start plays in rural communities, at times offering the only high-quality early care and education option in a community. We understand commenters' concern about possible reductions in services in rural

¹⁴ Mitchell, A. 2010. Lessons from Cost Modeling: The Link Between ECE Business Management and Program Quality. <http://www.earlychildhoodfinance.org/finance/cost-modeling>; Stoney and Blank, 2011. Delivering Quality: Strengthening the Business Side of Early Care and Education. https://childcareta.acf.hhs.gov/sites/default/files/delivering_quality_strengthening_the_business_side_of_ece.pdf.

¹⁵ For example, see: <https://glenpricegroup.com/sites/ehsccpresearch/wp-content/uploads/sites/3/2014/06/Funding-Opportunity-Announcement-EHS-CCP-2014.pdf>.

¹⁶ Head Start 2023 PIR.

areas, particularly in small rural communities. Based on ACF's analysis of the geographic distribution of Head Start agencies at the time of the development of this final rule, ACF has determined that the exemption of the wage and benefits policies offered for small agencies will apply to over half of rural Head Start agencies. According to ACF's analysis, approximately 56% of entirely rural Head Start agencies—meaning those where 100% of their slots operate in a rural area—are also small agencies (200 or fewer funded slots).

Many comments referred to challenges for rural programs and largely focused on the challenges recruiting and retaining qualified staff and service providers in remote or rural locations. ACF makes adjustments to requirements on mental health services and protecting children from lead in response to these comments, but notes qualifications for teachers are statutory and not adjusted in the final rule. The new requirements for staff wages and benefits established through this final rule will improve the ability of Head Start programs—including rural programs—to recruit and retain qualified staff. These requirements are critical to ensure Head Start programs can be competitive employers in their communities and retain the qualified staff necessary to provide high quality services to children and families. As needed, ACF will provide TTA to rural programs to support in their efforts to implement the wage and benefit requirements. As described above, the size of a Head Start agency and the resulting economies of scale and budget flexibility primarily impacts a program's approach to the new wage and benefit requirements.

If necessary, absent additional funding, larger Head Start agencies located in rural areas can restructure their programs and reduce the number of classrooms to invest in improved compensation for staff, while remaining financially viable programs. However, in the case of smaller rural programs, the closure of even one or two classrooms could constitute such a large share of the program and the fixed costs required that the program may no longer be economically viable. The flexibility afforded to small agencies in this final rule will help to mitigate potential negative impacts on rural programs, particularly in small rural communities where Head Start may be the only high-quality early education opportunity available to low-income families.

Comment: Many Tribal Head Start program leaders and other commenters from Tribal communities expressed

strong support of the policy aims stated in the NPRM for improved wages to address staff retention and program stability. However, these commenters also expressed concerns that Tribal Head Start programs would face significant challenges implementing the proposed wage requirements due to the unique operational contexts of Tribal governments. Commenters from Tribal communities shared concern that the lack of additional funding to implement the proposed changes could lead to reduced enrollment slots, staff shortages, and program closures in their Head Start programs. Some voiced concerns about the administrative burden that Tribal Head Start programs would experience to implement the NPRM policies, and argued that the new requirements were overly prescriptive and did not respect Tribal sovereignty and self-determination, including Tribal employment infrastructure and philosophies.

Response: We acknowledge the concerns raised by Tribal Head Start program leaders and other commenters representing Tribal communities. The exemption for small Head Start agencies described previously will allow flexibility for Tribal Head Start agencies that operate with 200 or fewer funded slots regarding whether they meet all of the wage policy requirements in this final rule. At the time of the development of this final rule, ACF estimates that approximately 116 Tribal Head Start agencies will benefit from this flexibility, which represents approximately 78 percent of all Tribal Head Start agencies.

Like the commenters, ACF believes that all Head Start educators deserve competitive wages and benefits that reflect the importance of their work, and that all staff should earn a livable wage, and this includes the Head Start workforce in Tribal communities. OHS will work with Tribal grant recipients to understand their challenges and provide technical assistance and support to develop appropriate wage scales for the Head Start program in light of existing Tribal wage scales.

Comment: Representatives of Migrant and Seasonal Head Start (MSHS) programs also expressed concerns about the impact of implementing wage policies on MSHS programs without additional funding, particularly given the seasonal nature of their program schedules. Some commenters noted that they had already reduced enrollment in order to increase wages and that to further increase, they would have to decrease enrollment to a level that would deem them inoperable.

Response: ACF is committed to supporting the operation and sustainability of MSHS agencies, as well as ensuring compensation that will support the recruitment and retention of qualified staff. MSHS agencies play a particularly important role in delivering early childhood services in the communities they serve, and improving staff wages will support quality and stability of programs. However, we recognize there are unique challenges for MSHS agencies given their program structures and schedules. ACF will provide additional support and TA to MSHS agencies on how to implement the wage policies in this rule while continuing to provide critical services in their communities.

Timing/Phase-In of Wage Policies

Comment: Some comments shared concerns about the sustainability of increased compensation, especially given the uncertainty of continuous Federal funding in future years. Comments urged ACF to allow for flexibility and phased approaches to implementation that consider future economic conditions and changes in the early childhood education landscape. For example, some commenters suggested that programs should be assessed and monitored for progress towards pay parity, such as demonstrating a reduction in pay gaps over time, rather than requiring programs to achieve comparable salaries with preschool teachers in public schools. Comments that addressed the proposed timeline for implementing the new wage standards ranged from some asserting that the seven-year period is too lengthy and could delay necessary improvements to staff compensation, to many others requesting additional time to ensure that comprehensive wage adjustments could be made holistically across new requirements. Many expressed concerns that the timeline might still be too aggressive for programs to feasibly meet without causing financial strain or necessitating reductions in services. Some requested the authority for the Secretary to reduce requirements if additional appropriations from Congress were not provided to fund the wage improvements.

Response: Balancing input from commenters, ACF maintains that the seven-year implementation timeline for the wage policies allows programs sufficient time to plan for phased increases while considering the urgency of improving staff compensation. This timeline offers a phased approach that will enable programs to plan strategically, adapt to changing

economic conditions, and ensure that wage increases are sustainable over time, including through possible additional funding increases through future congressional appropriations. This may give programs additional time to seek funding from local, state, or private sources as well as layer funding as previously discussed. It acknowledges the significant variations in local economic conditions, the complexities of wage adjustment processes, and the necessity for Head Start programs to engage in thoughtful, strategic planning. ACF will provide technical assistance and guidance to programs to support implementation of these policies. This may include sharing best practices, developing useful tools and resources, and offering support to address specific challenges as needed.

Administrative Burden/Technical Implementation Challenges

Comment: A considerable number of comments focused on the potential administrative burden associated with developing, implementing, and maintaining the programmatic policies necessary to implement the wage requirements. Commenters raised concerns with conducting wage comparability studies, managing increased complexity in payroll systems, and adhering to new standards while also adhering to other obligations such as collective bargaining agreements and state-specific employment laws. Comments suggested that additional administrative requirements could detract from program resources and focus, potentially impacting service delivery. ACF also heard from at least one large labor union that indicated that the presence of a collective bargaining unit should not pose a barrier to implementing new requirements because the employer and workers representing the collective bargaining unit can work together to meet all requirements in Head Start and applicable local or state requirements, as well as any other employees in the collective bargaining unit. Questions and concerns were raised about the specifics of how pay scales should be constructed, the technical resources needed to comply with new requirements, and the potential for increased complexity in program administration. Commenters expressed strong concerns with the lengthy timeline associated with getting approval for a change in scope application, which directly impacts a program's ability to restructure programs in a timely fashion to raise compensation. Commenters sought clarity and guidance from ACF on these

issues and many requested support from ACF to develop, maintain, and implement pay scales or suggested that this work should be done at a systems level, rather than by individual programs.

Response: Understanding the technical support needed to develop and implement equitable pay scales, ACF maintains in the final rule a seven-year implementation timeline to implement the wage requirements. The seven-year implementation timeline not only provides programs with sufficient time to thoughtfully plan and prepare for wage adjustments but also allows for the necessary negotiation with unions representing Head Start staff, for any adjustments that may be needed to contracts, and for possible additional funding to be obtained or appropriated to support implementation. This timeline is crucial for ensuring that wage improvements are implemented smoothly. ACF will provide Head Start programs with the necessary tools and resources to effectively manage the administrative demands of implementing structured pay scales and to ensure an equitable compensation system for all staff members. For instance, ACF recently published the "Early Care and Education Workforce Salary Scale Playbook: Implementation Guide,"¹⁷ a comprehensive resource designed to guide early childhood leaders, including Head Start programs, through the complexities of salary scale development. Finally, ACF is committed to supporting programs' efforts to restructure by working with them to process change in scope applications in a timely fashion. ACF recognizes that the timeline for processing change in scope applications has been delayed in the past and is taking steps to improve response times.

Comment: Some comments reflected the need to address wage disparities and equity within the Head Start workforce, emphasizing equity across race, setting, and age groups served. There was a strong call for ACF to provide technical assistance and support for conducting wage gap analyses and developing plans to address identified disparities. Some commenters recommended including equity weights to ensure that adjustments for qualifications do not unintentionally exacerbate pay disparities for early educators that are Black, Indigenous, and/or members of other historically marginalized groups, who research has documented are less likely to have accessible pathways to

credential and degree attainment. Some commenters also emphasized a need for a coordinated approach to compensation across all ECE settings to ensure a stable, qualified workforce regardless of program type and expressed concern that increasing compensation for the Head Start workforce without making similar adjustments for child care providers could lead to further inequities in the field.

Response: ACF appreciates these comments about the importance of addressing wage disparities among different groups and across the ECE sector. Indeed, research indicates that women of color in the ECE workforce are paid less on average than White women, and women of color are also more likely to hold assistant positions as opposed to lead teaching positions.¹⁸ As programs are revising and updating pay scales to implement the new wage standards, ACF encourages programs to intentionally examine possible disparities in pay by race and ethnicity. ACF strongly agrees that Head Start programs should not perpetuate disparities in pay across racial and ethnic groups. Further, the new wage standard included in the final rule at § 1302.90(e)(4) requires programs to ensure there are not disparities in pay for Head Start staff based on the age of children served, for those with similar qualifications and experience. While ACF recognizes the concern that increasing wages for Head Start staff may lead to further pay disparities for other parts of the ECE sector including child care, we strongly believe that the wages of Head Start staff cannot continue to be suppressed. Head Start has long been a leader in the field of ECE.

Pay Scale

Comment: Some comments expressed concerns over the logistics of policy execution, including potential challenges with the collection of comparable compensation data such as obtaining up-to-date local school district salary information, as well as concerns about the frequency of the five-year review of pay structures. Commenters emphasized the need for additional time for comprehensive wage adjustments post-implementation, alongside concerns regarding wage standard operationalization for varied staff roles funded by Head Start. Comments

¹⁷ See: <https://childcareta.acf.hhs.gov/early-care-and-education-workforce-salary-scale-playbook-implementation-guide>.

¹⁸ Austin, L.J.E., Edwards, B., Chávez, R., & Whitebook, M. (2019). Racial wage gaps in early education employment. Center for the Study of Child Care Employment, University of California. <https://csce.berkeley.edu/racial-wage-gaps-in-early-education-employment/>.

demonstrated some confusion around the ability to adjust pay based on qualifications, schedule or hours worked, and other factors. Many comments called for ACF to provide a robust framework of support, including technical assistance and training, to navigate the complexities of revising pay structures. Many comments emphasized the need for a strategic approach that includes careful consideration of the unique challenges faced by special populations, as well as input from the broader early childhood program provider community, to ensure that the wage requirements are responsive to their diverse needs. For example, some commenters recommended making positive wage adjustments within salary scales for educators who bring language or cultural skills to the job, as a part of their overall adjustments for qualifications. Some commenters requested that ACF provide tools, that technical assistance partners develop pay scales for programs, or that state or local governments would be better positioned to develop pay scales rather than requiring each individual program to design, develop, and implement their own.

Response: ACF acknowledges the concerns highlighted regarding the logistical challenges and administrative burden associated with implementing the new wage standards, particularly the collection of comparable compensation data and the periodic review of pay structures. ACF encourages programs to leverage and utilize their existing partnerships with local publicly funded preschool and kindergarten programs, including the memorandum of understanding (MOU) required in § 1302.53(b)(1), to identify and gather data on comparable preschool and kindergarten teacher salaries. While it is important for individual programs to tailor their pay scales for their program and community context, ACF believes that technical assistance and support can provide useful guidance and tools from which programs can develop and implement pay scales over time. The final rule retains a seven-year implementation window to allow time for programs to plan and develop the technical capacity to develop and implement pay scales. ACF also aims to provide TTA to programs on these issues to support the development of revised pay scales. The final rule also maintains policies that allow for wages to be adjusted based on responsibilities, qualifications, and experience relevant to the position, and clarifies that adjustments can be made to account for

schedules or hours worked. This language provides these minimum adjustments, meaning that programs may include additional equity adjustments or incentives to ensure that the pay scale structure is equitable and supports the development of a Head Start workforce that is well-equipped to meet the needs of children and families. For example, a Head Start program may choose to provide a higher wage or salary to a staff member who speaks a language shared by a child or children in the program or a Native language, a teacher who has a background in working with children with disabilities, or other skills or training that improve quality and responsiveness in Head Start programs.

Progress To Pay Parity for Education Staff With Elementary School Staff

Comment: Most commenters shared a strong support for increased compensation for Head Start teachers, and many reflected support for making progress towards pay parity and equity with kindergarten to third grade public school teachers. Many commenters recognized the critical role that Head Start staff play and the complexity of the work and skills required of Head Start teachers to provide high-quality early education. Most comments asserted that equitable compensation is overdue, especially considering the increasing qualifications (including degree requirements) and multifaceted job responsibilities that have evolved since the 2007 reauthorization of the Head Start Act. However, many commenters raised concerns about the practicality of achieving salaries comparable to public school preschool teachers without additional Federal funding, and about the tradeoffs between investments in compensation for teachers and other investments in program quality and the number of children and families served.

Some comments expressed confusion regarding the methodology for adjusting salaries based on qualifications and other factors. The direct comparison between Head Start and public school salaries raised questions about the feasibility and fairness of achieving pay parity, given the differences in staff qualifications across these settings. These comments indicated that some interpreted the proposed standard as mandating a direct match to public school preschool teacher salaries without adjustments; commenters questioned the flexibility of the proposed wage parity policy to allow programs to adjust staff salaries from comparable salaries to account for differences in qualifications, experience,

and other relevant factors, while striving for parity. Some commenters discussed the wide salary gaps between Head Start staff and public preschool teachers in their local school districts and raised questions about whether and how to assess comparable salaries and requested more guidance on how to make adjustments. Other comments raised concerns about reaching and maintaining salaries comparable with public preschool teacher salaries when school districts and other employers tend to more predictably increase their salaries each year, with those adjustments potentially surpassing the cost-of-living adjustments that Head Start receives. Commenters feared that this could leave Head Start programs chasing a “moving target” which could lead to programs continually reducing services to meet salary improvements over time.

Response: ACF agrees with the sentiment that Head Start staff should receive equitable compensation based on their skills and qualifications and the critical role they play in early education. The final rule maintains a strong set of wage policies that aim to enhance wage structures to ensure competitive compensation for Head Start staff. The final rule does not require any Head Start program to achieve full pay parity with kindergarten to third grade teachers. Rather, the final rule requires agencies with more than 200 funded slots to benchmark to either (1) the salaries of preschool teachers in local public schools or (2) 90% of salaries in local public schools for kindergarten teachers. In response to concerns about feasibility and the comparison with public school staff, ACF emphasizes that Head Start programs’ efforts to increase educator pay to be comparable to public school preschool teachers can and should consider differences in qualifications, roles, experience, and other factors. For example, suppose a majority of the preschool teachers in a program’s local school district hold a master’s degree, whereas the majority of Head Start teachers hold a bachelor’s degree. The expectation in this scenario is that the program would consider what public preschool teachers are paid as a starting point and then create a salary scale that considers education level, among other factors. In this case, salaries for Head Start teachers with a bachelor’s degree would be lower than a preschool teacher’s salary with a master’s degree (provided that they have comparable hours, experience, and job responsibilities).

As another example, ACF does not expect that an Early Head Start (EHS)

teacher with a Child Development Associate (CDA) would receive the same salary as a public preschool teacher with a bachelor's degree that works the same number of hours; rather, ACF expects that the salary for the EHS teacher would be adjusted down from the target of the public preschool teacher salary, to account for the difference in qualifications. However, ACF does expect that these adjustments should still result in wage increases for most education staff. Moreover, if an EHS teacher works more hours than a preschool teacher in public schools, ACF expects that wages would be increased accordingly to account for the longer hours.

In response to comments, we modify the wage policies in the final rule at § 1302.90(e)(2)(i) and (ii) to further clarify that salaries can be adjusted for schedule or hours worked in addition to responsibilities, qualifications, and experience. This includes both time in the classroom or program as well as time spent on lesson planning, family engagement, administrative paperwork, and other tasks that are necessary to fulfill job requirements. For many Head Start educators, this includes time in the evening or on weekends to prepare classroom activities, conduct home visits, or complete training. For example, if a preschool teacher at the local public school works a full-day, full-school year schedule, and a Head Start teacher with similar qualifications, experience, and job responsibilities works a part-day, full-school year schedule, the expectation is that the Head Start teacher's salary would be adjusted down to account for this difference in schedule/hours worked after taking into account time for planning and other activities related to the teacher's job responsibilities. On the other hand, if a Head Start teacher with a bachelor's degree and five years of experience works a part-day, year-round schedule, whereas the local school preschool teacher with the same qualifications and experience works a part-day and school-year schedule, the expectation is that the Head Start teacher's salary would be adjusted up to account for the longer year schedule that they work.

ACF also recognizes that not all jurisdictions have preschool teachers in public schools because public preschool is not offered in all states and school districts. In addition, information on salaries for elementary school teachers is often more publicly accessible, depending on the auspices of the preschool program. Therefore, we add a new wage-related standard to the final rule to allow Head Start programs to use

an alternate method to determine appropriate comparison salaries for pay parity that is equivalent to at least 90 percent of the annual salary paid to kindergarten teachers in the program's local school district, adjusted for role, responsibilities, qualifications, experience, and schedule or hours worked (§ 1302.90(e)(2)(iv)). ACF anticipates that Head Start programs will use this flexibility when they do not have comparable wage data for preschool teachers in public schools, either because such teachers do not exist in their geographic area, or such information cannot be ascertained. This flexibility should not be used to reduce wages for Head Start staff if preschool teachers are on the same salary scale as elementary school teachers.

For example, suppose a Head Start program is in a community that does not have state or locally funded preschool in their public schools. This program identifies average kindergarten teacher salaries in the local school district at \$70,000, and thereby creates a target benchmark for pay parity at \$63,000, which represents 90 percent of that average kindergarten teacher salary. The Head Start program then creates a salary scale that adjusts further as needed based on differences in roles, responsibilities, qualifications, experience, and schedule or hours worked. If the Head Start program year or hours worked are shorter than the kindergarten school year or hours, Head Start educator salaries could be adjusted down to account for this. If the opposite is true, such that the Head Start program year runs through the summer, and is therefore longer than the kindergarten school year, Head Start educator salaries could be adjusted up to account for this longer year.

Finally, ACF acknowledges concerns raised by commenters that public school teacher salaries may continue to increase over time in some states and communities, making efforts to reach parity more challenging for Head Start programs in those contexts. However, this does not appear to be substantiated by national data. As demonstrated in the Fiscal Year 2025 President's Budget request, ACF requested the funding needed for a full cost of living adjustment to support Head Start programs in keeping pace with inflation. Further, ACF strongly believes that Head Start programs must continue to keep pace with public school preschool teacher salaries in order to retain qualified educators in Head Start programs that can provide the high-quality early education services for which Head Start programs are known.

ACF will provide further TTA to assist programs in implementing these standards, including examples and strategies for programs to assess parity and develop pay scale structures.

Comment: Some comments called for clearer definitions of what constitutes "pay parity" and how it should be measured, especially in diverse operational contexts like multi-district programs or programs spanning different states with varying preschool and kindergarten through 12th grade public school salary levels and contexts. Commenters raised concerns about operationalizing the concept of parity with local school districts when considering the variability in teacher qualifications between preschool, kindergarten through 12th grade, and Head Start; the structure of preschool and kindergarten through 12th grade education systems; and differing funding mechanisms that support teacher compensation in each of these contexts. Many commenters raised concerns about defining "neighboring school districts" for large Head Start programs whose service area spans many school districts, suggesting that a separate salary schedule for each site would be impractical.

Response: ACF understands and agrees with the complexities involved in assessing and moving to pay parity with public school educators. Because of this complexity and the varied context in which Head Start programs operate, the final rule maintains the flexibility that was initially proposed in how pay parity is assessed and operationalized. In addition, we modify the final rule to provide additional flexibility in how a program identifies comparable salaries for the pay parity benchmark. The final rule policy allows programs to use public school preschool teacher salaries as their benchmark for parity, or to use an alternative method that represents at least 90 percent of public school kindergarten teacher salaries. We maintained the phrasing of the pay parity requirement which allows flexibility for programs to determine to which of their local public schools to benchmark salaries. Programs operating in multiple locations are not expected to develop multiple pay scales; however, programs can choose to do so if they serve different geographic regions with different costs of living, in which case it may be most practical for such programs to differentiate wages for these different areas.

ACF believes that maintaining the initially proposed flexibility and providing some additional flexibility in the final rule around how to assess and move to pay parity is responsive to

comments about the varied contexts in which programs operate. ACF believes that detailed technical guidance and support for programs in how to define and operationalize pay parity is best done through guidance and TTA, which ACF will provide following publication of the final rule.

Salary Floor

Comment: Most comments expressed strong support for establishing a minimum pay requirement for all Head Start staff, recognizing the need to ensure that every employee receives a living wage that reflects their contribution to early childhood education. However, commenters raised concerns about how the minimum pay requirement would be determined and adjusted over time to reflect the cost-of-living increases and changes in the economic landscape, as well as the potential for this requirement to exacerbate wage disparities among regions with different costs of living. Commenters sought detailed guidance from ACF on establishing fair and equitable minimum pay standards that align with regional economic variations. Commenters suggested that ACF provide clear guidelines for determining an appropriate minimum wage, taking into account regional cost-of-living adjustments, and ensure that additional funding is available to support this requirement without compromising service delivery or increasing the administrative burden on Head Start programs.

Response: We maintain this provision in the final rule, which recognizes that cost of living varies across the country and still aims to ensure that all staff members are paid sufficiently to cover basic needs. Small agencies (those serving 200 or fewer funded slots) are exempt from this requirement; however, these agencies must still demonstrate progress in improving wages for the lowest paid staff over time.

ACF agrees with concerns raised by commenters about the importance of carefully considering how to promote minimum pay in a way that balances potential cost impacts and does not deepen disparities in cost of living. There are multiple publicly available tools that can support Head Start programs in calculating cost of living. It is of note that these are examples only and should not be considered an endorsement by ACF of these specific calculators or tools. One such tool is the Living Wage Calculator developed by experts at the Massachusetts Institute of

Technology (MIT).¹⁹ Another is the Self-Sufficiency Standard developed by experts at the Center for Women's Welfare of the University of Washington.²⁰ An additional example is the Family Budget Calculator developed by the Economic Policy Institute.²¹ These types of publicly available calculators take into account a variety of costs for basic needs and how these costs vary by geographic area, to help determine an appropriate hourly wage sufficient to cover these costs. Following publication of the final rule, ACF will offer TTA to support programs with implementation of this requirement.

Wage Comparability for All Ages Served

Comment: Many comments expressed a great sense of urgency to address the disparities in wages, particularly for staff serving infants and toddlers, who historically receive lower compensation than those serving preschoolers.

Response: ACF recognizes the importance of addressing wage disparities across all staff roles within Head Start programs, with a particular focus on those serving infants and toddlers, who historically have received lower compensation. In response to public comments highlighting the urgency of this issue, ACF maintains in the final rule our policy and commitment to ensuring wage improvements and comparability across all educational staff roles, regardless of the age group they serve, such that wages would not differ by age of children served for similar program staff positions with similar qualifications and experience. Specifically, the final rule mandates that agencies with more than 200 slots must have a wage or salary structure that does not differ by the age of children served for similar program staff positions with similar qualifications and experience, ensuring that disparities in wages, particularly for staff serving infants and toddlers, are addressed comprehensively.

Staff for Whom Wage Standards Apply

Comment: Comments expressed both support and concern over the application of wage standards to all staff roles within the Head Start program. The NPRM's intention to extend wage improvements to encompass all educational staff roles—including

assistant teachers, home visitors, and family child care providers—was widely endorsed. However, some comments urged for an even more inclusive consideration of staff roles that involve regular engagement with children, suggesting for example, that the pay parity requirements should apply to all staff roles who contribute to the Head Start mission, not just teaching staff, to recognize and compensate the diverse contributions of all program personnel. Some comments specifically called out a need to include more substantial wage improvements for family service workers, administrators, and support staff who play critical roles but often face lower compensation.

Response: ACF affirms the NPRM's intention to ensure wage improvements for all educational staff roles, including assistant teachers, home visitors, and family child care providers, while also recognizing the critical contributions of other staff in the program. While the requirements for pay parity maintain a focus on educational staff, the final rule also requires that programs develop or update a pay scale that applies to all staff positions. The intent of this pay scale standard is to promote competitive wages for all positions and ensure that all staff have sufficient wages to cover basic needs. Head Start agencies can increase wages for other non-education roles at their discretion and may choose to benchmark to similar positions in their community to ensure that Head Start provides competitive pay and to mitigate the effects of wage compression that would otherwise occur if salaries for education staff are raised but not those for other positions.

Comment: Some commenters raised questions about whether the NPRM's wage requirements apply to staff of child care partner agencies as well as contracted staff who are not employees of the Head Start program. Some comments also raised concerns about applying the wage standards to staff paid in part with Head Start funds, highlighting the potential impact on a broad array of staff roles and the need for clarity on the implementation of wage standards for contracted staff, those involved in EHS-Child Care Partnerships, staff of child care partner agencies, and contracted staff not directly employed by Head Start programs.

Response: To address the questions and lack of clarity raised through public comments about extending wage standards to all staff, including those at partnership sites or contracted staff, we revise the final rule to clarify our expectations for how the wage standards should apply to contracted staff.

¹⁹ Glasmeier, A.K. Living Wage Calculator. 2020. Massachusetts Institute of Technology. livingwage.mit.edu.

²⁰ The Center for Women's Welfare. The Self-Sufficiency Standard. University of Washington. <https://selfsufficiencystandard.org/>.

²¹ Economic Policy Institute. Family Budget Calculator. <https://www.epi.org/resources/budget/>.

Specifically, the pay parity requirements described in § 1302.90(e)(2)(i) apply to all teachers and education staff funded by Head Start, including both grant recipient employees and those whose salaries are funded by Head Start through a contract. This may include, for example, education staff in EHS-Child Care Partnership sites, as well as any education staff who are contracted directly.

Workforce Supports: Staff Benefits
(§ 1302.90)

The prior HSPPS did not include any requirements for programs to provide benefits to their staff. In this final rule, we add in § 1302.90(f) new requirements that apply to Head Start agencies with more than 200 funded slots for staff benefits to support and stabilize the Head Start workforce, including: the provision of or facilitated access to health care coverage for all staff; paid leave for full-time staff; access to free or low-cost, short-term behavioral health services for full-time staff; facilitated access to PSLF and child care subsidies for staff who may be eligible; and an option for programs to prioritize enrollment in Head Start for the eligible children of staff. Programs are also required in § 1302.90(f)(5) to assess and determine at least once every five years if their benefits package for full-time staff is at least comparable to those provided to elementary school staff in the program's local or neighboring school district, to the extent practical. All requirements in § 1302.90(f) will take effect August 1, 2028, approximately four years after publication of the final rule.

Similar to the staff wage requirements, this final rule includes in § 1302.90(f)(6) an exemption from the rule's benefits policies for small Head Start agencies, defined as those agencies with 200 or fewer funded Head Start slots. This exemption also applies to Head Start interim service providers that provide services to children and families temporarily in place of a Head Start agency that would have qualified for the small agency exemption (§ 1302.90(f)(7)). These small Head Start agencies are still required to demonstrate measurable improvements in staff benefits over time.

The benefits requirements included in the final rule represent a change in some of the policies as proposed in the NPRM. Specifically, the final rule removes the proposed requirement for paid family leave (though programs are reminded they must still comply with requirements under the Family and Medical Leave Act (FMLA), if

applicable to their organization). The final rule also provides more flexibility for the provision of paid sick, vacation, and personal leave.

The public comments on the benefits for staff proposed in the NPRM revealed a mix of support, concern, and suggestions for improvement. The vast majority of commenters supported the intent behind the proposed staff benefits. However, many commenters called for additional funding, flexibility, and clarity to ensure the requirements are feasible and do not negatively impact children and families. Other commenters called for stronger requirements for benefits, such as requiring Head Start programs to benchmark to benefits offered in public schools or the Federal Government.

The final rule balances the desire for more flexibility for Head Start programs, costs to support the workforce, and implementation costs. ACF strongly believes in the importance of benefits for staff as a mechanism to greatly improve staff recruitment and retention across Head Start programs, and in turn, program quality. Therefore, in this final rule, the requirements for staff benefits provide more flexibility to programs than the NPRM proposals, but still recognize the importance of benefits as part of a competitive compensation package that supports an overall high-quality workforce.

Cross-Cutting Comments and Themes on Staff Benefits

Comment: ACF received over 500 comments on the staff benefits policies proposed in the NPRM. We received comments indicating general support regarding the need for better wages, benefits, and wellness support for Head Start staff, recognizing that such measures are crucial for staff retention, recruitment, and overall program quality. Many commenters expressed that the proposed changes could significantly improve the working conditions for Head Start employees and improve staff recruitment and retention. Several commenters noted and appreciated the existing benefits provided by their agencies, including health insurance, mental health support, and leave, while others expressed their desire for better benefits. Many, including multiple organizations that represent Head Start workers, encouraged ACF to expand upon the benefits requirements included in the NPRM, such as retirement benefits and paid leave. Some also called for benefits to be required for part-time staff. There were suggestions to engage all Head Start staff and partners in a transparent, equitable process to work toward

meeting the revised wage and benefit standards.

Response: We agree that the provision of staff benefits is crucial for attracting and retaining qualified staff, and for promoting staff well-being and program quality. In the final rule, we retain from the NPRM the majority of requirements for benefits for full-time staff, though with flexibility, including paid leave, access to behavioral health support, and the provision of or facilitated access to health care coverage. In the NPRM, we requested public comment on whether we should require programs to offer retirement benefits to full time staff. In the final rule, we do not add a requirement for retirement benefits. However, ACF encourages programs to provide retirement benefits to staff if feasible, such as offering 401(k) or similar mechanisms with or without employer contributions. As discussed below, we maintain requirements from the NPRM for facilitating access for eligible staff to PSLF and child care subsidies, and for part-time staff, to health care coverage. We encourage programs to develop staff benefit packages in consultation with staff, unions, and other partners, as appropriate.

Comment: Many comments called for flexibility in implementing the changes to accommodate the diverse nature of Head Start programs and the communities they serve. Specifically, there were concerns about the prescriptive nature of the proposed benefits. Some indicated that the proposed requirements were too detailed and did not account for the unique needs of different programs, their communities, or the existing benefits that programs may already offer. Some voiced concerns about equitable implementation, union agreements, or non-Head Start employees across different programs within the same agency. Others called attention to additional staff wellness considerations, such as flexible work arrangements, paperwork burden, work satisfaction, or challenging behaviors in the classroom. Some comments suggested that the benefits not be mandated but encouraged and communicated through guidance. A few comments suggested that programs should provide competitive benefits packages appropriate for their community or region, noting this could be determined by community assessment data. There was a recommendation to shorten the implementation period due to the need for the Head Start workforce to earn adequate wages and benefits more immediately. There was some

misunderstanding that programs would be required to extend health insurance benefits to part-time workers.

Response: The final rule includes several changes to the policies as proposed in the NPRM to make the staff benefits requirements more flexible and allow programs to create benefit packages that meet the varying needs of their workforce.

First, we recognize that, while these benefits are important for recruiting and retaining staff, some programs will have to re-negotiate union contracts or agreements with contractors, while others may need more time to research and implement changes. To enable this, and as summarized previously, we have extended the timeline for the effective date of the benefits requirements from approximately two years after final rule publication (as proposed in the NPRM) to approximately four years after final rule publication. The effective date for these provisions is now August 1, 2028. We believe this change carefully balances the concerns unions have raised that timely implementation is important for retaining and attracting staff with the concerns from programs that these changes will take time to implement, as well as acknowledging the cost considerations of shorting the implementation timeline.

Second, the final rule in § 1302.90(f)(1)(ii) requires programs to provide paid leave to all full-time staff. But the final rule does not differentiate between sick, vacation, or personal leave or require specific accrual rates, allowing programs to pool types of leave or to offer different systems of determining leave. In the final rule, we also fully remove the NPRM proposal for paid family leave, though we strongly encourage programs who are already offering paid family leave to continue to do so and encourage programs that do not to offer those benefits if feasible. Many Head Start agencies are already required to follow the FMLA, which provides job protections for most employees during extended illness, caregiving, or following the birth or adoption of a child. Many states and municipalities also have paid leave laws and programs that apply to Head Start agencies.

Third, in § 1302.90(f)(1)(iii) of the final rule, we retain the requirement to provide full-time staff with short-term free or low-cost behavioral health services, but we remove the specificity of “three to five” visits as proposed in the NPRM. We agree with comments that such a level of specificity is not needed in regulation. This change allows programs to determine the best

way to structure behavioral health supports for their staff.

Fourth, it was not our intent to imply that programs must provide employer-sponsored health care coverage to part-time workers. Programs are required in § 1302.90(f)(2) to facilitate access for these employees to health care coverage options for which they may be eligible in the Marketplace or Medicaid.

Fifth, in the NPRM, we sought comment on a potential requirement for retirement benefits. The final rule does not require programs to provide staff with retirement benefits. However, ACF also recognizes that retirement savings are an important benefit for staff and are often provided to public school employees. Therefore, ACF strongly encourages programs to create and offer retirement mechanisms if feasible, such as 401(k) accounts.

Finally, we maintain other benefits requirements from the NPRM, including provided or facilitated access to health care coverage for full-time staff in § 1302.90(f)(1)(i), and facilitated access to child care subsidies and PSLF for any eligible staff in § 1302.90(f)(3) and (4), respectively.

Together, these improvements in staff benefits in the final rule will improve staff well-being and work satisfaction, reduce staff turnover, and improve program quality, while offering programs reasonable flexibility around implementation.

Comment: Many commenters were concerned about the potential financial burden the proposed staff benefits requirements could impose on programs, particularly in small or community-based organizations, without additional Federal funding. Commenters feared that without increased funding, programs may have to reduce enrollment or lay off staff, which could lead to fewer children being served or program closures. Others noted the difficulty in maintaining full enrollment despite rigorous recruitment efforts due to enrollment competition for four-year-old children with other early childhood programs and losing staff to other careers. There were suggestions to phase in requirements in tandem with increased funding, to add secretarial discretion to not enforce the rule if sufficient dollars are not allocated, and to institute processes for waivers and flexibility particularly for certain programs. Many commenters suggested that ACF make these provisions effective only upon funding from Congress.

Response: As discussed in other areas of this rule, ACF appreciates and recognizes concerns from commenters

about the cost of implementing the staff benefits requirements in the absence of additional congressional funding. We made some changes from the NPRM to address these concerns, including the longer timeline until these requirements go into effect, the removal of paid family leave requirements beyond those in FMLA, and the reduction in the prescriptiveness of other benefit requirements (as described previously). However, ACF has determined that the benefits requirements included in this final rule are necessary for Head Start programs to retain staff and continue to effectively meet their mission to provide high-quality services to children and prepare them for success in elementary school and beyond. As previously described, wage and benefit improvements are necessary so that Head Start can recruit and retain effective staff and thereby deliver high-quality services.

Comment: Some commenters raised the issue of equitable access to benefits for smaller programs. Some suggested that small programs cannot access the large insurance plans that could provide benefits comparable to what public schools provide. Commenters also raised concerns about potential differential impacts on Tribal programs when implementing the benefits standards.

Response: ACF recognizes the specific challenges faced by small programs and made several changes in the final rule to accommodate small programs or extend flexibility to all programs in a manner that will address concerns raised by small programs. First, as described above, the final rule extends the implementation timeline for the staff benefits requirements from two to four years to allow more time for planning and implementation for all programs. Second, as described previously, the final rule includes an exemption from the rule’s wages and benefits requirements for small agencies, defined as those with 200 or fewer funded slots. This exemption recognizes that small agencies need additional flexibility to address wages and benefits in a sustainable way given lack of economies of scale. As previously stated above, research demonstrates that operating an early childhood program that serves fewer than 100 children may not always be financially viable.²² OHS has

²² Mitchell, A. 2010. Lessons from Cost Modeling: The Link Between ECE Business Management and Program Quality. <http://www.earlychildhoodfinance.org/finance/cost-modeling>; Stoney and Blank, 2011. Delivering Quality: Strengthening the Business Side of Early Care and Education. <https://childcareta.acf.hhs.gov/sites/default/files/>

established 200 slots so that, in the absence of additional appropriations from Congress, these agencies do not need to streamline the number of classrooms below this recommended threshold. This approach roughly aligns with other policies that exempt employers with fewer than 50 employees, as the vast majority of agencies with fewer than 50 Head Start employees have fewer than 200 funded slots.

This exemption reflects ACF's understanding that small programs play a critical role in their communities, particularly in rural communities where Head Start may be one of the few center-based early childhood options available for children and families. However, ACF remains concerned about the workforce in small Head Start agencies and the resulting impact on services for children and families in the face of ongoing staff shortages. For this reason, the exemption requires that small agencies still improve benefits for staff over time and make progress towards achieving the benefits requirements that apply to larger Head Start agencies. ACF believes this is critically important so that small agencies can sustain high-quality services over time. This exemption balances the need for better compensation for staff with the recognition that our smallest agencies may be very challenged to execute these policies in the absence of additional funding, given economies of scale. The exemption also applies to Head Start interim service providers that provide services to children and families temporarily in place of a Head Start agency that would have qualified for the small agency exemption (§ 1302.90(f)(7)). As with wages, ACF will work with small agencies to identify opportunities to make progress on access to benefits, especially to avoid staff leaving small programs for larger programs.

We also acknowledge the concerns raised by Tribal Head Start program leaders and other commenters representing Tribal communities. ACF believes that all Head Start educators deserve competitive benefits that reflect the importance of their work, and this includes the Head Start workforce in Tribal communities. The exemption for small Head Start agencies described previously will allow flexibility for Tribal Head Start agencies that operate with 200 or fewer funded slots regarding whether they meet all the staff benefits policy requirements in this final rule. However, as with other small agencies,

small Tribal Head Start agencies are still required to make improvements in staff benefits over time. As previously noted, at the time of the development of this final rule, ACF estimates that approximately 116 Tribal Head Start agencies will benefit from this flexibility, which represents approximately 78 percent of all Tribal Head Start agencies.

ACF recognizes that Tribes may offer different benefit structures and has thus worded the benefit requirements to account for differences in benefit structures. For example, the final rule requires "health care coverage" which might include health insurance or access to health care through a Tribally operated clinic. ACF will work with Tribes to offer support and technical assistance to implement these provisions in a way that honors Tribes' approaches to benefits for employees.

Comment: A few comments noted that Head Start's family child care partners will have difficulty implementing requirements due to their small size and that this may serve as a disincentive for the family child care option. A few comments noted the importance of timely, predictable payments for Head Start's child care partners, particularly family child care, needed to meet the compensation requirements.

Response: Nothing in this rule should be interpreted as a disincentive for the family child care option, and we agree that timely, predictable payments are necessary for Head Start's child care partners.

Comment: A few comments suggested additional benefits for consideration, such as training or other types of leave. There was a suggestion for the creation of concrete, measurable midpoint benchmarks toward implementing the revised standards. A few comments suggested that Head Start programs be required to participate in state early childhood workforce registries, and that registries could be used as a data source for wages and benefits, including for creating salary scales. A few comments suggested that benefits be extended to part-time staff, potentially through a proportional allocation based on number of hours worked.

Response: We appreciate the need for improved staff benefits, and the final rule includes requirements for several benefits that will improve staff well-being, recruitment, and retention. While we do not include additional requirements suggested by commenters in this rule, as noted in § 1302.90(f)(5), programs may offer additional benefits not specified in the rule to their staff, including enhanced health benefits, retirement savings plans, flexible

savings accounts, or life, disability, and long-term care insurance.

Comment: Commenters suggested that the requirements in the final rule should align with existing Federal standards and laws, like the FMLA, the Fair Labor Standards Act (FLSA), the ACA, and the Bureau of Labor Statistics' (BLS) definition of full-time work, as well as state and local labor laws, to avoid creating additional administrative burdens. Some comments voiced concern about the definition of full-time employees and suggest following existing Federal standards or allowing for local autonomy in defining full-time. Other commenters supported the definition of full-time as 30 hours, recognizing the need to align the definition with the typical school year calendar.

Response: The final rule retains the definition of "full-time staff" as those working 30 hours per week or more while the program is in session. This definition is based on an existing Federal law. Specifically, for the purposes of the ACA's Employer Shared Responsibility Provision, the Internal Revenue Service (IRS) specifies that: "a full-time employee is, for a calendar month, an employee employed on average at least 30 hours of service per week, or 130 hours of service per month."²³ This definition of full-time staff allows Head Start staff who work with children in school-day programs (e.g., approximately six hours a day) to be considered full-time. Head Start programs should also account for time spent when children are not present, which might include time for lesson planning, family engagement, and paperwork.

Comment: A few commenters expressed concern that Head Start grant recipients may limit workers' rights to organize or exercise voice through collective bargaining and urged ACF to use oversight and enforce union neutrality. ACF also heard from a few national labor unions indicating support for the proposed benefit requirements and comments indicating that labor unions could partner in implementing required changes through the collective bargaining agreement negotiation process.

Response: ACF reiterates that Head Start funds cannot be used to assist, promote, or deter union organizing per 42 U.S.C. 9839(e), and nothing in the final rule is intended to limit workers' rights to organize or exercise voice through collective bargaining. Head

Start agencies with and without collective bargaining units are encouraged to engage staff in implementing wage and benefit provisions in this final rule. ACF encourages any individual, including Head Start staff and union leaders, who experiences or becomes aware of violations of Head Start's neutrality clause to report such violations by contacting the Office of Head Start or HHS Office of the Inspector General (OIG) complaint hotline.²⁴

Comment: Some comments suggested taking employer-sponsored health insurance and other employee benefits into account when calculating total staff compensation and evaluating progress toward pay parity to avoid an unintended consequence of decreasing existing benefits in order to increase wages. A few comments raised the issue that some Head Start staff are laid off by their agency and receive unemployment benefits during the summers as factors in compensation. Other commenters suggested that Head Start should benchmark to the total value of the compensation package in public schools, inclusive of salaries and benefits.

Response: We decline to include employer-sponsored health care coverage and other employee benefits as part of Head Start staff salaries for the purposes of understanding progress toward pay parity as described in § 1302.90(e)(2) of this final rule. Research indicates that Head Start staff earn lower wages and have fewer benefits than staff at public elementary schools.²⁵ The intent of the benefits policies in the final rule is to markedly improve benefits for the Head Start workforce and ensure Head Start programs can be competitive employers in their local communities. Average hourly wages and fringe rates for public school teachers are higher than those at Head Start programs. For instance, in September 2023, benefits accounted for 35.6 percent of total compensation for elementary and secondary teachers.²⁶ The benefits we require for full-time staff in this final rule—health care coverage and paid leave—are basic benefits widely available in the labor force and key to ensuring staff well-being and program quality in Head

Start. We encourage programs that have been offering other types of employee benefits to continue to do so and encourage others to expand their benefits offerings if feasible. Programs can take into account all benefits they provide to full-time staff when they assess and determine if their benefits package is at least comparable to those provided to elementary school staff in the program's local or neighboring school district, to the extent practicable, as required at least once every five years by § 1302.90(f)(5) of this rule. When implementing the benefits requirements in this final rule, ACF declines to include consideration of unemployment benefits for staff laid off during the summer months. ACF discourages Head Start agencies from laying off staff in the summer months, as this introduces financial uncertainty to staff and can exacerbate challenges with retaining staff and worsen turnover as a result.

Comments on Individual Staff Benefits

Comment: Many commenters expressed that the proposed changes to health benefits could significantly improve the working conditions for Head Start employees and improve staff recruitment and retention. Several comments noted and appreciated the existing health insurance benefits provided by their agencies, while others expressed a desire for better benefits.

Response: As noted previously, this final rule retains the health care coverage benefits proposed in the NPRM and requires a program to provide or facilitate access to high-quality, affordable health care coverage for all staff. Specifically, for all full-time staff (defined as those working 30 or more hours per week when the program is in session), programs are required to either (1) provide and contribute to employer-sponsored health care coverage, or (2) educate, connect, and facilitate the enrollment of employees in health insurance options in the *Healthcare.gov* Marketplace (Marketplace), the appropriate State-specific health insurance Marketplace, or Medicaid. Employees are not obligated to accept employer-provided or employer-facilitated health care coverage, such as those receiving insurance coverage through a partner or another manner. If programs are required to offer employer-sponsored coverage under the ACA or elect to do so anyway, we encourage coverage similar to that offered by silver, gold, or platinum plans in the Marketplace. The requirements for health care coverage allow programs to facilitate full-time staff members' enrollment in health insurance options in the Marketplace, which helps with

the logistical difficulties of negotiating employee benefits plans with insurers, and we recognize that programs may require technical assistance to connect with Navigators or other resources.

For part-time staff who work fewer than 30 hours per week, the final rule requires programs to facilitate the enrollment of these staff in health care coverage options in the Marketplace or through Medicaid for which they may be eligible. Programs are not required to offer nor precluded from offering employer-sponsored health care coverage to part-time staff, but the final rule requires, at a minimum, that programs make part-time staff aware of potential benefits through premium tax credits for which they may be eligible and facilitate their connection to the Marketplace or Medicaid.

Comment: Some comments raised concerns regarding the administrative burden of or the need to clarify benefits requirements, such as facilitating access to health insurance for part-time employees, particularly for small employers, and to define "facilitate access." Some comments voiced concern about the administrative burden of providing employees with information about the health insurance Marketplace and other resources and contended that it is the employees' responsibility to learn about and enroll in those opportunities. Other comments noted that the requirement to inform staff of their health insurance options through the Marketplace is likely not a major change in practice and is already required for new employees through the FLSA.

Response: We acknowledge that under the ACA, employers to which the FLSA applies are already required to provide a notice to employees about the health insurance Marketplaces in the states in which they operate. This final rule seeks to set a higher standard for Head Start programs to "facilitate access" to health coverage, which they can do in a variety of ways: by distributing information or hosting information sessions about Marketplace options, including handouts and the Marketplace website; providing internet or computer access to employees so they can learn more or enroll; and connecting staff to Navigators or benefits specialists at Head Start programs or elsewhere to help staff enroll. Programs already have extensive experience connecting the families they serve to other programs for which they may be eligible and, therefore, are uniquely suited to help connect staff with health care coverage options for which they may be eligible.

Comment: Commenters shared several thoughts in response to the request for

²⁴ Reports may be made to the Office of Head Start either online at <https://eclkc.ohs.acf.hhs.gov/contact-us> or by calling 866-763-6481. Reports may be made to OIG online at <https://oig.hhs.gov/fraud/report-fraud/> or by calling 1-800-447-8477.

²⁵ See Comparison-of-Personnel-Systems-K12-and-Early-Childhood-Teachers.pdf (berkeley.edu).

²⁶ See elementary and secondary schools in Table 3: Employer Costs for Employee Compensation for state and local government workers by occupational and industry group. [ecec.pdf \(bls.gov\)](https://www.bls.gov).

comment on requiring retirement benefits for staff. Some commenters noted they already provide benefits to staff, including some on par with local public schools or state employees, and would have to adjust or change plans to fit any new requirements. Many commenters said that programs should have the flexibility to tailor benefits to their specific circumstances and to be inclusive of multiple types of retirement plans, including individual retirement accounts and pensions. They suggested that mandates or minimum required employer contributions to retirement could be burdensome and that a one-size-fits-all approach may not be appropriate. Some comments called for requirements for programs to provide a matching 401(k) plan or similar retirement options, with education on retirement planning. A few comments supported a minimum employer contribution to staff retirement benefits. A few commenters suggested that retirement benefits should be available for all staff. A few discussed the positive implications for gender, racial, and ethnic equity in expanding benefits.

Response: The final rule does not require that programs offer a retirement savings benefit for staff. While we agree with commenters that noted the importance of retirement benefits, we also recognize the additional substantial cost this could have for employers. However, ACF strongly encourages programs to offer retirement benefits to staff, if feasible, to improve staff recruitment and retention.

Comment: There was some misunderstanding that Head Start retirement benefits would be required to align with those of public school systems. Some comments suggested that the government provide Head Start employees with the same health care and retirement benefits that most government employees receive, that their benefits be on par with public schools, that benefits not require employee contributions, and/or that the government should facilitate a collective into which small programs could buy.

Response: The final rule does not require that Head Start health care coverage benefits be on par or aligned with those of the public school system or offered to most government employees. As described previously, the final rule does not include or add any requirements for retirement benefits for staff.

Comment: Commenters expressed a variety of thoughts on the paid leave policies as proposed in the NPRM. Many commenters identified that they already provide sick and vacation leave to staff through existing paid time off

policies. Many commenters expressed concern that separating sick leave and vacation leave, as proposed in the NPRM, would increase administrative burden and be less desirable for staff. Some commenters requested the option to rollover accrued time off rather than provide leave commensurate with experience or tenure and raised concerns about the ability to pay out accrued time off at the end of employment. Commenters also noted the importance of providing benefits to part-time staff and suggested a pro-rata approach based on hours worked.

Response: We agree with commenters regarding the need for flexibility around paid leave policies, and therefore, the final rule requires programs to offer paid leave without distinguishing between sick and vacation leave. To increase flexibility and local autonomy, we also do not specify how paid leave should be accrued. Although we encourage programs to provide sick and vacation leave to part-time staff, we decline to require this in the final rule. As described further in other areas, we also do not maintain the requirement for paid family leave in the final rule.

Comment: Many commenters emphasized the need for clear and consistent guidance on minimum standards for paid leave to avoid inequitable implementation. Some commenters requested that ACF provide a minimum requirement that aligns with existing policies in states that provide sick leave, while others requested alignment with private industry leave policies.

Response: We appreciate the desire from some commenters to have clear and consistent guidance on minimum leave standards. To increase flexibility and local autonomy, we decline to require minimum standards for paid leave in the final rule.

Comment: Many commenters raised concerns that the paid family leave requirements as proposed in the NPRM exceeded the intent of the Federal FMLA standards or may not align with existing state or Tribal policies. For example, the NPRM proposed that paid family leave apply to agencies with fewer than 50 employees, which commenters noted is not consistent with FMLA. Some commenters expressed confusion about whether the policy as proposed in the NPRM would require full wage replacement, which commenters were concerned could lead to potential misuse of intermittent family and medical leave. A majority of comments that discussed this issue recommended that ACF align its policy with Federal FMLA requirements. Some commenters expressed support for

enhancing paid family and medical leave beyond existing Federal laws (e.g., apply to grant recipients of all sizes) due to historically inequitable access to leave for workers who do not qualify for FMLA. Many commenters expressed worry that the proposed policy would be expensive to implement, leading to financial strain for programs.

Response: ACF has removed the requirement for paid family leave in the final rule. While some commenters expressed support for enhancing access to paid family leave, we appreciate the concerns from many commenters that the policy as proposed in the NPRM would exceed the intent of Federal FMLA requirements by requiring all Head Start programs, regardless of employer size, to provide partial or full wage replacement during qualified periods of leave. However, for staff who are eligible for and utilize periods of family leave under FMLA, ACF still strongly encourages programs to provide partial or full wage replacement for such employees. The majority of the Head Start workforce are women who have often taken on the bulk of caregiving responsibilities for their own families. Ensuring some consistency in wages for employees during the birth or adoption of a child or to care for themselves or family members with health conditions is an important tool for staff retention.²⁷

Comment: Many commenters supported the intent of the proposed requirement to provide short-term behavioral health services for staff and emphasized the need for such supports, recognizing the high-stress nature of the work and the recent increase in children's behavioral issues in classrooms. A few commenters expressed concern about the challenges of accessing mental health services, with long wait times for appointments, especially in rural areas.

Response: We agree with commenters that access to free or low-cost short-term behavioral health services for staff is important for promoting staff well-being and child development. We recognize the challenge of accessing mental health services, especially in rural areas. In the final rule, we retain the behavioral health requirement for staff, but with additional flexibility, as discussed further in other areas. We encourage programs to use a variety of strategies to connect staff to mental health resources and providers.

Comment: Many commenters expressed concern about the prescriptive nature of the behavioral

²⁷ Fact Sheet #28F: Reasons that Workers May Take Leave under the Family and Medical Leave Act | U.S. Department of Labor ([dol.gov](https://www.dol.gov)).

health services requirement for staff as proposed in the NPRM, which specified three to five outpatient visits per year. Commenters argued for local autonomy in decision-making, suggesting that the specific needs of staff and programs vary and that a one-size-fits-all approach may not be appropriate. They also pointed out that there is no equivalent requirement for other health concerns for staff, such as physical therapy or diabetes care management.

Response: To support flexibility and local autonomy in decision-making, in the final rule ACF removes the specific requirement to provide approximately three to five outpatient visits per year. While the final rule still requires programs to offer access to behavioral health services to staff, the policy as revised provides more flexibility to programs to determine the best way to provide such access to behavioral health services. However, we encourage programs to provide a minimum of three to five outpatient behavioral health visits per year if they choose.

Comment: Some commenters requested clarification about what mental health services and benefit plans would meet the requirement to provide short-term behavioral health services for staff, while others suggested this requirement could be met through an Employee Assistance Program (EAP), existing comprehensive health plans and coverage that include behavioral health services, or by developing partnerships with community behavioral health agencies. A few commenters raised specific concerns about the cost of the mental health benefit requirement, noting that additional funding would be needed if programs are required to purchase health insurance that includes coverage for behavioral health services with low out-of-pocket costs.

Response: ACF clarifies that programs may use a variety of strategies to ensure staff have access to short-term, free or low-cost behavioral health services, some of which may result in no additional cost to employers who are providing or facilitating access to high-quality, affordable health care coverage. For instance, employers may meet this standard through existing employer-sponsored group health plans or through an EAP that qualifies as an excepted health benefit.^{28 29} In a 2020

nationally representative survey, among those reporting perceived unmet mental health care needs in the prior year, 19 percent reported that their health insurance did not pay enough for mental health services.³⁰

Comment: Regarding the proposed requirement for programs to facilitate access to and enrollment in affordable child care, some comments noted the importance of child care for their staff and community and supported increased access to child care resources. A few suggested providing child care options to staff such as onsite child care or partnering with a local child care center may be a better way to support the workforce while meeting the needs of the community. Several commenters requested clarification and guidance regarding the definitions of “facilitate access to” and “facilitate enrollment in” child care.

Retirement Income Security Act (ERISA) that applies to group health plans, unless the arrangement qualifies as an excepted benefit. For an Employee Assistance Program (EAP) to qualify as an excepted benefit, the EAP must meet the requirements of 26 CFR 54.9831-1(c)(3)(vi), 29 CFR 2590.732(c)(3)(vi), and 45 CFR 146.145(b)(3)(vi), including that the program may not provide significant benefits in the nature of medical care, the benefits provided may not be coordinated with benefits under another group health plan, and that no employee premiums or contributions or cost sharing can be required as a condition of participation in the EAP. To the extent the arrangement that provides the behavioral health visits required under this final rule does not meet the requirements to qualify as an excepted benefit, the arrangement may be considered a group health plan subject to the requirements of part 7 of ERISA. For example, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, which added ERISA section 712, requires that group health plans and health insurance coverage ensure that financial requirements and treatment limitations on mental health and substance-use disorder services are no more restrictive than the predominant financial requirements and treatment limitations applicable to medical and surgical health services, and that there are no financial requirements and treatment limitations applicable only with respect to mental health and substance use disorder services. 26 CFR 54.9812-1; 29 CFR 2590.712; and 45 CFR 146.36.

²⁹ Section 1251 of the Affordable Care Act provides that grandfathered health plans are not subject to certain provisions of the Internal Revenue Code (Code), ERISA, and the Public Health Service (PHS) Act, as added by the Affordable Care Act, for as long as they maintain their status as grandfathered health plans. See 26 CFR 54.9815-1251, 29 CFR 2590.715-1251, and 45 CFR 147.140. For a list of the market reform provisions applicable to grandfathered health plans under title XXVII of the PHS Act that the Affordable Care Act added or amended and that were incorporated into the Code and ERISA, visit <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/affordable-care-act-for-employers-and-advisers/grandfathered-health-plans-provisions-summary-chart.pdf>.

³⁰ Council of Economic Advisors (2022, May). Reducing the economic burden of unmet mental health needs. The White House. <https://www.whitehouse.gov/cea/written-materials/2022/05/31/reducing-the-economic-burden-of-unmet-mental-health-needs/>.

Response: The early childhood workforce, including Head Start staff, are disproportionately women,³¹ many of whom need child care for their own children in order to work, but high-quality, affordable child care is difficult to find.³² The final rule retains the proposed policy and requires that programs connect staff to local child care information sources, including distributing information about child care resource and referral agencies. Among staff who may be eligible for child care subsidies, the final rule contains revised language requiring programs to “facilitate access” rather than “facilitate enrollment” in the child care subsidy program and is now consistent with the requirements regarding facilitating staff access to PSFL. Facilitating access to child care may involve referring staff to State and local agencies that administer child care subsidy programs, providing computer or internet access and support to apply for child care subsidies, providing printed resources about child care subsidies, providing timely income and employment documentation, and assisting staff in completing the application as needed.

Comment: Regarding the proposal in the NPRM that programs can choose to prioritize the enrollment of staff members’ children, many comments supported the prioritized enrollment for the children of eligible staff. Some commenters were concerned about the implications of prioritizing such children for enrollment over serving those most at-risk in their community. A few comments urged that the children of Head Start staff be categorically eligible to attract and retain staff. A few comments suggested that the language of the policy could be broadened to include “children for whom staff is the primary caretaker” to be inclusive of grandparents who are primary caregivers or those providing kinship or guardianship care.

³¹ Coffey, M. (2022). *Still underpaid and unequal: Early childhood educators face low pay and a worsening wage gap*. Center for American Progress. <https://www.americanprogress.org/article/still-underpaid-and-unequal/>; Mayfield, W., & Cho, I. (2022). *The National Workforce Registry Alliance 2021 Workforce Dataset: Early Childhood and School-age Workforce Trends, with a Focus on Racial/Ethnic Equity*. National Workforce Registry Alliance. <https://www.registryalliance.org/wp-content/uploads/2022/05/NWRA-2022-ECE-workforce-data-report-final.pdf>; Smith, L., McHenry, K., Morris, & Chong, H. (2021). *Characteristics of the child care workforce*. Bipartisan Policy Center. <https://bipartisanpolicy.org/blog/characteristics-of-the-child-care-workforce/>.

³² Child Care Aware (2022). *2021 Child Care Affordability*. <https://www.childcareaware.org/catalyzing-growth-using-data-to-change-child-care/#ChildCareAffordability>.

²⁸ When offering access to the behavioral health services required under this final rule, an employer should be aware that other provisions of law may apply to that arrangement. In general, the provision of medical care, including the provision of behavioral health services, could result in the arrangement being considered a group health plan subject to the relevant provisions of the Employee

Response: We retain this provision in the final rule. As described above, many in the ECE workforce rely on child care to work and their families may benefit from Head Start's services. The final rule provides an option for programs to prioritize the enrollment of staff members' children through selection criteria. This is not a requirement of programs, and Head Start agencies may choose whether to include prioritization of staff members in their selection criteria. In addition, staff members' children must meet one or more eligibility categories described in § 1302.12(c) or (d). Because of the wage increases required through this final rule, ACF acknowledges that it is likely that fewer staff members' children will be eligible for Head Start over time. Programs are reminded that through their selection criteria, they must still prioritize those most in need of Head Start services. We acknowledge the suggestion to allow for categorical eligibility for the children of Head Start staff; however, as eligibility categories are largely determined by Head Start statute, we do not incorporate this suggestion in the final rule.

Comment: Commenters supported the policy proposed in the NPRM that would facilitate greater ease of access to PSLF for Head Start staff, including a suggestion for Head Start to work with the Department of Education or automatically enroll Head Start staff in PSLF. Some expressed concern about the administrative burden of facilitating access to PSLF, and several commenters requested clarification and guidance about what is meant by "facilitate access," with a few suggesting replacing this with a requirement to share information. A few comments noted that workers at for-profit agencies do not qualify for PSLF, and there was confusion that this would prohibit Head Start from partnering with for-profit child care partners. A few comments suggested that this provision would be more appropriate in guidance instead of in regulation.

Response: The final rule retains the requirement that programs facilitate access to the PSLF program. A 2022 study found that 19 percent of the ECE workforce reported they had student debt, compared to 17 percent of the U.S. adult population overall, and 17 percent reported they carried debt for others.³³ Maintaining the "facilitate access" language is important to ensure that programs both share information and

provide support and timely certification for enrollment in PSLF. Activities considered "facilitating access" include, but are not limited to, providing information to and hosting information sessions for staff, providing internet or computer access to employees during dedicated time away from their normal job duties so they can learn more or enroll, and connecting staff to benefits specialists at Head Start programs or elsewhere to help staff enroll. We recognize not all Head Start staff will be eligible for PSLF, given that some may not have eligible employment if the Head Start program or child care partner site does not meet the employer requirements because they are for-profit entities. However, of those that do, the timely certification of employment is necessary for staff who are applying.

ACF appreciates the comments encouraging coordination with the Department of Education on PSLF and will continue to explore ways the Federal Government can work across agencies to make it easier for early educators to apply for PSLF.

Workforce Supports: Training and Professional Development Plans (§ 1302.91)

In this standard, we describe the minimum requirements for annual professional development, and we codify the requirements of the 2007 Head Start Act for teaching staff within the HSPPS. The NPRM further codified the requirements of section 648A(f) of the Head Start Act. Section 648A(f) of the Act requires programs to develop, with input from the employee, individual professional development plans for every full-time staff providing direct services to children. These plans serve as a mechanism for programs to help ensure their staff have the skills, knowledge, and competencies to effectively perform their roles and deliver high-quality program services.

While the requirement is stated in the Act, it has not been previously codified in the HSPPS, and data from OHS monitoring findings show that programs are being cited for lacking professional development plans for their education staff. From fiscal year 2020–2022, a top cited finding for programs in education was related to professional development plans.³⁴ Revising language in § 1302.92(b)(1) to include individual professional development plans aligns the HSPPS with the Act and reminds programs of the requirement. It also emphasizes the importance of leveraging staff's input to identify their

professional needs and drive their career growth.

Comment: Many commenters expressed support for the revision. One commenter noted this revision will streamline information and make it easier for programs to reference and adhere to all regulations and mandates. Another commenter noted that when individual professional development plans are done well, they can improve staff retention and job satisfaction. Further, professional learning opportunities designed and delivered in a way that elevate educator expertise and autonomy can increase children's learning and development.

Response: ACF agrees with commenters and retains the language proposed in the NPRM to include individual professional development plans.

Comment: While section 648A(f) of the Act requires programs to co-create a professional development plan with each full-time employee who provides direct services to children, a few commenters noted the importance of such plans for all Head Start positions. A few commenters also noted the importance of individual staff input (including staff in family child care settings) in developing goals and identifying next steps within their individual professional development plans. Such input makes plans meaningful to their role and tasks and allows staff to build upon the valuable skills they already possess. Another commenter recommended programs leverage existing infrastructure, such as professional development offerings and tools within early childhood professional registries.

Response: ACF encourages programs to implement individual professional development plans with all staff. We agree that these plans can be effective tools to support professional and career development for everyone. We also acknowledge that staff's input on their plans is an important step to individualize professional development approaches. The goal is for staff to build on existing strengths and implement effective practices to deliver quality program services. Individuals and programs can also consider future career opportunities as they develop plans. ACF encourages programs to leverage existing infrastructure and services to support their delivery of impactful professional development.

While ACF acknowledges commenters' recommendations, we do not revise the provision to address these comments. We feel programs can access technical assistance and resources on the Early Childhood Learning and

³³ RAPID Survey, Student Debt in the Early Childhood Workforce, May 2022. Retrieved from: <https://rapidsurveyproject.com/our-research/student-debt-in-the-early-childhood-workforce>.

³⁴ Data from narrative responses from monitoring reviews from fiscal years 2020–2022.

Knowledge Center (ECLKC) to enhance their professional development planning processes. Additionally, we note that programs can elect to go beyond the minimum requirement of a professional development plan for each full-time employee who provides direct services to children and support such a plan for all Head Start staff positions.

Comment: One commenter offered additional revisions to the NPRM language. The commenter suggested that ACF revise § 1302.92(b) to encourage programs to consider various strategies that elevate the early educator profession and pair these with holistic improvements to professional development opportunities. Additionally, the commenter advised that professional development opportunities build on the linguistic and cultural strengths of educators. The commenter also proposed adding language to § 1302.92(b)(3) that expands training for child and family services staff on best practices for implementing family engagement strategies to include a focus on a holistic approach to child development, inclusive of mental health and social and emotional development.

Response: While ACF encourages programs to consider strategies that build on staff's strengths and offer professional development opportunities to help staff meet the unique needs of their enrolled children and families, we do not revise this provision to address this comment. We think these provisions are sufficient in directing programs to provide a systemic approach to staff training and professional development that supports staff in acquiring or increasing the knowledge and skills needed to provide high-quality, comprehensive services. By codifying the statutory requirement for individualized professional development plans in regulation, we reinforce the importance of tailoring professional development experiences to each staff members' unique cultural, linguistic, and educational backgrounds.

Comment: A few commenters noted that professional development plans are a helpful mechanism to support and track staff's attainment of their educational requirements, and they are particularly needed when recruiting qualified staff continues to be challenging. One commenter requested that programs be able to provisionally hire staff who do not meet the educational requirements without needing to submit individual waivers when assistant teachers have two-year plans to attain the CDA credential and when teachers have a five-year plan to get their degree.

Response: ACF agrees that professional development plans can be a vehicle to track timely progress and attainment of educational credentials and qualifications. However, since the qualification requirements of Head Start educators are prescribed in legislation, we do not revise this provision to address this comment.

Workforce Supports: Staff Wellness (§ 1302.93)

Section 1302.93 outlines program requirements for promoting staff health and wellness, including ensuring that staff have regular health examinations; do not pose a risk of exposing others in the program to communicable diseases; and are provided access to mental health and wellness information. This final rule adds requirements to § 1302.93 for programs to provide regular breaks for staff and cultivate a program-wide culture of wellness for staff. In response to public comments, this final rule does not include the proposed requirements in the NPRM for unscheduled breaks and adult-sized furniture in classrooms, as described further below. The changes in this section of the rule are intended to further amplify the crosscutting efforts across multiple areas in the HSPPS to improve staff recruitment and retention through an intentional focus on staff wellness. ACF believes these changes will help reduce burnout and staff turnover, as well as promote high-quality services for children and families.

Staff Breaks

The previous standards in § 1302.93 lacked critical requirements to promote staff wellness on the job. This final rule adds a new paragraph (c) to § 1302.93 which outlines requirements for break times during work shifts. In new paragraph (c)(1), we specify that, for each staff member, a program must provide regular breaks of adequate length and frequency based on hours worked, including (but not limited to) time for meal breaks as appropriate. New paragraph (c)(2) requires programs to comply with Federal, State, or local laws or regulations that are more stringent for staff breaks, if applicable.

For staff members who regularly work in classrooms with children, the breaks for staff described in paragraph (c)(1) are subject to required staff-child ratios. However, in new paragraph (c)(3), we specify that during break times for classroom staff, one teaching staff member may be replaced by one staff member who does not meet the teaching qualifications required for the age, so long as this staff member has the

necessary training and experience to ensure the safety of children and minimal disruption to the quality of services. ACF expects that, for classroom staff, these regular breaks will be scheduled for periods that are least disruptive for classroom instruction or routines, such as during nap times, meals, or outside play periods, and will be covered by staff who have completed and passed the appropriate background checks.

This final rule does not include paragraph (c)(4) that was included in the NPRM, which proposed unscheduled wellness breaks for staff. As described below in the public comment analysis, ACF believes that early childhood staff need restroom breaks and an opportunity to step away during stressful situations. Such breaks are important to staff health and child safety. However, ACF will defer to Head Start agencies to determine how to implement breaks.

We respond to the comments we received on staff breaks in response to the NPRM in this section-by-section discussion below.

Comment: We received several public comments on our proposals regarding required staff breaks. They reflected a mix of support and concern. Of those that commented on this issue, many agreed that breaks for staff are beneficial for mental health and can improve the quality of services provided to children. They recognized the importance of supporting staff well-being to reduce burnout and turnover, and some said their agencies already provide such breaks, scheduled and unscheduled.

Response: We strongly agree with the importance of staff breaks for supporting overall staff wellness. In alignment with the overarching goal of this final rule, to promote higher-quality services for children in Head Start programs and better support the mental and physical well-being of staff, children, and families, ACF adds to § 1302.93 a new paragraph (c), including paragraphs (c)(1) through (3), which outlines requirements for break times during work shifts, but with some modifications to the policy as proposed in the NPRM. This standard for regular staff breaks is discussed further below.

Comment: Regarding the proposed scheduled breaks policy, the majority of comments were supportive of the requirement, noting some programs already provide breaks for staff when possible. However, commenters found the proposed language for scheduled breaks to be too prescriptive because of the specific time requirements proposed in the standard. Commenters highlighted potential contradictions

with State requirements as well. A few commenters also expressed concern that the new requirements for breaks were unfunded, which could lead to a reduction in slots to accommodate the additional staffing costs.

Response: ACF believes in the critical importance of regular breaks for staff to promote physical health and wellness, and in turn promote higher quality interactions and services for children and families. However, ACF understands that programs have unique structures and programmatic considerations that might dictate how breaks are implemented, and therefore, in this final rule, we retain the requirement for scheduled breaks but with some modifications to provide more flexibility for programs. Specifically, the staff breaks standard added in § 1302.93(c)(1) requires that each staff member receive regular breaks of adequate length and frequency based on hours worked, including, but not limited to, time for meal breaks as appropriate. With these revisions to the staff breaks policy, ACF believes the requirement now better supports programs' autonomy to execute a break schedule that is most effective for each program's staff and overall organizational health while maintaining child safety and ratios. ACF expects that breaks for staff will be provided away from their regular job duties including being away from the classroom for those staff. The phrasing "of adequate length and frequency" in the new standard is meant to imply that staff who work longer shifts may need longer or more frequent breaks. For instance, ACF expects that staff who work longer shifts will be provided a regular break that is of adequate length to allow for a meal and regular restroom breaks.

As discussed in other sections, ACF recognizes that the implementation of some of the policies in the final rule will come with associated costs and may require adjustments in funded enrollment if additional congressional appropriations are not available. This final rule also delays the effective date for the staff breaks requirement to August 2027, approximately three years after the publication of the final rule. This will allow programs more time to plan for and implement this new policy.

Comment: Regarding the proposed unscheduled wellness breaks, there were significant concerns about their practicality and feasibility of implementation. Commenters expressed worry about maintaining child-to-staff ratios, violating licensing requirements, the financial and logistical burden of hiring additional staff to cover breaks,

and the potential for abuse of the unscheduled break policy.

Response: The safety of children is of the utmost importance to ACF, and we recognize this is a key priority for programs as well. As such, ACF agrees with the public concerns regarding the need for programs to have flexibility in how they structure brief, unscheduled breaks for staff safely, particularly for small and rural programs and those that are geographically dispersed. While the proposed requirement was intended to reduce potential child incidents by allowing an overwhelmed classroom staff member an opportunity to briefly step away from a situation, ACF acknowledges that some programs need flexibility in terms of how they implement, particularly those whose licensing requirements would not allow for such unscheduled breaks without another staff member immediately available to step into the room. We agree that programs will need to determine how to implement breaks in a way that does not pose a safety risk for smaller and understaffed programs. As such, the proposed requirement for brief unscheduled breaks for staff is not included in this final rule, and instead we include a more flexible policy that requires breaks of appropriate length and frequency.

However, being an early educator, including in Head Start, involves actively educating, caring for, and supervising young children. These jobs require the full attention of staff members and can be physically, mentally, and emotionally demanding, particularly if done for long shift periods. It is critically important that programs allow staff to step away for restroom breaks and support overwhelmed staff that may need a moment away from the classroom. Unscheduled breaks allow staff the opportunity to briefly step away from an overwhelming situation, think through an appropriate approach to handling the given situation, and may ultimately help prevent or reduce child safety incidents in classrooms. Lack of access to breaks at work may be part of a constellation of workplace stressors faced by Head Start staff including the significant responsibility entrusted to Head Start staff who are charged with supporting the children and families who are furthest from opportunity. Work climate and stressors are associated with teacher psychological well-being,³⁵ and in turn, contribute to staff turnover.

³⁵ Jeon, L., & Ardeleau, K. (2020). Work climate in early care and education and teachers' stress: Indirect associations through emotion regulation. *Early Education & Development*, 31(7), 1031–1051;

Further, it is also critically important for classroom staff to have access to unscheduled bathroom breaks as needed, to promote physical wellness. Research indicates that ECE teachers have higher rates of urinary tract infections relative to the general population of women, a troubling finding.³⁶ This is thought to be due to staff not feeling as though they can regularly access the bathroom as needed. Therefore, ACF remains convinced of the benefits of offering staff unscheduled breaks as needed and urges programs to develop staffing systems that incorporate such an approach as feasible, while ensuring child safety.

Comment: Some commenters found the language around unscheduled breaks to be too prescriptive and felt that programs should have the autonomy to support their employees' health and wellness in ways that are practical for their specific circumstances. A few commenters noted the rigidity of the proposed requirements could lead to a culture of micromanagement, eroding morale and undermining the judgment and expertise of staff.

Response: As noted above, ACF concurs with public sentiment that programs need flexibility in structuring staff breaks, so this is not included as a requirement in this final rule.

Adult-Sized Furniture

Based on the feedback received from the public on the NPRM, ACF is not retaining the proposed new paragraph (d) in § 1302.93, which would have required programs to ensure staff have access to adult-size furniture in classrooms. The requirement was not well-supported by the public for a variety of reasons. ACF ultimately agrees that the presence of the adult-sized furniture in a classroom is better left to the discretion of individual programs. However, ACF remains committed to the benefits of access to adult-sized furniture, particularly chairs, for classroom staff and encourages programs to implement changes to better support the physical health of teachers. ACF's support for access to adult-sized furniture is motivated by the data indicating that staff in Head Start programs experience

Jeon, L., Buettner, C., & Grant, A. (2018). Early childhood teachers' psychological well-being: Exploring potential predictors of depression, stress, and emotional exhaustion. *Early Education & Development*, 29 (1), 53–69.

³⁶ Kwon, K., et al. (2022). Neglected elements of a high-quality early childhood workforce: Whole teacher well-being and working conditions. *Early Childhood Education Journal*, 50, 157–168.

elevated levels of work-related ergonomic pain. For example, a survey of Head Start teachers in Baltimore found that 80 percent reported musculoskeletal pain as a result of their work.³⁷ In an Oklahoma sample of Head Start teachers, more than seven in ten (73 percent) Head Start staff reported work-related ergonomic pain, including in routine activities like diapering or stooping to pick up children.³⁸ Programs should continue to align with ACF's goal of improving and investing in staff health and wellness including strengthening support for Head Start early educators' physical well-being whenever possible.

We respond to the comments we received on adult-sized furniture in classrooms in response to the NPRM in this section-by-section discussion below.

Comment: The majority of the public comments regarding staff access to adult-size furniture in classrooms were not supportive of the requirement. Commenters were generally apprehensive about the requirement for adult-sized furniture in classrooms, citing safety concerns for children, reduced usable space, and potential conflicts with both state licensing standards and the Early Childhood Environment Rating Scale (ECERS). Most of the comments on this issue also reflected a desire for less prescriptive rules that focus on a desired outcome and allow for more locally designed approaches to achieve those outcomes.

Response: Due to the overwhelming negative feedback ACF received on adult-sized furniture in classrooms for staff, we do not retain it as a requirement in this final rule. ACF finds commenters' concerns regarding a potential conflict with state licensing standards and ECERS to be compelling. However, as noted previously, ACF remains committed to supporting the health and well-being of Head Start program staff. ACF encourages programs to ensure classroom staff at minimum have adult-size chairs in classrooms and a dedicated space with adult-size furniture for breaks and meals as needed. This can help promote ergonomic health and minimize physical pain for staff associated with consistently sitting on child-sized chairs or the floor.

Comment: Of the supportive comments received, many supported the idea of adult-sized chairs for adult comfort but argued against adult-sized desks, which commenters believed were not suitable for EHS classrooms due to space constraints and safety issues. Additionally, some commenters stated that adult-sized furniture could create barriers and negatively impact teacher-child interactions. Some commenters agreed with the benefits of access to adult-sized furniture but suggested instead focusing on creating a dedicated workspace for staff outside of the classroom.

Response: As discussed previously, ACF does not retain this requirement in the final rule.

Culture of Wellness for Staff

This final rule adds a new paragraph (d) to § 1302.93 that states that a program should cultivate a program-wide culture of wellness that empowers staff as professionals and supports them to effectively accomplish their job responsibilities in a high-quality manner, in line with the requirement at § 1302.101(a)(2). This language clarifies that program-wide wellness supports extend to staff and that these supports include addressing program management such as implementing positive employee engagement practices, opportunities for training and professional development, and ongoing supervisory support.³⁹ As noted in changes made to § 1302.101(a)(2), meaningful and effective employee engagement practices that promote clear roles and responsibilities are needed to improve the well-being of the workforce. Additionally, knowing that the mental health of young children is intertwined with the mental health of the adults who care for them, it is critical to foster a supportive environment for staff well-being, reduce burnout, and improve retention in order to promote the highest quality of services for children and families.

Comment: Of the few comments received on the new requirement for programs to cultivate a program-wide culture of wellness, most were supportive, citing the importance of fostering a healthy work environment, preventing burnout, and the unintended negative impact on the children and families served. About half of the commenters were also concerned with the subjective nature of the requirement

and how ACF would be able to monitor it.

Response: ACF maintains the proposed requirement, with the general support of the public, requiring programs to foster a program-wide culture of wellness. Staff who are not as emotionally committed to or proud of their work or organization, are less motivated and are more eager to leave, which can in turn negatively affect the quality of their work and the attitudes held toward children.⁴⁰ ACF believes in the intent of this requirement and the positive impact on programs, staff wellness, and the children and families served, as a result. After publication of the final rule, ACF will determine how best to monitor programs on this requirement in a way that is fair and equitable across programs. As needed, ACF will also provide TA to programs on how to meet this requirement, including examples of best practices from other programs.

Workforce Supports: Employee Engagement (§§ 1302.92, 1302.101)

Section 1302.101(a)(2) requires programs to implement a management system that promotes clear and reasonable roles and responsibilities for all staff and provides regular and ongoing staff supervision with meaningful and effective employee engagement practices. The language in the final rule is intended to discourage staff supervision approaches that are primarily top-down and is grounded in an understanding that staff engagement is critical to both employee well-being and program quality. The final rule also reflects provisions in the Head Start Act that emphasize the importance of employee development and active engagement.

Meaningful and effective employee engagement practices will vary among programs, but examples include discussions of explicit and implicit expectations; recognition for high-quality work; open communication between management, staff, and their representatives; conducting and responding to workplace climate surveys; responding to feedback; working in partnership with staff to identify and ameliorate any barriers to high-quality job performance that may exist including workload issues; formal

³⁷ The Happy Teacher Project (2020). *Strengthening Health, Wellness, and Psychosocial Environments in Head Start: Technical Report 2020*. Johns Hopkins University and Oklahoma State University.

³⁸ Kwon, K., Ford, T., Randall, K., Castle, S. (2021). *Head Start Teacher Paradox: Working conditions, well-being, and classroom quality*. The Happy Teacher Project: Johns Hopkins University and Oklahoma State University.

³⁹ <https://www.cdc.gov/workplacehealthpromotion/planning/leadership.html>; https://aspe.hhs.gov/sites/default/files/private/pdf/76661/rpt_wellness.pdf.

⁴⁰ Kleine, A.-K., Rudolph, C.W., & Zacher, H. (2019). Thriving at work: A meta-analysis. *Journal of Organizational Behavior*, 40(9–10), 973–999.; Walumbwa, F.O., Hartnell, C.A., & Oke, A. (2010). Servant leadership, procedural justice climate, service climate, employee attitudes, and organizational citizenship behavior: A cross-level investigation. *Journal of Applied Psychology*, 95, 517–529.

and informal opportunities for discussions related to job satisfaction and performance; and having employee engagement inform professional development opportunities for staff. In general, these practices should aim to understand the expectations imposed on staff, identify and address barriers staff are experiencing in being able to fulfill their roles and responsibilities (e.g., filling multiple roles, job-related stressors impacting job performance, unclear roles and responsibilities), and recognize high-quality work.

The final rule also retains a revision from the NPRM in § 1302.92(b), which requires programs to implement a systematic approach to staff training and professional development. We add to this section the phrase “and integrated with employee engagement practices in accordance with § 1302.101(a)(2).” This revision builds on the revised language in § 1302.101(a)(2) and is intended to ensure programs implement an approach to staff training and professional development that is informed by input from staff, identifies barriers to job performance, and includes other employee engagement practices.

Comment: ACF received few comments overall on provisions related to employee engagement. Of those who commented, there was general consensus on the necessity of well-defined roles and responsibilities for Head Start staff. Commenters advocated for management systems that recognize the diverse duties of staff and support the complexity of these roles. There was a call for professional development plans that are flexible, crafted with input from staff, and tailored to meet the specific needs of each program.

Response: ACF agrees with commenters and retains the revised language from the NPRM.

Comment: A few commenters advocated for integrating mental health and anti-bias approaches into the employee engagement provisions.

Response: ACF agrees with commenters on the importance of integrating mental health throughout Head Start programs. This final rule includes multiple provisions in § 1302.45 establishing what programs must do to support a culture that promotes mental health, including revised requirements in § 1302.45(a) to include coordination and collaboration between mental health and other relevant program services. Since we do not specify any other content areas (e.g., physical health) for inclusion in the employee engagement provisions in § 1302.92(b) or § 1302.101(a)(2), we do not make further revisions to these

sections from the NPRM language. ACF has and will continue to provide TTA on supporting mental health and promoting inclusive environments in Head Start programs.

Comment: A few comments highlighted a preference for leadership development strategies that empower rather than prescribe, with a call for ACF to offer guidance instead of stringent requirements. These commenters emphasized the importance of program autonomy in staffing and professional development decisions. A few comments raised concerns about a potential increase in regulatory burdens with these provisions.

Response: ACF values commenters’ input on leadership development strategies and recognizes the need for strategies that are adaptable to local contexts. The final rule reflects this by providing a framework that supports the development of management systems at the program level, allowing for the leadership of each program to guide the creation and implementation of employee engagement practices. The rule aims to balance the need for clear Federal guidance with flexibility for programs to address their specific challenges and dynamics.

In response to concerns about regulatory burden, ACF has been intentional about ensuring that the final rule provisions on employee engagement do not impose undue constraints on programs. Rather, they support autonomy in developing and executing strategies that are most effective for each program’s staff and organizational health. The changes described in these sections are intended to be scaled to the size of the Head Start organization and are not anticipated to incur a large cost.

Mental Health Services (Subparts D, H, and I)

The final rule makes updates to mental health services for children, families, and staff and more fully integrates mental health in all aspects of Head Start services while focusing on a preventive and strengths-based approach. Collectively, the final rule provisions promote a Head Start program that recognizes mental health as a part of child development and integrates a promotion and prevention approach that includes addressing the mental health needs of children and the adults that care for them in an ongoing and collaborative way. Mental health services have always been an important part of the Head Start model, and this rule affirms the importance of mental health by explicitly referencing it in the heading of subpart D and the renamed

Health and Mental Health Services Advisory Committee (HMHSAC). In addition, the final rule includes clarifying language to reinforce that mental health should be integrated into all aspects of the Head Start program, including developmental screenings, family support services, family engagement, and nutrition.

The final rule includes significant changes from previous standards on mental health to address mental health services as an important component of Head Start and respond to increasing mental health concerns among children, families, and staff in the program. Many of these changes were proposed in the NPRM, with some additional changes made in the final rule in response to public comments. Specifically, the final rule removes the requirement for a multidisciplinary mental health team in the NPRM and replaces it with a requirement for a multidisciplinary approach to emphasize that programs should determine how best to coordinate and ensure program-wide mental health supports and services with the appropriate staff, which is discussed more in depth below. The new requirements for the multidisciplinary approach to support mental health across the program largely reflect those proposed in the NPRM and include: (1) coordinating supports for adults, including families and staff; (2) new strengths-based language related to mental health services for children that focus on preventive strategies; (3) annual assessment of mental health consultation services to address any needed changes in service delivery; (4) monthly mental health consultation services with an option to augment with other licensed mental health professionals or behavior health support specialists, as needed; (5) screening for social and emotional development and follow-up with parents; (6) coordination across mental health and other service providers in the program; and (7) leveraging community partnerships to provide mental health services, including through the HMHSAC.

The final rule also retains the description of the role of a mental health consultant, whose role is to build the capacity of adults to support the mental health and social and emotional development of children. Research has demonstrated that mental health consultation has positive impacts on young children’s social and emotional skills and reductions in behaviors that are challenging to adults.⁴¹ While the

⁴¹ Center of Excellence for Infant and Early Childhood Mental Health Consultation (2023).

NPRM required monthly mental health consultation, the final rule provides additional flexibility in meeting the monthly mental health consultation requirement such that, if mental health consultation is not available on a monthly basis, Head Start programs must use other licensed mental health professionals or behavior health support specialists to ensure the provision of mental health supports on at least a monthly basis. If this flexibility is exercised, the other licensed mental health professionals or behavioral health support specialists must coordinate and consult with the program's mental health consultant. This change is responsive to comments received on the NPRM about the lack of mental health consultants available to Head Start programs.

Part 1302, Subpart D—Health and Mental Health Program Services

Subpart D outlines the program requirements to support the provision of high-quality health, oral health, mental health, and nutrition services. The final rule modifies the name of this section to include mental health more explicitly.

Section 1302.40 Purpose

Section 1302.40 describes the overarching purpose of health and mental health program services in Head Start. Paragraph (b) describes the previous requirement to establish and maintain a Health Services Advisory Committee, an advisory group usually composed of local health providers who represent a wide variety of local social services agencies. The final rule changes the title of this advisory committee to Health and Mental Health Services Advisory Committee (HMHSAC) to include mental health more explicitly and to emphasize the importance of including professionals with mental health expertise on the committee. While ACF strongly recommends including professionals with mental health experience or expertise (including professionals with background or experience in substance use disorders) on the HMHSAC, the composition of the committee should be designed based on community need and remains at the discretion of the local program. The final rule modifies other requirements referencing the committee to update the language in §§ 1302.42(b)(1)(i), 1302.43(b)(4), and 1302.94(a).

Comment: We received some comments on this section, and they

generally focused on two themes. First, those who commented on this section noted confusion about how the role of the HMHSAC differs from that of the multidisciplinary team proposed in the NPRM under § 1302.45(a). Second, those who commented requested clarification on whether the change from the Health Services Advisory Committee to the Health and Mental Health Services Advisory Committee is a name change only or if the responsibilities of the committee will also change.

Response: ACF accepts the feedback from commenters expressing concern and confusion about the multidisciplinary team and does not retain that proposed requirement in the final rule. Instead, the final rule requires programs to use a multidisciplinary approach to mental health and wellness supports, and programs are encouraged to take a team-based approach to meet this requirement. The final rule changes the title of the advisory committee to elevate the importance of including mental health providers as programs often do not realize that the committee can include mental health expertise in addition to other health expertise. The rule does not change the overarching responsibilities of the committee, but it does state that one function of the HMHSAC is to support the program in building community partnerships in § 1302.45(a)(7).

Section 1302.41 Collaboration and Communication With Parents

Section 1302.41 requires Head Start programs to collaborate with parents as partners in the health and well-being of their children and to communicate in a timely manner with parents about their children's health needs and development concerns.

The final rule includes mental health more explicitly throughout this section. Specifically, the final rule requires that programs collaborate with parents as partners in the health, mental health, and well-being of their children and communicate with parents about their children's health and mental health needs, including at a minimum, obtaining advance authorization for mental health procedures administered and sharing policies for mental health emergencies.

Comment: Those who commented on § 1302.41 were supportive of the inclusion of mental health in advanced authorization.

Response: We agree with commenters and maintain the NPRM proposal to further integrate mental health with other health-related services by including authorization from parents for

mental health supports as part of the initial consent process.

Section 1302.42 Child Health Status and Care

Section 1302.42 describes the requirements for programs with respect to a child's health status and care, including the timelines by which programs must ensure a child has an ongoing source of continuous, accessible health care; determine if a child is up to date on a schedule of age-appropriate care; and obtain or perform evidence-based vision and hearing screenings.

The final rule includes mental health more explicitly to align with the purpose and intent of the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit. Specifically, the final rule requires that determinations obtained about a child's schedule of age-appropriate preventive and primary care includes mental health care. The final rule also requires that when a program is identifying a child's nutritional health needs, that developmental and mental health concerns should also be considered.

Comment: Some commenters requested additional clarification on how to ensure a child is up-to-date on mental health care and expressed concern about program burden to directly facilitate provision of these screenings if health care providers do not routinely perform mental health screening.

Response: We retain this requirement in the final rule. Programs can ensure a child is up-to-date on mental health care by obtaining determinations from any social, emotional, or behavior screening as prescribed by the EPSDT program of the Medicaid agency of that state in which they operate. ACF believes that screening for mental health concerns is an important way to ensure children and families with needs are identified early and can access appropriate interventions. ACF has TTA available to assist programs with screening and assessment efforts.⁴²

Section 1302.45 Supports for Mental Health and Well-Being

Section 1302.45 establishes the requirements for what programs must do to support a culture that promotes mental health and outlines the responsibilities of mental health consultants. In the previous standards, programmatic requirements related to mental health appeared in several areas. This final rule strengthens, clarifies, and

⁴² <https://eclkc.ohs.acf.hhs.gov/child-screening-assessment>.

enhances these requirements to provide a comprehensive and integrated approach that elevates mental health across the entire program.

The final rule changes the heading of § 1302.45 and § 1302.45(a) to better reflect that the intent of the additional requirements is to help programs support not only the mental health of children and their families, but also the adults who care for them across the program.

In addition to changes in the titles of these sections, the final rule makes significant changes from previous standards to § 1302.45(a) and (b). Together, the changes to this section from the NPRM take a prevention-focused and strengths-based approach to mental health, promote the integration of mental health and wellness supports for Head Start children, families, and staff, and strengthen best practices in mental health consultation.

In § 1302.45(a), the final rule requires that programs use a multidisciplinary approach to support a program-wide culture that promotes mental health, social and emotional well-being, and overall health and safety. Using a multidisciplinary approach in Head Start programs means leveraging knowledge and skills across disciplines, instead of maintaining a siloed approach to mental health. The multidisciplinary approach allows programs to coordinate across Head Start services to ensure greater consistency among staff members and better address the mental health needs of children and families, including those who may have multiple staff members providing services. For example, a multidisciplinary approach would facilitate an eligibility, recruitment, selection, enrollment, and attendance (ERSEA) coordinator and family services provider to communicate about how mental health concerns may impact a family's attendance, and to collaboratively identify a variety of supports, such as helping the family access treatment or parent groups, identifying transportation, or facilitating communication with the teacher. Under § 1302.45(a), we include revised language to describe what activities are expected from the program-wide wellness supports, for a total of seven provisions.

In the first provision, we require coordination of supports for adult mental health and well-being, including for families and program staff. Requiring programs to engage with families in nurturing and responsive relationships and home visiting services ensures that programs take a preventive and holistic

approach to mental health. For example, programs can facilitate communication across service areas to ensure that the family is supported in a variety of ways that may impact their mental health and wellness, such as assistance with housing, food insecurity, or issues related to substance use. Parents with substance use disorder (SUD) may experience barriers to care and Head Start programs can work across service areas to help families navigate and overcome these barriers, including by providing information on substance use issues or disorders to staff or parents and providing referrals, as appropriate, for screening and/or treatment. This assistance is crucial as drug overdose deaths among pregnant and postpartum women and people alone increased by 81 percent between 2017 and 2020.

This first provision also includes promoting staff health and wellness as outlined in § 1302.93. Staff who are happier, healthier, and less stressed are able to engage in higher quality interactions with children. Over the last several years, staff in Head Start programs have experienced heightened stress, burnout, exhaustion, and increased depressive symptoms comparable to other early childhood educators and providers across the board. For example, research has demonstrated that women who work in Head Start have poorer physical and mental health compared to other U.S. women who have similar sociodemographic characteristics.⁴³ A recent survey of the early childhood workforce found that 66 percent of ECE staff surveyed experienced moderate to high levels of stress.⁴⁴ Research indicates that Head Start staff who experience frequent stress or symptoms of depression are more likely to perceive children in their care in a less positive light. This could, in turn, relate to lower quality interactions and care.

In the second provision, we revise the previous requirement related to coordinating supports for children's mental health and well-being in the learning environment to align with a strength-based and inclusive approach. The previous requirement focused on supporting children in classrooms, which could be interpreted to exclude other program options or settings. The previous requirement also focused on

managing challenging behaviors, which can contribute to stigma and places an emphasis on responding to—rather than preventing—concerns. The new requirement in this final rule includes all Head Start program options, and highlights strengths-based language that reinforces the importance of strategies that support the development of all children.

The remaining provisions in this section provide requirements and clarifications to address the increased need for mental health supports and services for children in Head Start programs. Social-emotional difficulties impact up to 20 percent of children under the age of five, and over half of mental health disorders begin before age 14.⁴⁵ Additionally, children and families experiencing poverty are more likely to encounter stressors linked to mental health challenges as well as experience barriers to accessing mental health services. Recent events, such as the COVID-19 pandemic, have only increased the need for mental health supports for young children and their families, as research has documented increases in stress-related disorders in young children and programs have reported more difficulties managing children's behaviors in early learning settings.⁴⁶

Although there is an increased need, access to mental health services, including treatment, is severely limited by a shortage of behavioral health providers in the community. As a result, Head Start programs need to enhance integration of mental health supports within the program by leveraging community partnerships, as well as utilizing behavioral health support specialists, TTA resources specifically available to Head Start programs, and creative solutions such as telehealth. While Head Start has a long history of requiring access to mental health consultation services, the new provisions enhance the quality of

⁴³ National Research Council and Institute of Medicine Committee. Preventing mental, emotional, and behavioral disorders among young people: progress and possibilities. Washington, DC: National Academies Press; 2009. Brauner, C. B., & Stephens, C. B. (2006). Estimating the prevalence of early childhood serious emotional/behavioral disorders: Challenges and recommendations. Public health reports, 121(3), 303–310. Leventhal, T., & Brooks-Gunn, J. (2003). Moving to Opportunity: an Experimental Study of Neighborhood Effects on Mental Health. *American Journal of Public Health* 93(9). 1576–1582. doi: 10.2105/ajph.93.9.1576.

⁴⁶ West, K.D., Ali, M.M., Schreier, A., & Plourde, E. Child and Adolescent Mental Health During COVID-19: Considerations for Schools and Early Childhood Providers (Issue Brief). Washington, DC: Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services. September 22, 2021.

⁴³ Whitaker et al. (2012). The Physical and Mental Health of Head Start Staff: The Pennsylvania Head Start Staff Wellness Survey. *Prev Chronic Dis*, Vol 13.

⁴⁴ Elharake JA, Shafiq M, Cobanoglu A, Malik AA, Klotz M, Humphries JE, et al. (2022). Prevalence of Chronic Diseases, Depression, and Stress Among US Childcare Professionals During the COVID-19 Pandemic. *Prev Chronic Dis*, Vol 19.

consultation services in programs by providing clarity on best practices. Additionally, requiring programs to coordinate other program-wide strategies to prevent or intervene early on children's mental health concerns reduces the need to refer to community providers, who are limited in availability.

The third program-wide wellness support provision maintains the previous expectation for a program to secure mental health consultation services and adds a new requirement that these services be ongoing and the approach to mental health consultation be re-examined annually to determine if the approach is meeting the needs of the program. This new requirement reflects an understanding that the mental health needs of children and adults in the program, available mental health supports in the community, or other factors may change over time, creating a need for continuous quality improvement.

Fourth, we require that mental health consultation be available to the program at a frequency of at least once a month, with the caveat that if the mental health consultant is not available at that frequency, other licensed mental health professionals or behavioral health support specialists certified and trained in their profession must be used in coordination and consultation with the mental health consultant to provide mental health supports on at least a monthly basis. This monthly frequency requirement is intended to set a minimum expectation of mental health consultation services in the program to meet the needs of staff and families in a timely and effective manner.

Fifth, we require that the program's multidisciplinary approach include ensuring children receive adequate screening related to social and emotional milestones that impact mental health and appropriate follow-up in partnership with parents, referencing § 1302.33. Including screening provisions in a program's multidisciplinary approach further ensures effective integration and coordination of key mental health supports across program service areas, such as supports for children who are waiting for an evaluation or those with identified disabilities.

Sixth, we add another new provision emphasizing the need for multidisciplinary coordination and collaboration between mental health and other relevant program services. Given the increase in children's mental health needs described above, it is especially important to equip Head Start staff across program service areas with

opportunities to coordinate and collaborate to address mental health. This requirement further underscores that mental health should be integrated across program services, including education, disability, family engagement, and health services, and provides examples of the most relevant service areas to be included in an effective multidisciplinary approach. This integration is particularly important as early childhood mental health cannot be effectively addressed with a siloed approach. Mental health in young children includes skills such as a child's capacity to express and regulate emotions, form trusting relationships with adults, explore, and learn. These skills are cultivated in interactions with caregivers in a child's life, including parents and Head Start staff across program services. Furthermore, these skills impact other areas of development and are foundational for family well-being, children's learning and overall healthy development, and children's long-term success.

Finally, we require that programs leverage the role of the HMHSAC to meet the existing requirement to build community partnerships that facilitate access to mental health resources and services.

As was proposed in the NPRM, the final rule removes the requirement for parental consent for mental health consultation. The previous requirement for parental consent was unwarranted since mental health consultants are providing supports to Head Start staff and other adults in a child's life and do not provide treatment to children, and it proved to be a barrier to providing mental health consultation.

Additionally, this was an unnecessary administrative burden on programs and families since it was duplicative of other requirements for obtaining advance authorization for mental health procedures and sharing policies for mental health emergencies, as proposed in the NPRM and included in § 1302.41 of the final rule. Programs must still retain parental consent for any mental health services provided directly to children in the form of therapy by an appropriate licensed mental health professional, which would be outside the typical purview of a mental health consultant.

This final rule also makes several revisions to § 1302.45(b) to clarify the role and responsibilities of the mental health consultant and promote best practice recommendations for mental health consultation in Head Start settings. First, we align our description of mental health consultation with the

Substance Abuse and Mental Health Services Administration (SAMHSA)-funded Center of Excellence for Infant and Early Childhood Mental Health Consultation, a leader in the advancement and impact of mental health consultation, as well as research and best practice in the field. The final rule description clarifies that mental health consultation services build the capacity of adults to support the mental health and social and emotional development of children. Second, the final rule explains that the mental health consultant can consult with a range of adults in a child's life, including program staff to implement strategies that promote children's mental health and prevent and respond to children's mental health concerns; families to support adult or child mental health such as in the event of a crisis or natural disaster; or program leadership to support specific program policies, such as those related to suspension or mental health needs following a significant safety incident. The purpose of clarifying and broadening the responsibilities of the mental health consultant is not to create a checklist the mental health consultant must complete. Rather, the goal is to describe the variety of ways that mental health consultation services can be used based on program needs. Programs can determine which of these options best meet their needs and reassess those needs through the annual review.

We received many public comments on the proposed changes in the area of supports for mental health and well-being. Of those who commented on these issues, many reflected a strong desire for enhanced mental health support for everyone involved in Head Start programs, consistent with the intent of the changes. Many commenters noted the increased rates of stress and burnout among staff coupled with a rise in challenging behaviors and developmental delays among children. Although commenters supported the broader goals, many commenters also expressed concerns about implementing the proposed requirements in the NPRM and requested consideration for the unique challenges faced by different communities to ensure that mental health is adequately supported by and integrated into Head Start programming. We discuss these public comments as well as our response and revisions in more detail below.

Comment: Many commenters expressed a need for greater clarity and specificity about the role of the multidisciplinary team within the program. Some commenters expressed concern that programs would need to

hire additional staff to meet this requirement. Other commenters requested that ACF give programs flexibility to determine how to meet this requirement based on program and community needs, including allowing programs to determine where they assign the responsibilities of the multidisciplinary team. Some commenters specifically noted confusion about how the role of the multidisciplinary team differs from that of the HMHSAC.

Response: The final rule removes the proposed NPRM language requiring that programs have a multidisciplinary team. Instead, programs are required to use a multidisciplinary approach to mental health and wellness supports and are encouraged to take a team-based approach to meet this requirement. The intent of the NPRM was to be clear that mental health and wellness supports should be integrated program-wide, to convey the scope of these services, and to identify specific areas where mental health should be included. With this revision in the final rule, we are emphasizing the multidisciplinary approach to integrating mental health throughout Head Start program services and allowing programs to determine how best to meet that requirement. A program's multidisciplinary approach should certainly include building community partnerships, and the HMHSAC is one way a program can achieve this.

Comment: Many of the commenters who submitted comments on this topic expressed concerns about the availability of mental health professionals broadly and specifically in rural areas. These commenters noted the long waitlists for mental health professionals as a barrier to hiring mental health consultants who could provide consultation services to the program on a schedule of at least monthly. Some commenters offered specific suggestions for changing this requirement, including waivers, exemptions, or additional flexibilities if programs could demonstrate a shortage of licensed professionals with experience in early childhood education in their area. Other suggestions included expanding the consultant qualifications further and implementing mental health consultation, including frequency, based on programs' own data and community needs. Some comments requested more clarification on the requirement related to mental health consultation, including whether the schedule applies at the classroom, program, or agency level.

Response: We revise the requirement related to mental health consultation in

the final rule. While we retain a monthly frequency for mental health consultation, we expand programs' ability to provide mental health supports on at least a monthly basis, in part, with other licensed mental health professionals or behavioral health support specialists who are credentialed and trained in their field, such as community health workers, behavior specialists, and traditional practitioners, who are especially important in Tribal communities. Head Start programs are still required to have a mental health consultant; programs cannot entirely replace a mental health consultant with these other providers. Rather, programs can have these other providers that work in collaboration and consultation with mental health consultants to meet the "at least once a month" frequency requirement for providing mental health services, which is a requirement that applies at the program level.

ACF believes this approach is responsive to public comments. It balances the objective of integrating more mental health support for programs while acknowledging the challenges of the mental health workforce shortage. It allows programs to leverage other providers of mental health supports they can already access in their program and community. It also retains the critical role of the mental health consultant and their expanded role in not just addressing behaviors in the classroom but working with all adults in a child's life, including families and other staff outside the classroom, and coordinating with any other licensed mental health professionals or behavioral health support specialists who may be supplementing their work. Finally, it incorporates culturally responsive mental health approaches by allowing programs to leverage traditional practitioners identified by their Tribal governments to offer traditional knowledge and practices.

Comment: Many commenters further elaborated on their concerns about the availability of mental health professionals, and particularly individuals trained to work with children, and offered suggestions to address the supply of providers. Specifically, they recommended that ACF support different provider qualifications and allow telehealth consultation.

Response: We think the revisions we made in response to public comments will support programs in implementing these requirements. Allowing a broader set of individuals to supplement the work of the mental health consultant balances the need for more mental

health support in Head Start programs with the reality that mental health consultants may not be able to support programs at the frequency proposed in the NPRM. Additionally, we retain the NPRM proposal in § 1302.91(e)(8)(ii) that allows programs to secure mental health consultation from professionals who are providing services under the supervision of a licensed mental health professional, rather than needing to be already licensed themselves, such as trainees who may be in the process of obtaining licensure. Lastly, as we noted in the preamble to the NPRM, even if a consultant cannot be on site, teleconsultation services can be used to work with adults in the program.

Comment: While commenters agreed with the premise that mental health should be integrated throughout the program and that mental health supports should not be left to the mental health consultant alone, there was concern that the proposed changes were significant in scope and the level of expertise, time, and cost required to carry out these proposed requirements would be daunting for some programs and would take significant time to implement.

Response: We think the revisions we made in the final rule in response to public comments will support programs in implementing these requirements while maintaining our commitment to the overall goal of integrating and elevating mental health and wellness supports across the program. As noted, we specifically remove the proposed NPRM language requiring a multidisciplinary team and revise the requirement related to mental health consultation to allow programs to use other licensed mental health professionals or behavioral health support specialists to supplement the work of the mental health consultant in the event the mental health consultant is not available at least once per month.

Comment: Some commenters stated that mental health services should be culturally sensitive and inclusive, taking into consideration the diverse backgrounds of the children and families served by Head Start programs.

Response: ACF agrees that mental health services should be culturally sensitive and inclusive, particularly given the diversity of the children and families participating in Head Start programs. The revision to the mental health consultation standard to allow other licensed mental health professionals or behavioral health support specialists to support programs if the mental health consultant cannot provide services on at least a monthly basis is responsive to these comments

because it allows programs to look to other professionals who can augment the delivery of culturally sensitive and inclusive mental health services. For example, Tribal or other Native communities could incorporate traditional practices as mental health supports if the mental health consultant is not available at least once per month.

Section 1302.46 Family Support Services for Health, Nutrition, and Mental Health

Section 1302.46 requires programs to collaborate with families to promote children's health and well-being and describes what that collaboration must include. The final rule modifies requirements throughout this section to incorporate a preventive approach to mental health into family support services by using more strengths-based language in paragraph (b)(1)(iii), and by providing opportunities to engage families in discussions about mental health even when there is not an identified problem in paragraph (b)(1)(iv).

The final rule adds a new requirement in paragraph (b)(2) that programs must provide ongoing support to assist parents' navigation through mental health systems, including providing information about how to access mental health services for young children and their families.

Comments: We did not receive many comments on this section. Those who commented expressed concern that the reference to "evidence-based" mental health services created additional confusion and program burden to determine if a mental health service is evidence-based.

Response: ACF removes the reference to "evidence-based" services in § 1302.46(b)(2)(iv) in the final rule. ACF strongly encourages programs to work with their HMHSAC or others with relevant expertise to ensure parents receive mental health information and referrals that are developmentally and culturally appropriate, and evidence-informed and rooted in science. However, we do not want to unnecessarily delay access to mental health supports by requiring programs to determine if services are evidence-based. Further, we want programs to identify services and providers that are culturally and linguistically responsive to the communities they serve. We acknowledge that not all interventions have been evaluated with the diverse populations that Head Start programs serve. Whenever possible, ACF strongly encourages the use of evidence-based services with adaptations to make

services appropriate for specific communities.

Part 1302, Subpart H—Services to Enrolled Pregnant Women

Section 1302.81 Prenatal and Postnatal Information, Education, and Services

Section 1302.81 establishes the requirements for the prenatal and postpartum information, education, and services programs must provide enrolled pregnant women and other pregnant people, fathers, and partners or other relevant family members. Regarding mental health, the final rule retains provisions proposed in the NPRM and broadens the scope of the mental health information and education that may be helpful to provide to expectant families and ensures that social support is part of prenatal and postnatal services for enrolled families.

Comment: Many commenters expressed support for the proposed changes that aim to enhance social support and mental health for expectant families. Some commenters indicated that they have already incorporated these practices into their programs while others noted the need for additional support and resources to meet these requirements, including funding for staff training and curriculum development. A few commenters suggested the provision of additional information, including culturally relevant information.

Response: We retain the NPRM proposal in the final rule. ACF will support programs that need additional support in meeting these requirements through TTA.

Part 1302, Subpart I—Human Resources Management

Section 1302.91 Staff Qualification and Competency Requirements

Section 1302.91 establishes the staff qualifications and competencies for all staff, consultants, and contractors engaged in the delivery of program services. The final rule clarifies the required qualifications for infant and early childhood mental health consultants to make clear that mental health consultants can include individuals who are working under the supervision of another licensed individual, as initially proposed in the NPRM. This aligns with best practice in the field, expands the pool of available mental health consultants, and provides opportunities to build the mental health workforce in the early care and education field.

Comment: Of the commenters who commented on this proposed change,

some expressed support for the change to include individuals working under the supervision of another licensed individual. A few comments recommended retaining the term "certified" from the previous standards' requirement.

Response: We retain the proposed NPRM language, which removes "certified" and replaces it with "under the supervision of a licensed" individual, in the final rule. Broadening the pool of mental health consultants in this way is supportive of ACF's goal to reduce barriers to securing consultants while ensuring those individuals are receiving supervision and support from a licensed individual to facilitate the provision of high-quality services.

Child Health and Safety (§§ 1302.47; 1302.90; 1302.92; 1302.101; 1302.102)

The final rule makes improvements to protect child health and safety through several strategies, including broadening who needs to adhere to child health and safety to cover contractors and volunteers in addition to staff; clarifying that children should be supervised at all times; requiring annual training on positive social and emotional support and mandated reporter training; and codifying the timeline for reporting health and safety incidents to OHS. The final rule also streamlines and updates the Standards of Conduct and the categories of child maltreatment to align with the Centers for Disease Control and Prevention (CDC). Taken together, these changes promote a culture of safety for children and adults through both preventative measures and addressing any serious incidents that do arise.

The final rule makes several changes from the NPRM to focus on serious child health and safety incidents while avoiding administrative burdens that could distract from efforts to address child safety. First, the final rule requires incidents to be reported to OHS as soon as possible, but within seven calendar days; this seven-day timeline is the current policy and a change from the NPRM, which proposed three days. The final rule also includes three clarifications in response to concerns raised in public comment that the reporting criteria were overly broad and would result in reporting small incidents or events to OHS. First, the final rule clarifies that programs should report child maltreatment as well as serious injury, harm, or endangerment resulting from lack of preventative maintenance or lack of supervision. Second, the final rule revises the Standards of Conduct to focus on maltreatment and endangering health and safety. Third, the final rule clarifies

that reporting closures to OHS does not include reporting scheduled breaks, holidays, or temporary closures for inclement weather.

Section 1302.47 Safety Practices

Section 1302.47 establishes expectations for Head Start programs to ensure basic health and safety measures are taken for the protection of all children. As proposed in the NPRM, the final rule includes an additional requirement and several clarifications to strengthen safety practices that protect children in Head Start settings, including by broadening who must follow safety practices, better aligning practices with Federal child abuse and prevention law, being clearer that children must be supervised at all times, and clarifying the connection between safety practices and the Standards of Conduct.

Specifically, the final rule adds a requirement in § 1302.47(b)(5) that contractors and volunteers follow safety requirements, just as staff and consultants were already required to do. This change is intended to clarify that Head Start contractors and volunteers, in addition to staff and consultants, should be aware of and are expected to follow safety practices. ACF believes this is essential since contractors and volunteers need to understand how to safely interact with children in their roles, as well as their responsibilities if they witness unsafe practices in Head Start programs. For contractors, this requirement only applies to (1) contractors, or individuals on a contract, whose activities involve contact with and/or direct services to children and families, and (2) any contractor who could have unsupervised access to children and families.

Next, the final rule provides a definition of child abuse and neglect that is aligned with existing Federal statute, the Federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5101 note).⁴⁷ CAPTA, originally enacted in 1974, establishes national definitions regarding child abuse and neglect. The definition included in this final rule provides clarity and sets a consistent minimum standard for Head Start programs to follow. Programs must also comply with state, local, and Tribal laws, which may have additional stipulations related to defining child abuse and neglect and other requirements for mandated reporting. If there are discrepancies between Federal and state, local, and

Tribal laws, programs should comply with the more stringent regulation.

The final rule clearly states that children must be appropriately supervised at all times in § 1302.47(b)(5)(iii). This change removes language in the previous standards that described settings in which children must be supervised. Requiring that children are appropriately supervised at all times provides Head Start programs with a clear directive that children must never be left unsupervised and addresses one of the clearest health and safety threats for children.

Finally, the final rule clarifies that safety practices include the provision in the Standards of Conduct requiring staff, consultants, volunteers, and contractors to not maltreat or endanger children in § 1302.90(c)(1)(ii). This language in the final rule reduces redundancies from the previous requirement, which duplicated references to supervision and reporting of child abuse and neglect as safety practices.

Comment: Some commenters expressed concern that requiring volunteers to follow safety practices could deter community participation and parent engagement, as well as create liability issues. They suggested that volunteers should not be included in the pool of mandated reporters, especially since they are never left alone with children and are always supervised by trained staff. Other commenters expressed that it is important to include volunteers as mandated reporters.

Response: We retain the NPRM proposal that volunteers are required to follow safety practices in the Final Rule. ACF is committed to protecting children in Head Start from child abuse and neglect and disagrees with the contention that volunteers should not be mandated reporters, even if they should never be left alone or unsupervised with children. Even under supervision, a volunteer should have a basic understanding of safety practices. In the case of mandated reporting of child abuse and neglect, which appeared to be the primary concern identified in comments, 52 percent of states already require volunteers to report child maltreatment.⁴⁸ Volunteers may directly witness or receive disclosures about child abuse and neglect in their roles and should have basic knowledge about what to do with this information.

⁴⁸ Lee, J. & Weigensberg, E. (2022). "How Do Laws and Policies for Reporting Child Abuse and Neglect Vary Across States?" OPRE Report #2022-165. Washington, DC: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

Comment: Some commenters raised questions about specific circumstances under which a person would be a mandated reporter, such as contractors with no direct contact with children or who are not regularly at the program. Other commenters expressed that it is important to include contractors as mandated reporters.

Response: We retain the NPRM proposal that contractors are required to follow safety practices in the Final Rule. ACF agrees with commenters that there are specific types of contractors, such as facilities contractors working during non-operational hours or contractors performing emergency repairs, to whom these requirements are not applicable. For contractors, similar to the requirement for background checks in § 1302.90(b) and ACF's guidance in Program Instruction, ACF-PI-HS-16-05, *Background Checks—Extension of Compliance Date and Questions*, ACF only considers this requirement as applicable to (1) contractors, or individuals on a contract, whose activities involve contact with and/or direct services to children and families, and (2) anyone who could have unsupervised access to children and families.

Comment: Many commenters suggested that ACF provide clear guidance on when an individual is obligated to serve as a mandated reporter. Some commenters requested that ACF address how consultants, contractors, and volunteers would be trained to fulfill their responsibilities as mandatory reporters.

Response: ACF previously issued Information Memorandum, ACF-IM-HS-15-04, *Mandatory Reporting of Child Abuse and Neglect*, and will consider providing additional guidance on the topic of mandated reporting of child abuse and neglect as needed.⁴⁹ Programs may refer to § 1302.47(b)(4) for an overview of Head Start requirements for safety training, including for staff with and without regular child contact. The final rule leaves flexibility for how programs approach training on mandatory reporting because it does not require programs to train contractors, consultants, or volunteers in this area. However, since these individuals are required to report suspected or known child abuse and neglect, we encourage programs to offer them information and training about mandated reporting. Numerous resources with essential

⁴⁹ Early Childhood Knowledge and Learning Center (2015). *Mandated Reporting of Child Abuse and Neglect*. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Head Start. Available at <https://eclkc.ohs.acf.hhs.gov/policy/im/acf-im-hs-15-04>.

⁴⁷ 42 U.S.C. 5106g. Available online at <https://www.govinfo.gov/content/pkg/USCODE-2017-title42/html/USCODE-2017-title42-chap67.htm>.

information related to mandatory reporting of child abuse and neglect are freely available, such as through Child Welfare Information Gateway, Department of Defense Child Development Virtual Laboratory School, OHS ECLKC, and Caring for Our Children.⁵⁰

Section 1302.90 Personnel Policies

Section 1302.90(c)(1) establishes the standards of conduct for all staff, consultants, contractors, and volunteers, which are part of a program's personnel policies. Given how critical child safety is in Head Start programs, the final rule ensures ACF is as clear as possible with requirements that reflect current best practices and guidance. The final rule makes several changes to the previous standards for clarity and alignment with other Federal resources and laws.

First, the final rule modifies requirements under § 1302.90(c)(1)(ii) to align with categories and definitions of child maltreatment adapted from CDC child maltreatment resources, which were established through extensive consultation with experts to recommend consistent terminology related to potential child maltreatment.⁵¹ The

previous requirement included corporal punishment and physical and emotional abuse, but did not include sexual abuse or neglect, which are also types of child maltreatment that are prohibited in Head Start settings. The final rule provides definitions to facilitate clear and equitable understandings of the types or categories of child maltreatment. The categories are (A) corporal punishment or physically abusive behavior defined as the intentional use of physical force that results in, or has the potential to result in, physical injury, (B) sexually abusive behavior defined as any completed or attempted sexual act, sexual contact, or exploitation, (C) emotionally harmful or abusive behavior defined as behaviors that harm a child's self-worth or emotional well-being, and (D) neglectful behavior defined as the failure to meet a child's basic physical and emotional needs including access to food, education, medical care, appropriate supervision by an adequate caregiver, and safe physical and emotional environments.

In addition, the final rule provides examples of each category of child maltreatment and endangerment, which were informed by CDC guidance and research. The previous standards provided a list of what would be considered child maltreatment or endangerment of the health and safety of a child. This list included both broad categories of child maltreatment (such as physical abuse of a child), and specific behaviors that were redundant (such as binding or tying a child to restrict movement). The final rule provides a clearer understanding of what is meant by child maltreatment and endangerment by outlining broad categories of maltreatment with corresponding definitions and examples. ACF provides examples to offer concrete guideposts to Head Start programs, but these examples are not an exhaustive list.

Second, the final rule adds a requirement in § 1302.90(c)(1)(iii) to ensure staff, consultants, contractors, and volunteers report suspected or known child abuse and neglect, as defined by CAPTA and in compliance with Federal, state, local, and Tribal laws. Consistent with the requirement in § 1302.47(b)(5), this requirement only applies to those contractors, or individuals on a contract (1) whose activities involve contact with and/or direct services to children and families,

and (2) who could have unsupervised access to children and families.

The final rule requires staff, consultants, contractors, and volunteers to respect and promote the unique identity of each individual involved in the Head Start program in § 1302.90(c)(1)(iv). The previous requirement only pertained to children and families' unique identities. The final rule is aligned with efforts to promote well-being for everyone in the program and communicate the need to ensure supportive and responsive relationships among staff as part of promoting safety.

Finally, the final rule clarifies that children cannot be left alone or unsupervised in § 1302.90(c)(1)(vi). This change removes language in the previous requirement which could be erroneously interpreted to mean that children could be left solely under the supervision of volunteers. This final rule clarification is consistent with ACF's policy in § 1302.94(b) that children should never be left alone with volunteers.

Overall, the comments on this topic reflected a commitment to child safety and well-being, as well as a recognition of the challenges faced by Head Start programs in navigating reporting requirements related to staff conduct and ensuring a supportive environment for both children and staff. We discuss specific comments below.

Comment: Many commenters expressed concerns about the NPRM proposals in the Standards of Conduct, such as language related to negative impacts on mental health and emotional harm. Specifically, commenters were concerned that overly broad language could lead to overreporting and misinterpretation of staff actions that were intended to protect children or manage classroom behavior. Some commenters shared concerns about how the language could disproportionately impact staff of color. Commenters suggest that ACF should focus on serious incidents that truly impact child safety and allow programs to handle less severe matters internally.

Response: We revise the requirements for Standards of Conduct in the final rule. ACF agrees that overly broad language could have unintended consequences and revises the final rule with more targeted language which we believe will better prioritize child safety. ACF agrees that over-reporting could have the unintended consequence of jeopardizing child safety if Federal staff and programs are focused on reporting every incident instead of focusing on serious incidents that involve child endangerment, abuse, or

⁵⁰ Child Welfare Information Gateway (2023). *Mandatory reporting of child abuse and neglect*. U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau. <https://www.childwelfare.gov/resources/mandatory-reporting-child-abuse-and-neglect/>; The Department of Defense Child Development Virtual Lab School (2023). *Protecting Children from Harm in Your Program*. Developed by the Ohio State University for U.S. Department of Defense, Office of Family Policy/Children and Youth and U.S. Department of Agriculture, National Institute of Food & Agriculture. Available at <https://www.virtuallabschool.org/preschool/child-abuse-identification-and-reporting/lesson-6>; Early Childhood Knowledge and Learning Center (last updated 2024). *Child Abuse and Neglect*. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Head Start. Available at <https://eclkc.ohs.acf.hhs.gov/practicas-de-seguridad/articulo/child-abuse-neglect>; Early Childhood Knowledge and Learning Center (last updated 2022). *10 Actions to Create a Culture of Safety*. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Head Start. Available at <https://eclkc.ohs.acf.hhs.gov/publication/10-actions-create-culture-safety>; National Resource Center for Health and Safety in Child Care and Early Education (last updated 2018). *Caring for Our Children: Recognizing and Reporting Suspected Child Abuse, Neglect, and Exploitation*. U.S. Department of Health and Human Services, Administration for Children and Families. <https://nrckids.org/CFOG/Database/3.4.4.1>.

⁵¹ Leeb RT, Paulozzi L, Melanson C, Simon T, Arias I. *Child Maltreatment Surveillance: Uniform Definitions for Public Health and Recommended Data Elements*, Version 1.0. Atlanta (GA): Centers for Disease Control and Prevention, National Center for Injury Prevention and Control; 2008.; Fortson B, Kleven J, Merrick M, Gilbert L, Alexander S. (2016). *Preventing Child Abuse and Neglect: A Technical Package for Policy, Norm, and Programmatic Activities*. Atlanta, GA: National Center for Injury Prevention and Control, Centers

for Disease Control and Prevention. Available online at <https://www.cdc.gov/violenceprevention/childabuseandneglect/fastfact.html>.

neglect. ACF removes the language proposed in the NPRM that included what many commenters perceived to be an overly broad range of behaviors, and retains the previous requirement that staff, consultants, contractors, and volunteers do not maltreat or endanger the health or safety of children. In the final rule, ACF also modifies the NPRM definition of emotionally harmful or abusive behavior. The language proposed in the NPRM could be interpreted too broadly as capturing any staff conduct that is not considered best practice but would not be classified as maltreatment, as noted by commenters. The proposed language in the NPRM was also redundant with other subparts of the Standards of Conduct that require implementation of positive strategies to support children's well-being in § 1302.90(c)(1)(i). The final rule language that defines emotional abuse as behaviors that harm a child's self-worth or emotional well-being captures staff conduct that is clearly not permissible because it has the potential to maltreat or endanger children.

Comment: Many commenters raised concern about the non-exhaustive list of examples or about specific examples of staff conduct, such as "forcibly moving" and "restraining." Other commenters were supportive of examples such as "restrain" and suggested examples to add, such as "seclusion."

Response: As was proposed in the NPRM and retained in the final rule, ACF includes examples of each category of child maltreatment and retains "restraint" as an example. We revise language from the NPRM to include "seclusion" and replace "forcibly moving" as examples.

ACF acknowledges that it is not possible to create an exhaustive list of examples. However, we believe it is important to provide concrete examples of behaviors that could maltreat or endanger a child, particularly for categories that can be more difficult to identify, such as emotional abuse and neglect.⁵² Highlighting examples also facilitates equitable communication with programs and staff regarding ACF's position on specific behaviors such as the use of restraint in Head Start settings, which is discussed further below. ACF offers existing TTA on ECLKC to facilitate further understanding. Additional examples of child maltreatment can be found in guidance from CDC resources.

⁵² de Braal B. (2010). Understanding emotional abuse. *The journal of family health care*, 20(3), 82–84.; Hildyard, K.L., & Wolfe, D.A. (2002). Child neglect: developmental issues and outcomes. *Child abuse & neglect*, 26(6–7), 679–695.

Some commenters suggested that restraint should be permissible staff conduct under specific circumstances. While this rule does not address use in other settings, ACF opposes the use of restraint in Head Start settings. Retaining "restraint" as an example in the final rule communicates this position. The broader literature is clear on the risks of performing restraints.⁵³ Restraints are also used disproportionately on children with disabilities. Therefore, ACF is not making any changes to the final rule.

ACF agrees with suggestions to include the example of "seclusion" due to its disproportionate use on children with disabilities. Seclusion also has many similar adverse impacts as described above for restraint.⁵⁴ The final rule replaces isolation with seclusion as an example of emotional abuse.

ACF agrees with comments that "forcibly moving" may be an overly broad example. The final rule replaces this example with "pushing."

Section 1302.92 Training and Professional Development

Section 1302.92 establishes requirements for staff training and professional development. Specifically, § 1302.92(b) requires programs to establish and implement systematic approaches to training and professional development designed to assist staff in acquiring or increasing the knowledge and skills needed to provide high-quality, comprehensive services within the scope of their job responsibilities.

The final rule adds a new requirement for annual training in positive strategies to support social and emotional development. ACF believes that enhancing the use of positive strategies amongst staff, as appropriate based on the scope of their job responsibilities, will support staff in preventing and responding to child behavior that challenges adults and increase opportunities for peer support as appropriate.

The final rule modifies the requirement related to mandated reporting of child abuse and neglect to specify that this training should occur

⁵³ LeBel, J., Nunno, M.A., Mohr, W.K., & O'Halloran, R. (2012). Restraint and seclusion use in US School settings: Recommendations from allied treatment disciplines. *American journal of orthopsychiatry*, 82(1), 75.; Dunlap, G., Ostry, C., & Fox, L. (2011). Preventing the Use of Restraint and Seclusion with Young Children. *Technical Assistance Center on Social Emotional Intervention for Young Children*; Office for Civil Rights, U.S. Department of Education. (2016). *Fact Sheet: Restraint and Seclusion of Children with Disabilities*. Available at <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>.

⁵⁴ Ibid.

on an annual basis. This requirement is intended to support staff in recognizing potential child abuse and neglect and understanding their legal responsibility as a mandated reporter.

Comment: Many commenters recognize the importance of staff training broadly and express a need for additional training and supports. Commenters suggest a variety of potential trainings that would benefit Head Start staff, such as training on trauma-informed care, implicit bias in interpreting behaviors, child development, or specific disabilities.

Response: ACF revises requirements for training in social and emotional development to be more inclusive of the diverse training needs commenters suggested. The final rule provides flexibility for programs to determine specific topics related to managing children's behavior that meet their staff's needs. ACF considers the impact of trauma on children's social and emotional development, implicit bias in interpreting behaviors, understanding basics of child social and emotional development, individualizing supports for social and emotional development of children with disabilities, or other related topics to be appropriate training topics to satisfy this requirement.

Comment: Of those who commented on the proposed changes to training and professional development, several commenters expressed support and a few share that they already implement similar practices. Some commenters raised concerns about associated administrative burdens of fulfilling this requirement, such as time and costs to track, provide, and enforce trainings and the availability of supports in rural communities. For example, a few commenters noted that an ACF requirement for annual mandated reporter training would exceed their State's requirement, which impacts their ability to access state training on a more frequent basis.

Response: We retain the proposed language from the NPRM on mandated reporting training in the final rule as it is critical for staff to understand information related to mandated reporting of child abuse and neglect. This is particularly important for Head Start programs, as the risk of experiencing maltreatment is higher for children under the age of four and children who have a diagnosed disability.⁵⁵ Furthermore, as Head Start programs primarily serve children from low-income families, it is critical that staff know how to differentiate between

⁵⁵ <https://www.cdc.gov/violenceprevention/childabuseandneglect/riskprotectivefactors.html>.

child neglect and a family experiencing poverty.⁵⁶ ACF has and can continue to support programs in meeting this requirement through TTA, including virtual TTA options to support rural and remote programs in meeting this requirement.

Comment: Commenters appreciated the strengths-based approach taken in mental health and noted other regulations that may benefit from this.

Response: ACF revises the requirement to use strengths-based language, replacing “challenging behaviors” with “children’s behavior” in this requirement.

Section 1302.101 Management System

Section 1302.101 outlines management responsibilities governed by a system that enables the delivery of the high-quality services. Paragraph (a) of § 1302.101 establishes requirements for implementing a management system. The final rule adds a new requirement to implement a management system that ensures that all staff are trained to implement reporting procedures in § 1302.102(d)(1)(ii). This requirement is intended to promote consistent implementation and greater understanding of expectations and procedures related to incident reporting.

Comment: We received few comments on this section. Of those who commented on this section, commenters were generally neutral or supportive of the general approach to providing programs with an overarching standard as well as autonomy to develop and implement individual strategies and practices.

Response: ACF retains this requirement in the final rule.

Section 1302.102 Achieving Program Goals

Section 1302.102 outlines requirements that programs establish goals and a process for monitoring program performance, including how they use data and report out to the governing body and policy council. Paragraph (d) of § 1302.102 establishes required reports that programs must submit for monitoring and oversight purposes, and § 1302.102(d)(1)(ii) specifically addresses required incident reports. The final rule makes several changes to this section that are intended to build upon recent subregulatory guidance on incident reporting expectations and clarify language where

necessary to reduce potential over-reporting, which may keep Federal and program staff from focusing on serious incidents.

First, the final rule codifies the requirement to report incidents to ACF immediately but no later than seven calendar days following the incident. Second, the final rule requires programs to report significant incidents affecting the health or safety of a child when such an incident occurs in a Head Start setting and involves (1) staff, contractors, or volunteers who participate in a setting that receives Head Start funds, regardless of the child’s Head Start funding; or (2) a child who participates in a setting that receives Head Start funds. Third, the final rule clarifies the requirement related to reporting classroom or center closures, and we clarify that ACF’s definition of closures does not include scheduled holidays, scheduled breaks, or short-term closures for inclement weather. Finally, the final rule codifies several expectations for other significant health and safety incidents that must be reported to ACF at a minimum. These include incidents involving any suspected or known maltreatment or endangerment of a child by staff, consultants, contractors, and volunteers under paragraph § 1302.90(c)(1)(ii); incidents involving serious harm or injury of a child resulting from preventative maintenance; incidents involving serious harm, injury, or endangerment of a child resulting from lack of supervision; and incidents involving any unauthorized release of a child.

Overall, many commenters who addressed this topic expressed a recognition of the importance of safeguarding children, but also a concern about the potential for over-reporting. Commenters shared a range of unintended and counterproductive consequences of over-reporting, such as negative impacts on workforce retention and unnecessary administrative burden on program staff and ACF. Below we address specific comments and requests for clarification.

Comment: Many commenters expressed concern about the short timeframe for reporting proposed in the NPRM. The proposed three-day deadline for reporting incidents was seen as unrealistic and potentially counterproductive. Commenters believed it would not allow sufficient time for a thorough internal investigation and could lead to incomplete or inaccurate reporting. A few commenters gave examples of how organizational structures and partnerships would prevent reporting in

this time in some cases. Many commenters suggested extending the reporting period to ensure more accurate and comprehensive reports.

Response: ACF revises the requirement from the NPRM for reporting incidents. ACF agrees with commenters that in some cases, the upper limit of three days may be too restrictive. An upper limit of three days may not allow programs to gather accurate information to distinguish serious health and safety incidents from more minor concerns. ACF also recognizes that grant recipients may be immediately focused on complying with child welfare and law enforcement to facilitate investigative processes and ensure immediate safety needs are met. The final rule requires a reporting timeline of immediately but no later than seven calendar days following the incident. To ensure consistency in operationalizing this requirement, ACF recognizes the day a program learns of an incident as “Day 0”. If a program reports an incident to ACF on or after “Day 8”, the program will not be in compliance with this requirement. The requirement provides an upper limit of seven calendar days.

Comment: Several commenters expressed concern about incident reports involving non-Head Start-funded children, citing concerns about being asked to reveal personal identifiable information, protected health information, or issues related to family’s consent.

Response: ACF retains the requirement that programs submit a report for a significant incident affecting the health and safety of a child, when such an incident occurs in a Head Start setting and involves staff, contractors, or volunteers who participate in a setting that receives Head Start funds, regardless of the child’s Head Start funding. ACF requires these reports because such incidents can have broader implications for children served in the program, including those funded by Head Start dollars. ACF disagrees with the argument that these reports entail privacy concerns. ACF does not request personal identifiable information or protected health information in incident reports. Programs should not submit personal identifiers that could tie any health information back to a child.

Comment: A few commenters requested clarification on whether mandated reports of child abuse and neglect involving parents would be a required incident report under this section.

Response: ACF revises the requirement to clarify its intent that

⁵⁶ Child Welfare Information Gateway (2023). *Poverty and Neglect*. U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau. Available at <https://www.childwelfare.gov/topics/safety-and-risk/poverty-and-neglect/>.

programs are not required to submit reports to ACF related to mandated reporting of child abuse and neglect involving parents. However, if a parent is involved in a reportable incident while participating in a Head Start setting as a volunteer or employee, the program must submit an incident report. ACF identified that the NPRM proposal language requiring programs to submit reports of significant incidents affecting child health and safety in Head Start settings involving “other adults” could be misinterpreted to include parents. We remove this reference to “other adults” in the final rule to clarify ACF’s intent.

Comment: Many commenters request greater clarification on the types of incidents that must be reported, such as classroom closures and significant child health & safety incidents. Many commenters shared questions about whether a situation would be a reportable incident, such as a child crying in a classroom, snow days, or a child tripping accidentally.

Response: ACF revises requirements in this final rule for the types of incidents that must be reported at minimum to provide greater clarity as appropriate. ACF agrees that broad language can increase the risk of over-reporting which may distract Federal staff and program staff from addressing serious incidents. Several questions or concerns from commenters reflected over-interpretations of ACF’s intent, and ACF revises language in those requirements. We discuss these revisions in more detail below.

First, ACF revises the NPRM proposal describing significant incidents such that the final rule removes the term “mental health” from the description of incidents. The final rule aligns with the previous requirement describing significant incidents affecting the health or safety of children. ACF requires programs to report instances of potential emotional abuse and neglect. However, the reference to mental health caused confusion and over-interpretation in comments. ACF believes the revised requirements to the Standards of Conduct are best designed to keep children safe.

Second, we revise the requirement in the final rule such that programs must report incidents that require classrooms or centers to be closed. ACF’s definition of closures does not include scheduled holidays, scheduled breaks, or short-term closures for inclement weather. The final rule removes the NPRM proposal to include specific exemptions to prevent misinterpretation that any other closures are reportable. As proposed in the NPRM and retained in

the final rule, this requirement no longer includes the phrase “for any reason” to clarify ACF’s intent.

Third, ACF revises the requirement in the final rule to clarify which incidents related to significant health and safety incidents are reportable. The final rule separates the NPRM proposal into two distinct requirements for clarity. Each requirement in the final rule identifies what is considered “significant” in the regulation for clarity and accessibility of information. The final rule requires programs to submit reports related to incidents involving (1) serious harm or injury of a child resulting from lack of preventative maintenance, and (2) serious harm, injury, or endangerment of a child resulting from lack of supervision. ACF believes these clarifications in the final rule will reduce the risk for over-reporting incidents related to lack of preventative maintenance and lack of supervision. ACF includes leaving a child unattended on a bus as an example of neglect in § 1302.90(c). This is a concrete example of an incident involving endangerment of a child resulting from lack of supervision and as such is required to be reported. ACF believes this approach is responsive to general comments expressing concerns about overly broad requirements for ACF reporting, as it narrows the scope of reportable incidents to those ACF believes are most indicative of substantial or systemic concern.

Comment: Many commenters expressed concern about expanding the reporting requirement to include violations of the Standards of Conduct. Commenters express that this requirement in particular could undermine program autonomy to manage minor incidents and negatively impact staff morale. Commenters note how the proposed changes in the NPRM to the Standards of Conduct may lead to confusion and overly punitive approaches (see the discussion in the Standards of Conduct section). Commenters suggest that ACF should focus on serious incidents that truly impact child safety and allow programs to handle less severe matters internally. Commenters suggest a range of approaches to accomplish this, such as aligning reporting requirements with CAPTA, deferring to state licensing and welfare system results unless are extenuating circumstances, and creating a tiered system that differentiates serious violations requiring immediate reporting to ACF.

Response: Head Start programs are required to report incidents of abuse and neglect under current policy, and the final rule clarifies that this

continues to be the case. ACF makes modifications to this standard and believes that the final rule language more accurately represents conduct that clearly requires a report to ACF under new requirements in § 1302.102(d) and allows programs autonomy in managing staff conduct that does not rise to this severity.

ACF previously released the Information Memorandum, ACF-IM-HS-22-07, *Reporting Child Health and Safety Incidents*,⁵⁷ which clarified that OHS considers violations of the Standards of Conduct to be a significant incident affecting the health and safety of children. Based on the comments, ACF agrees that some of the proposed changes in the NPRM to the Standards of Conduct could lead to confusion and overly punitive approaches. The modified requirements in the final rule described in § 1302.90(c) are intended to address these concerns. Specifically, the final rule retains the previous requirement that staff do not maltreat or endanger children and uses uniform categories and definitions of child maltreatment. With these changes, ACF believes that the final rule is clearer and focuses incident reporting on serious incidents. Several commenters misinterpreted incident reporting requirements to include all sections of the Standards of Conduct. The final rule clarifies that only those standards pertaining to the maltreatment or endangerment of children by staff, consultants, contractors, and volunteers requires an incident report. Programs have discretion over other staff conduct issues. ACF believes this approach addresses most commenter’s concerns.

ACF believes that the final rule creates a system that better differentiates violations that warrant incident reports. ACF’s role in incident reporting is distinct from the child welfare system. ACF determines whether the program is in compliance with ACF regulations pertaining to the incident, while the child welfare system determines if a report is substantiated based on evidence of child maltreatment. Furthermore, states’ definitions of child abuse and neglect vary, and they require different levels of evidence to substantiate reports.⁵⁸ Basing ACF

⁵⁷ <https://eclkc.ohs.acf.hhs.gov/policy/im/acf-im-hs-22-07>.

⁵⁸ Lee, J. & Weigensberg, E. (2022). “How Do Definitions of Child Abuse and Neglect Vary Across States?” OPRE Report #2022-164. Washington, DC: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.; Lee, J. & Weigensberg, E. (2022). “How Do Laws and Policies for Investigating Reports of Child Maltreatment Vary Across States?” OPRE Report

policies on variable State approaches could result in inequitable monitoring of programs depending on the state in which the program is located. If permitted and as appropriate, programs may update ACF with relevant information about licensing and child welfare findings. Programs are encouraged to update ACF if a program has already taken action to correct an identified issue.

Comment: Many commenters requested that ACF provide clearer guidance on reporting procedures, such as the type of information required, reporting process, and expected response time from ACF.

Response: ACF acknowledges commenters' request for clearer guidance on incident reporting procedures. However, ACF does not believe this is appropriate to include in regulatory requirements for programs. ACF will consider other ways to provide this type of guidance as appropriate.

Modernizing Head Start's Engagement With Families (§§ 1302.11; 1302.13; 1302.15; 1302.34; 1302.50)

This final rule adds or updates five standards to improve the family experience, both initially during program recruitment, application, and enrollment, and in ongoing communications once the child is in the program. The final rule makes adjustments from the NPRM to account for different community preferences and the fact that not all families will want to use modern technology. The changes are responsive to commenters that identified diverse preferences and culturally relevant communication styles in their communities.

First, this final rule adds a new paragraph (b)(1)(v) under § 1302.11 that requires programs to identify the communication methods and modalities available to the program to best engage with prospective and enrolled families in accessible ways. This ensures programs use the community needs assessment to identify the preferred communication modalities among its families, whether they be social media platforms, text messaging, enhanced websites, automated or personal phone calls, or dedicated phone lines for program updates. It also ensures programs are meeting the needs of all prospective and enrolled families, including those with various disabilities, schedules, levels of language access, family structures or

generational differences, literacy levels, and cultural backgrounds.

Second, § 1302.13 outlines the requirements for recruiting children to a Head Start program. This final rule adds clarifying language to the standard that a program must include modern technology options in two areas: (1) to encourage and assist families in applying for admission to the program, and (2) to reduce the family's administrative and paperwork burden in the application and enrollment process.

Third, this final rule adds a new paragraph (g) to § 1302.15, focused on requiring a user-friendly process for enrolling new families into the Head Start program. Paragraph (g) states a program must regularly examine their enrollment processes and implement any identified improvements to streamline the enrollment experience for families. This new provision requires programs to establish new procedures or update current procedures that are both streamlined and user centric. ACF expects programs to regularly update these procedures to reflect changes in community needs or best practices.

Fourth, this final rule adds a new paragraph (b)(9) to § 1302.34 that requires programs to use accessible communication methods and modalities that meet the needs of the community when engaging with prospective and enrolled families. ACF expects programs to consider both currently enrolled families as well as prospective families. This provision will ensure programs consult and engage with parents and families, incorporating their input into the creation of processes and communication channels.

Lastly, this final rule modifies the purpose statement in § 1302.50(a) by requiring programs address the individual needs of families in how they develop their communications. This change reflects Head Start's multi-generational approach and is intended to convey that programs should accommodate the needs of all family members.

Comment: Most of the public comments that addressed modernizing engagement with families were supportive of the new requirements. Commenters highlighted the importance of effective communication with families and the value of adopting modern technology to facilitate this. Even while supporting the sentiment of these changes, some commenters expressed concerns that the term "must use" in § 1302.13 is overly prescriptive. Some commenters shared that in-person interactions and traditional methods of communication may better meet the

needs of children and families who most need Head Start programs. Others said modern methods may not meet the needs of Tribal and rural communities with limited access to technology and reliable infrastructure. Overall, the comments reflected a desire for a better balance between modernizing communication and engagement methods and ensuring accessibility and adaptability.

Response: ACF recognizes commenters' concerns that programs need flexibility to use communication strategies that meet community needs. As such, while maintaining the overall sentiment of the changes, ACF adjusts language in the final rule to emphasize the importance of implementing enhancements that align with community needs and enhance the efficiency of service delivery. In § 1302.13, ACF changes the language proposed in the NPRM to require that programs give families the option of using modern technology, rather than requiring the use of modern technology in the application and enrollment process. In § 1302.34, ACF changes the language proposed in the NPRM from requiring the best available communication methods to ensuring the communication methods are accessible to all community members and meet the needs of the community. Finally, in § 1302.50, ACF alters the proposed language from the NPRM from requiring programs to use the most accessible communication methods, to using methods that meet the needs of each individual family. ACF believes these modifications in the final rule language better clarify a family-centered approach to recruitment, enrollment, and communication that meets evolving community expectations around the use of technology, while also being attuned to digital development in rural and remote communities and deploying more traditional methods as appropriate. ACF acknowledges the benefits of in-person enrollment and recruitment efforts to better access and benefit some families, especially in rural and Tribal areas, and does not intend to discourage those practices. These changes present an opportunity for programs to seek input on the communication methods they currently use and improve their family engagement strategies and procedures.

ACF expects these requirements may look different in practice in each program based on the unique needs of their families and community. For many families, their expectations regarding interactions with service providers have changed due to the availability of modern technology. Programs may find

an online, mobile-friendly application portal provides an efficient way both for families to apply and for the program to review applications. Programs may integrate their application process with those of other state or local benefits applications. For some families, in-person application support may be more appropriate. There are many reasons we agree with an approach to family engagement that flexibly includes both technological and in-person options. A family-centered, accessible approach acknowledges parent and family diversity related to language access, literacy levels, and disabilities. Programs may partner with local or online translation agencies to offer translation services for families who speak languages other than English. This can include translating enrollment forms and other documents and materials into languages commonly spoken by the community or providing translation services for meetings and in-person events. Programs can utilize communication applications that support multiple languages and offer features such as real-time translation, text messaging, and video calling. Closed captioning, subtitles, and speech-to-text tools may also be beneficial. Materials in accessible formats such as braille, large print, or accessible electronic documents should be available as needed for individuals who are blind or have low vision. Programs may also consider offering Telecommunication Relay Services (TRS) to facilitate telephone communication with individuals who are deaf, hard of hearing, or who have speech or language disorders.

Comment: A few commenters expressed concerns about a potential added financial and human resource burden to operationalize these changes. A few commenters also noted a potential conflict between the intended purpose of the revision to § 1302.13, which is focused on reducing family burden during the application and enrollment process, and the new provision in § 1302.12(i) allowing programs to adjust a family's income to account for excessive housing costs when determining eligibility.

Response: ACF disagrees that there will be a significant financial or human resource burden associated with these changes. ACF believes the cost to programs to make these determinations and implement new technologies will be nominal. Additionally, while ACF acknowledges that there may be some initial burden associated with implementing these changes, we see significant benefits and efficiencies for programs and families over time.

Streamlining the enrollment experience for families will result in more user-friendly and efficient processes, ultimately reducing burden and fostering greater trust with families. This in turn supports Head Start programs in delivering services more equitably and effectively. ACF also acknowledges the potential additional burden associated with the changes to the eligibility determination process in § 1302.12(i). However, we deem this burden reasonable considering the importance of providing additional flexibility for families who are making above or near poverty wages, but face high housing costs, and would be eligible for Head Start programs if those disproportionately high housing costs were taken into account when determining eligibility. The changes to eligibility determination are also optional for programs.

Community Assessment (§ 1302.11)

Section 1302.11(b) requires Head Start programs to conduct a community assessment to design a program that meets community needs and builds on community strengths and resources. The HSPPS describe a broad and comprehensive assessment of community needs, strengths, and resources and specify the minimum data Head Start programs must use in this process. Programs must complete a comprehensive community assessment at least once during a five-year grant period with an annual review and update of significant changes. The revisions to this section in the final rule emphasize the importance of this tool, the Communitywide Strategic Planning and Needs Assessment, as an intentional process for Head Start programs to understand the community they serve, plan accordingly, and strategically review and update. This section makes some changes from the NPRM, including adding language emphasizing the importance of collecting information on families experiencing homelessness in response to comments that proposed changes in the NPRM could have the unintended consequence of collecting less information on these families. The final rule also clarifies that programs must annually review and—as needed—update their community needs assessment, but they are not required to complete a comprehensive assessment every year. Finally, this section provides more information on the type of information that can inform the community needs assessment in response to requests by commenters for additional clarity from the NPRM.

We recognize that many Head Start programs utilize the community assessment effectively to inform the design of their program. However, some Head Start programs and others in the Head Start community have raised concerns about the requirements as previously written. Concerns included lack of clarity on purpose, especially on the purpose and scope of the annual review and update. Some programs may collect unnecessarily complicated data rather than utilizing information they know or have available to them that is relevant to their community. Related concerns include the cost and staff resources needed for complex data collection and analysis. Together these challenges can create costly barriers to some programs using their community assessment to effectively guide programmatic decisions as intended, especially with staff who are newer to the Head Start program and rely on policy to guide their implementation of the community assessment.

The final rule updates this section to promote clarity around the intent of the community assessment, align with best practices, and support the use of the community assessment to inform key aspects of the Head Start program. At the beginning of this section, we have added a description of the purpose, goals, and intended outcomes of the community assessment to strengthen programs' use of this tool. Next, we have added language encouraging programs to be strategic and intentional in what data they collect and use to achieve intended outcomes. We have also included language to encourage programs to access readily available data on their community and to challenge programs to consider data beyond counts of eligible populations and resources in the community. Specifically, we strongly encourage programs to collect information directly from impacted families when possible, including enrolled and prospective families, as their perspectives on their needs and strengths are critical to program design. ACF will provide TA and information on best practices to support programs in gathering lived experiences. Additionally, ACF has added language in the final rule to ensure transportation needs and resources are part of the data that informs a program's design and service delivery.

ACF has also revised the paragraph on the annual review to the community assessment to better describe the purpose and goals of this endeavor. As clearly described in the purpose paragraph, a comprehensive community assessment is only required once in the

five-year grant period and an annual review allows programs to determine if changes in the community may impact how the program serves families and therefore warrant an update to the assessment. In the final rule, we have clarified that the annual review and update is not a comprehensive community assessment but should be approached strategically to guide a program's modification of services. We have also described how the annual review can support and be supported by other required processes, including the annual self-assessment (part 1302, subpart J) and the annual funding application.

In this final rule, we emphasize that the community assessment is not an isolated requirement to be conducted; rather, it is the basis of program design and service delivery. ACF has retained the requirement that programs conduct a comprehensive community assessment once during their five-year grant cycle and annually review the assessment. This annual review is still required as community factors can change rapidly. For example, a large employer could move in or out of the service area, or there could be a rapid increase in the number of families experiencing homelessness. It is essential that programs are aware of significant community changes and incorporate this knowledge into program design and service delivery.

Comment: Commenters generally agree that the community assessment process should be streamlined, with many supporting the idea of not requiring annual updates unless significant community changes occur. A few comments suggested this revision reduces burden only slightly as programs must still collect data for their annual funding application, and therefore asked ACF to clarify how these processes work together. Others stated that revisions did not go far enough to reduce burden and, in fact, were more prescriptive than current standards. A few commenters suggested ACF provide more guidance on how to determine what updates are required annually. Other commenters misunderstood the revisions and thought that the NPRM removed the requirement for the annual review and update of the community assessment entirely.

Response: ACF believes that the main burden reduction comes from a new emphasis on strategic data collection and use and the emphasis on the purpose of the community assessment. We do not view the revisions as adding burden or as overly prescriptive, as we do not add requirements but rather descriptions of how programs can

strategically determine what information is needed. This requires programs to make strategic decisions on what relevant demographic data to collect and how to utilize it to improve program quality.

ACF understands that the language used in the NPRM regarding the annual review and update caused confusion and concern for some commenters. This final rule reiterates the requirement for an annual review but clarifies programs do not need to complete a comprehensive assessment every year. Programs must review their community assessment every year. The results of this annual review will dictate whether service delivery changes are needed. We further understand that streamlining the annual review language inadvertently caused concern regarding families experiencing homelessness. ACF does not intend to minimize our focus on homelessness, and we have restored language in this final rule requiring programs to look specifically each year at changes to families experiencing homelessness in their communities. We acknowledge the suggestions from commenters on how best to collect data regarding families experiencing homelessness, and we will continue to provide TTA to programs in this area.

Comment: A variety of concerns about data were expressed through public comments. Several commenters suggested that using publicly available data as a proxy could reduce the burden of data collection and costs. Some commenters suggested that additional guidance was needed from OHS to help programs understand which data sources could be used as proxies. Others suggested that proxies may not truly capture community characteristics. Specifically, some commenters expressed concern about the impact the proposed changes would have on programs' ability to recruit and serve children and families experiencing homelessness. Many cited the lack of existing data sources to identify children and families experiencing homelessness, such that accurate proxy data would not be available. Commenters also recommended OHS ensure best practices for data collection and use, particularly regarding the promotion of equity, accessibility, and cultural sensitivity. Commenters' recommendations included adding requirements to collect data on families' technology needs, local teacher salary and benefit information, and other information to inform program goals and design.

Response: ACF revises the NPRM language to describe expectations around data collection and use in the

community assessment process more completely. In lieu of the term "proxy," which we recognize created some confusion for commenters, we clarify that programs should utilize their own knowledge and existing data relevant to their community, and should rely on community partners to fully understand the community they serve. Programs should be strategic and intentional in collecting information relevant to their program and the populations they serve, rather than collecting information about the entire community. We acknowledge the suggestions made by commenters on data practices and will provide TTA to programs as requested to promote best practices for ensuring culturally appropriate data collection.

Comment: Nearly half of the comments on this section highlighted the importance of transportation resources in community assessments, noting that lack of transportation is a significant barrier for many families. While supportive of this addition to the NPRM, several commenters expressed concern that requiring an assessment of transportation resources and needs may lead to a requirement to provide transportation, which is untenable for many programs.

Response: Since transportation can be a common barrier for families in poverty attaining needed services, ACF considers it important to include an assessment of available transportation resources in the community. The goal of adding this to the community assessment is to ensure that programs are aware of resources available to support families and develop partnerships. ACF recognizes the often-high cost of transportation due to cost of buses as well as a lack of available drivers and monitors. As such, ACF is not requiring the provision of transportation by Head Start programs but expects programs to prioritize identifying available community partners and resources to mitigate this ongoing challenge.

Comment: Commenters provided suggestions on how to strengthen the focus on equity, diversity, and cultural sensitivity in collecting community assessment information. Some also suggested an increased focus on using community assessments to design programs to meet needs of diverse communities. Other commenters recommended revisions to the NPRM language to enhance a strength-based approach to understanding and incorporating the unique needs of all community members.

Response: ACF agrees with these comments, and we specifically focus on the inclusion of diversity, equity,

inclusion, and accessibility in the final rule. As one example, we modify the enumerated list of demographic data that programs need to collect as part of the community assessment to highlight race and ethnicity as well as children living in poverty.

Adjustment for Excessive Housing Costs for Eligibility Determination (§ 1302.12)

Section 1302.12 describes the requirements Head Start programs must follow to determine, verify, and document eligibility of prospective families. In this final rule, we added new paragraphs (i)(1)(i) and (ii) to § 1302.12 to allow a program to adjust a family's income to account for excessive housing costs when determining eligibility. The final rule largely retains the proposed requirements in the NPRM with additional information on implementation process.

Many programs have expressed concern that Head Start eligibility criteria do not account for the high cost of living in some areas across the country. High housing cost burdens have increased for low- and moderate-income renting households since the 1960s. A growing number of families earn just above poverty wages but spend more than 30 percent of their total gross income on housing costs, a threshold that has long been used to define housing affordability and is used by the Federal Department of Housing and Urban Development (HUD) as a rent limit for the HOME Investment Partnerships Program for low-income rental units. Adjusting income for housing expenses is an effective way to provide additional flexibility for families who are making above or near poverty wages, but face high housing costs, and would be eligible for Head Start if those housing costs were taken into account when determining eligibility.

In this final rule, § 1302.12(i)(1)(ii) introduces the adjustment for housing expenses and states that a program may make an adjustment to a family's gross income calculation for the purposes of determining eligibility in order to account for excessive housing costs. In addition, a new term for "housing costs" is defined in § 1305.2 as the total annual expenses on housing, which may include rent or mortgage payments, homeowner's or renter's insurance, utilities, interest, and taxes on the home. Utilities may include electricity, gas, water, sewer, and trash. Programs can use bills and expenses from one month to calculate the average expenses that a family has throughout the year.

ACF recognizes that programs do not need to calculate housing expenses for all families since many will still qualify for Head Start services based on income alone, or due to some other qualifying factor, such as participation in SNAP or Temporary Assistance for Needy Families (TANF). Therefore, the regulatory language in paragraph (i)(1)(ii) indicates that a program "may" use available documents to calculate housing costs. Programs should continue using their current methods of verifying eligibility based on tax forms, pay stubs, or other proof of income. These regulatory changes allow programs to also use bills, lease agreements, mortgage statements, and other documentation that shows housing and utility expenses. By including this income deduction calculation in eligibility determination for Head Start, ACF expects many programs to utilize this deduction calculation for families seeking eligibility. However, programs must adhere to their recruitment and selection criteria to ensure they prioritize the enrollment of families most in need of services as required in § 1302.13.

Comment: Comments on the housing adjustment provision revealed overwhelming support for the intent behind these changes, with many commenters agreeing that this approach would better reflect the reality of many families who, despite earning above the poverty line, are burdened by housing costs and could benefit from Head Start services. However, some comments expressed concerns about the administrative burden this change could impose on both families and program staff. Commenters worried that the requirement for additional documentation to prove housing expenses could be burdensome, potentially leading to errors and inconsistencies in eligibility determination. Additionally, there were concerns that the process could become too complicated and time-consuming, which might deter families from applying and slow down the enrollment process. A few commenters noted that the additional documentation burden is at odds with the final rule changes in §§ 1302.13 and 1302.15 to reduce families' burden and streamline their experience in the application and enrollment process.

Response: We retain the provision allowing programs to adjust a family's income to account for excessive housing costs when determining eligibility. We recognize that collecting and reviewing families' housing documentation may add some burden. The use of the

housing adjustment is optional, and it is not necessary to apply this adjustment to families who are already income-eligible or are eligible through other eligibility categories. Additionally, in this final rule, we revise language from the NPRM to provide further clarity and instruction on what documentation is required and how to calculate the adjustment. ACF believes this provision affords programs the flexibility to incorporate families' excessive housing costs into their existing eligibility determination processes while managing administrative burden. Furthermore, ACF will provide TTA as needed to grant recipients on how to calculate the housing adjustment in order to help minimize administrative burden and facilitate consistent application of the policy.

Comment: Several commenters suggested that instead of requiring programs to document individualized housing expenses, OHS should consider using a standardized measure such as HUD's Fair Market Rent data as a proxy for housing costs to simplify the process and reduce the potential for error and administrative burden. If the use of a proxy is not allowed, several comments requested clear guidance on what types of documentation would be acceptable and how to calculate the deductions for housing expenses. Commenters expressed a desire for the documentation review process to be as easy as possible for families and programs, with a few suggesting the use of signed family declarations when documentation is not available or allowing families who receive housing assistance to be categorically eligible for the program.

Response: We acknowledge commenters' suggestions to consider HUD's Fair Market Rent (FMR) data as an alternative to reviewing individual families' housing documentation, but do not incorporate that approach into this final rule. ACF will provide forthcoming guidance on how a housing adjustment tool can be used to help determine income eligibility. We also acknowledge the suggestion to allow for categorical eligibility for families in receipt of housing assistance; however, as eligibility categories are largely determined by Head Start statute, we do not incorporate this suggestion in the final rule.

Tribal Eligibility and Selection Process (§§ 1302.12, 1302.14)

This final rule revises eligibility requirements for Tribal programs to conform with congressional action in March 2024. The Head Start Act previously allowed up to 49 percent of

AIAN program enrollment to be comprised of enrollees who did not meet income eligibility criteria if certain conditions were met, while the remaining 51 percent of the AIAN program participants had to meet an income eligibility criterion specified at § 1302.12(c)(1) (e.g., family income at or below the poverty line, eligible for public assistance, experiencing homelessness or in foster care). With the passage of the Further Consolidated Appropriations Act, 2024 (Pub. L. 118–47), Tribal programs now have the discretion to consider eligibility regardless of income. In this final rule, we revise the requirement at § 1302.12(e)(1) to reflect that change in statutory language. Public Law 118–47 also emphasizes that Tribal programs may, at their discretion, use their selection criteria to prioritize children in families in which a child, family member, or member of the household is a member of an Indian Tribe. We revise the requirement in the final rule accordingly in § 1302.14, which is a separate section of the HSPPS where selection criteria requirements are outlined.

Comment: As noted in section V, *General Comments and Cross-Cutting Issues*, many NPRM commenters from Tribal communities requested categorical eligibility for AIAN children. These commenters emphasized the importance of ensuring AIAN children in their communities receive comprehensive and culturally relevant services through Tribal Head Start programs. They requested revisions to the standards to allow them to reach more children in their communities and remain sustainable programs into the future.

Response: We agree with commenters and understand from our engagement with Tribal leaders that categorical eligibility for AIAN children has been a priority for Tribal programs. This change in eligibility requirements was included in President Biden's FY 25 Budget Request to Congress, and it has now been enacted into law through the passage of Public Law 118–47. We believe this change in eligibility better positions Tribes to determine which children would most benefit from Head Start services in their communities. In this final rule, ACF revises the eligibility requirements for Tribal programs to be in alignment with congressional action. Publishing the final rule with requirements in the previous HSPPS that have already been superseded by Public Law 118–47 would be confusing for Tribal programs at a time when they are implementing this new law and are looking for clear

guidance from ACF. ACF engaged and consulted with Tribes on the eligibility changes in a variety of ways prior to the release of this final rule, including at the in-person ACF Early Childhood Tribal Consultation in July of 2024, providing multiple opportunities to provide feedback on important implementation considerations.

Migrant and Seasonal Eligibility and Selection Process (§§ 1302.12, 1302.14)

Sections 1302.12(f) Eligibility and 1302.14(a) Selection Process

This final rule revises eligibility requirements for Migrant or Seasonal Head Start (MSHS) programs to conform with congressional action in March 2024. Under the previous program standards, to be eligible for MSHS, a family was required to demonstrate that their income came primarily from agricultural labor, which was interpreted and implemented to mean a family's income must have been more than 50 percent from agricultural work. As changes in agricultural work have made it increasingly less common for the primary source of a family's income to be from agricultural work, many migrant or seasonal farmworker families have not met the criteria to enroll in MSHS. To remove this barrier to enrollment, ACF proposed in the NPRM to revise language in § 1302.12(f) regarding income eligibility for MSHS.

In March 2024, after the November 2023 publication of the NPRM, Congress enacted changes to eligibility requirements for MSHS in the Consolidated Appropriations Act, 2024 (Pub. L. 118–47). In the final rule, we revise § 1302.12(f) to ensure alignment to the change in eligibility in Public Law 118–47. We revise § 1302.12(f) to allow MSHS programs to serve any child who has one family member whose income comes primarily from agricultural employment as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802), even if they do not meet other income eligibility requirements. The summary of comments focuses on the public's response to the NPRM proposal, even though Public Law 118–47 also removed the requirement that MSHS families meet other income eligibility requirements. Additionally, Public Law 118–47 reinforces an existing requirement that MSHS programs use their selection criteria to give priority to children of migrant farmworker families. We revise the requirement in the final rule accordingly in § 1302.14, which is a separate section of the HSPPS where

selection criteria requirements are outlined.

Comment: Most commenters who discussed these changes supported the revision to consider income of one family member being primarily from agricultural work rather than the entire family's income being primarily from agricultural work. They appreciated ACF's efforts to address financial and operational challenges faced by migrant and seasonal farmworkers. Specifically, commenters applauded that the provision maintains the requirement for agricultural work while also recognizing challenges such as income from agriculture not always being the primary source due to its instability, and the need to find work in other industries as a result. Further, commenters stated that the revised eligibility requirements will offer more flexibility to families to pursue additional economic opportunities without fear of losing MSHS eligibility due to not meeting the family income threshold of at least 51% coming from agricultural work. Some commenters stated that if adopted, the provision would balance the requirement to work in agriculture to qualify for MSHS with the need for Migrant Seasonal Head Start services due to the unique demands and seasonality of agricultural work. Several comments highlighted the importance of this revision to allow access to families who would benefit from the critical early learning opportunities MSHS provides, especially in rural and farming communities.

Response: ACF agrees with commenters who expressed that this revision to current standards would better reflect the nature of agricultural work and allow those in the agricultural industry to benefit from MSHS programs. The language on income from agricultural work for MSHS eligibility remains the same as it was in the NPRM and, as described above, we further revise § 1302.12(f) to conform to Public Law 118–47 that removed the requirement that MSHS families meet other income eligibility requirements.

Comment: While supporting the change in the threshold of agricultural employment required, several commenters offered suggestions to amend this provision. One commenter suggested that OHS provide MSHS programs additional flexibility (such as a lower threshold than 51%) on agricultural work since the Head Start Act requires a family to be "primarily engaged in agricultural work," without specifying a threshold. Another comment suggested adding a requirement that MSHS program selection criteria prioritize families with

two parents working in agriculture for enrollment over families with only one family member working in agriculture. An edit was recommended by one commenter to change Migrant or Seasonal to Migrant and Seasonal and to specify that MSHS programs decide whether a family meets the agricultural work threshold. One commenter expressed concern that the revision did not reduce eligibility paperwork, stating it was still complicated to document income and other eligibility criteria such as age. A few commenters asked for clarification on operationalizing this change and how the definition of family relates to this provision.

Response: ACF acknowledges suggestions made by commenters to amend the provision; however, we maintain this language in this final rule and further revise this requirement to align with Public Law 118–47. We believe the revisions to the income threshold provide increased access to families who would benefit from MSHS. The changes to this requirement also address concerns about the burden to the extent that families no longer need to meet other income eligibility requirements, aside from one member of the family's income coming primarily from agricultural work. Further, Migrant or Seasonal is the title of the program, and the final rule does not change that, and programs are responsible for determining whether a family meets the agricultural work threshold in accordance with regulations on documenting eligibility. Programs set their own selection criteria, which is not part of this section, but is in section § 1302.14.

Section 1302.12(j) Eligibility Duration

ACF also adds a new provision to clarify the duration of eligibility for infants and toddlers served in MSHS programs. Specifically, § 1302.12(j) outlines the requirements related to the period of time a child remains eligible for Head Start and when program staff must verify the family's eligibility again before continuing services. Current standards do not specify how long eligibility lasts for the youngest children in MSHS, even though nearly half of enrollment in MSHS programs is comprised of children under the age of three. ACF adds a new paragraph (j)(5) which states that MSHS programs can serve infants and toddlers until the age of three without re-verifying eligibility, consistent with the requirement in § 1302.12(j)(2) that children participating in EHS are eligible for the duration of the program. We believe this new language will provide equity among programs while promoting

continuity of care for infants and toddlers in MSHS programs. The language in the final rule is the same as the language proposed in the NPRM.

Comment: There was consensus among commenters who spoke on this topic, with strong support for the revisions that align MSHS eligibility redetermination requirements with those of EHS to ensure continuity of care. Most of these commenters supported the new provision at § 1302.12(j)(5) which aligns duration of MSHS eligibility with the existing duration for children in EHS at § 1302.12(j)(2). No opposition to this new provision nor concerns about this provision were expressed in public comments. One comment celebrated this revision as “a very welcome and overdue adjustment to the standards.”

Response: We agree with commenters and maintain the language on MSHS eligibility duration proposed in the NPRM.

Transportation & Other Barriers to Enrollment and Attendance (§§ 1302.14; 1302.16)

Section 1302.14 outlines the requirements for programs when establishing their selection process. Specifically, it requires programs to establish section criteria that prioritizes participants based on community need and other factors, such as family income, whether a child is homeless or in foster care, among others. The final rule includes a requirement in § 1302.14(d), *Understanding barriers to enrollment*, that programs use their community assessment to identify the population of eligible children and families and potential barriers to enrollment and attendance, including access to transportation for the highest need families. Programs must also use this data to inform ongoing program improvement efforts as described in § 1302.102(c) to promote enrolling the children most in need of program services.

Section 1302.16 specifies program requirements related to attendance, specifically in the areas of promoting regular attendance, managing systematic program attendance issues, and supporting attendance for children who are homeless. The final rule includes the requirement that programs examine barriers to regular attendance, such as access to reliable transportation, and where possible, provide or facilitates transportation if needed.

Below we discuss the public comments we received and our responses on §§ 1302.14(d) and 1302.16(a)(2)(v).

Comment: Some respondents strongly expressed that the NPRM requirement in § 1302.14(d) to survey and analyze data for families who were selected but did not enroll was a significant administrative burden.

Response: ACF agrees and changes this requirement in the final rule to state that programs must, as part of the existing community assessment process, identify the population of age- and income-eligible children and identify whether lack of safe and reliable transportation, especially for the highest need children and families, poses a barrier to enrollment and attendance. We revise the final rule to eliminate the requirement for additional information collection from families who were selected but who did not enroll or attend. ACF retains the NPRM-proposed change in § 1302.16(a)(2)(v), which requires that programs examine barriers to regular attendance, such as access to reliable transportation, and where possible, provide or facilitates transportation if needed.

Comment: Some commenters interpreted this section to mean that programs must provide transportation services if transportation is a barrier to attendance.

Response: Neither the NPRM nor the final rule requires that programs provide direct Head Start transportation services. In the final rule, we maintain the NPRM proposal to require that programs identify whether lack of transportation is a barrier to attendance and, if it is, make every effort to provide or facilitate transportation. When Head Start is paying for transportation services, such services must meet Head Start requirements. This can be challenging but programs are encouraged to work with community partners, such as school districts, school transportation contractors, and transit providers to identify solutions. When lack of safe and reliable transportation is a barrier to Head Start program attendance, programs may need to consider changes in program design to ensure that children and families high on the eligibility list can access the program.

Comment: The majority of comments, including both from programs that currently provide transportation and those that do not, indicated that providing transportation services is expensive.

Response: ACF understands both that transportation is expensive to operate and that many of the children and families with the most significant needs lack access to safe and reliable transportation. As noted, the final rule does not require that Head Start

programs necessarily provide direct transportation services. Rather, the rule requires that programs analyze whether the lack of transportation is keeping children otherwise high on the selection criteria list from access the program. If the program finds that lack of safe and reliable transportation is a barrier, it must develop and implement plans that address program needs that may include such actions as budgeting to provide transportation services directly or through contractual arrangement or partnering with school districts to expand services to include Head Start transportation services for children and families high on the eligibility list who cannot otherwise enroll.

Comment: Many commenters stated that there is a shortage of drivers with the required Commercial Drivers License (CDL). Some also stated that CDL drivers are able to earn higher salaries in other industries. One commenter asked that ACF approve a different type of vehicle that would not require a CDL to operate.

Response: While ACF agrees that CDL drivers have continued to be in demand and that this contributes to the overall cost of transportation services, we do not change this requirement in the final rule. A CDL is required by most states for drivers providing student transportation. In some areas, programs recruit parents and community members as bus monitors or in other positions and help them acquire the knowledge, training, and experience needed to acquire a CDL. Such programs assist people by providing employment while ensuring a pool of drivers for the Head Start program. Other programs have recruited retired truck drivers who can get a passenger endorsement on their CDL and for whom Head Start employment benefits may be a draw.

Comment: Several commenters indicated that lack of transportation does not pose a barrier because they only enroll children whose families can provide transportation.

Response: The Act and the HSPPS require programs to develop selection criteria based on community need and offer enrollment to children from families with the highest level of need. While ACF acknowledges that Head Start transportation services are expensive, ACF is concerned that only enrolling children whose families can provide transportation is not a correct use of selection criteria. Programs must work to ensure lack of transportation is not a barrier to participating in the program. This may require long term planning and difficult program decisions.

Comment: A number of commenters, including both programs that currently provide transportation services and several organizations, applauded this provision of the NPRM. These comments emphasized that Head Start transportation services allow many children and families to enroll and attend who would otherwise be unable to access the program. Head Start program respondents stated that they would not be able to provide the services they do absent program-provided transportation.

Response: ACF agrees that Head Start transportation services are critical for many children and families, while also understanding the financial impact. This rule requires that programs assess their local needs and develop quality improvement plans that will improve access for the children and families who most need Head Start program services.

Serving Children With Disabilities (§ 1302.14)

Section 1302.14 outlines the requirements for selecting eligible children for participation in the Head Start program. Paragraph (b) of the section requires a program to ensure at least 10 percent of its total funded enrollment is filled by children eligible for services under the Individuals with Disabilities Education Act (IDEA) unless the responsible HHS official grants a waiver.

Though the previous standard § 1302.14(b) read “funded enrollment,” section 640(d)(1) in the Act states the percentage of children with disabilities (eligible under IDEA) is based on “the number of children actually enrolled,” rather than the funded enrollment. ACF has received feedback from various interested groups that this error has caused confusion among programs because the Act and the previous HSPPS stated different requirements. To address this inconsistency, the final rule changes “funded” to “actual” in § 1304.14(b)(1) so the HSPPS are consistent with the Act. This change clarifies the requirement and addresses the confusion caused by the discrepancy.

Comment: Most commenters expressed support for the proposed language change.

Response: As was proposed in the NPRM, we replace “funded” with “actual” in § 1304.14(b)(1) so the HSPPS are consistent with the Act.

Comment: A few commenters opposed the change and encouraged OHS to retain the previous HSPPS language to count “funded enrollment” rather than “actual enrollment” to ensure that children with disabilities

have equal access to learning opportunities.

Response: We encourage all Head Start programs to recruit and enroll as many children who are eligible for IDEA services as possible. The 10 percent requirement is meant to be a floor rather than a ceiling for serving children who would benefit from the program. ACF strongly encourages Head Start programs to maximize services to children with disabilities who will benefit from the program’s strong focus on inclusive early childhood settings.

Suspension and Expulsion (§§ 1302.17; 1305.2)

Section 1302.17 describes ACF’s policies that severely limit suspension and prohibit expulsion due to a child’s behavior. This final rule clarifies which disciplinary practices are captured under suspension by adding a definition for suspension in § 1305.2. It also describes that the intended purpose of a temporary suspension is when a serious safety threat has not been reduced or eliminated by providing interventions and supports recommended by the mental health consultant, and the program needs more time to put additional appropriate services in place. The changes further clarify and strengthen previous standards regarding what a program must do to bring the child back to the program as expediently as possible. The intent of these changes is to provide sufficient clarity on the purpose of a temporary suspension and how to return a child quickly and safely to program services with the correct supports in place.

Comment: Many commenters generally support OHS’s efforts to limit suspensions and prohibit expulsions, recognizing the negative long-term impacts of such disciplinary actions, especially on populations such as children of color and those with disabilities. However, the comments reflect a concern that current resources and staff training are insufficient to manage the severity and frequency of unsafe behaviors, leading to staff burnout, turnover, and a compromised learning environment and safety concerns for other children and staff.

Response: We acknowledge commenters’ recognition of the importance of ensuring that the use of disciplinary practices does not perpetuate disproportionalities across different groups of children, including young boys of color, children with disabilities, and children who are dual language learners. ACF also agrees that these policies must be accompanied by adult capacity-building to equip staff to

understand and respond to behaviors associated with suspension/expulsion early and effectively. The final rule revises the definition of suspension in § 1305.2 to clarify what ACF considers a suspension. Momentarily removing a child from the learning setting due to an immediate threat to child or adult safety, or due to established plans in a child's individualized family service plan (IFSP) or individualized education program (IEP), is not included in this definition of suspension. The final rule includes other requirements intended to support staff to manage and prevent unsafe behaviors, including training and professional development to use positive strategies to support social and emotional development in § 1302.92 as well as effective implementation of mental health consultation and a multidisciplinary approach to mental health, as outlined in § 1302.45.

Comment: Some commenters ask for more flexibility in handling suspensions, with some suggesting that "temporary suspensions" should be an option when staff and children's safety is at risk. Some commenters suggest changing the term "temporary suspension" to another name as the intent of this process is to provide better supports for the child, not temporarily remove them from the program without any supports or services.

Response: Section 1302.17(a) outlines the limitations on suspension and the steps that must be followed if a program proceeds with a temporary suspension, including providing continued support to facilitate the child's reentry into the program. As specified in § 1302.17(a)(2), a temporary suspension must be used only as a last resort in extraordinary circumstances when there is a serious safety threat. The language does not specify who is impacted by the serious safety threat, in acknowledgment that it could be either staff or children. The previous performance standards specified that temporary suspension could occur if the safety threat "cannot be reduced or eliminated," and the final rule maintains the NPRM proposal to change the language to be "has not been reduced or eliminated" to emphasize that the program should take active steps to attempt to reduce or eliminate the concern and demonstrate that the steps have not worked.

Although we retain the language of "temporary suspension," the requirement is clear that temporary suspension does not mean removing a child from a program without any supports or services. On the contrary, programs are required to continue engaging with the parents, mental health consultant, and other appropriate

staff, and continue to use appropriate community resources; to provide additional program supports and services, including home visits; and to determine whether a referral to a local agency responsible for implementing IDEA is appropriate, or if the child has an IFSP or IEP, to consult with the responsible agency to ensure the child receives the needed support services.

Comment: Several comments request clarifying the role of the multidisciplinary team and mental health consultant, including in determining if a temporary suspension is needed.

Response: We remove the requirement that programs have a multidisciplinary team. Rather, programs must use a multidisciplinary approach to integrate mental health throughout Head Start program services. Given the removal of the requirement to have a multidisciplinary team from this final rule, the specific role of that team in temporary suspensions is no longer relevant. The mental health consultant is an important partner in these decisions, as noted in the list of responsibilities of the mental health consultant in § 1302.45(b), and, specifically, in the implementation of the policies related to suspension and expulsion. Ultimately, the program is responsible for determining whether a suspension is necessary and for supporting children prior to, during, and after a suspension.

Comment: The comments also address the challenges of implementing some of the proposed changes to expulsion in § 1302.17(b) of the NPRM, such as the requirement for immediate placement in alternative programs. Many commenters note the scarcity of alternative placements with immediate availability or any alternative placements within the community, which could make compliance with these requirements difficult. A few comments request clarity about expectations for Head Start programs before a child is transitioned to an alternative placement, such as interim modified services.

Response: ACF does not believe further regulation is necessary on this issue at this time. ACF does not retain in this final rule the NPRM language stating that the placement can immediately enroll and provide services to the child. However, the existing program standards, which remain in effect at § 1302.17(b), already prohibit expulsion due to child behavior and outline expectations for when children exhibit persistent and serious challenging behaviors. This includes the requirement that a program work with appropriate entities to directly facilitate

the transition of a child to a more appropriate placement in § 1302.17(b)(3). Directly facilitating a child to a more appropriate placement is intended to convey that a child's services should not lapse, and that the child should not be unenrolled from Head Start program services until the new receiving placement enrolls the family and is ready to begin services. HHS, in collaboration with the U.S. Department of Education, previously released a policy statement that elaborates on ACF's position and expectations related to expulsion.⁵⁹ This includes the expectation that as part of direct facilitation, the program collaborates with the family, teacher, service providers, and receiving placement to develop and implement a seamless transition plan. In identifying a receiving placement, the program additionally ensures the new placement is inclusive and offers the child opportunities to optimize learning and develop skills alongside their peers. ACF is interested in understanding the extent to which programs are using the steps outlined in § 1302.17(b)(3) to determine a more appropriate placement and will consider regulating at some point in the future.

Comment: Several commenters express frustration with the lack of support from parents when trying to address challenging behaviors. Some comments suggest empowering families by providing a description of suspension and expulsion policies to families upon enrollment so they know their rights and so they understand their role in collaborating with programs to address child behavior and mental health.

Response: Section 1302.41 of the previous program standards requires Head Start programs to collaborate closely with parents as partners in their children's health, well-being, and overall development. ACF adds "mental health" throughout this paragraph in the final rule to clarify that mental health is an integral part of health that should be incorporated into conversations with parents early and often. ACF has and will continue to provide training and technical assistance on creating authentic partnerships with families, including strategies on ways to collaborate with families that foster children's healthy development. ACF encourages programs to leverage resources to meet their needs, including providing descriptions of policies to families upon enrollment.

⁵⁹ <https://eclkc.ohs.acf.hhs.gov/publication/policy-statement-expulsion-suspension-policies-early-childhood-settings>.

Ratios in Center-Based Early Head Start Programs (§ 1302.21)

Section 1302.21(b) sets requirements for ratios and group size within the center-based option. According to § 1302.21(b)(2), a class that serves children under 36 months old must have two teachers with no more than eight children, or three teachers with no more than nine children. Each teacher must be assigned consistent, primary responsibility for no more than four children to promote continuity of care for individual children. The NPRM proposed revising § 1302.21(b)(2) to encourage programs to use a lower teacher-child ratio of no more than three children to every teacher for their youngest children (infants under 12 months old), provided it does not interfere with continuity of care.

Comment: Overall, commenters supported the concept of smaller group sizes and lower staff-to-child ratios to promote individualized attention, especially for children with severe behavioral issues or identified special needs. A couple of commenters suggested that ACF require, rather than encourage, lower group size and ratios. However, many commenters noted challenges in implementing the proposed provision, including the difficulty of finding and hiring qualified infant/toddler teachers. Without additional funding, programs expressed that they cannot hire or effectively train more staff, and that they cannot provide additional physical space for smaller group sizes while still serving all their funded slots.

Response: ACF does not retain in this final rule the NPRM provision that encourages programs to use a 1:3 ratio for children under the age of 12 months. Section 1302.21(b)(2) remains as it was written in the previous standard. ACF reminds programs that they have the flexibility to implement policies that are more stringent than the requirements within the HSPPS. This flexibility allows programs to adapt their services based on the immediate needs of children and families. This includes reducing group sizes and ratios in infant, toddler, and preschool classrooms.

Comment: Many commenters wanted flexibility to lower group sizes and ratios in preschool classrooms.

Response: We do not revise the standard to address these comments, as current standards already address flexibilities for programs to reduce group sizes and ratios in all age groups. Section 1302.21(b)(1) requires programs to determine teacher-child ratios and group sizes within infant, toddler, and

preschool center-based settings based on the ages and needs of the children present. This allows programs to lower group sizes and ratios in infant, toddler, and preschool classrooms to best meet the immediate needs of enrolled children and families. Additionally, programs that need to reduce their overall enrollment levels in order to accommodate lower ratios may submit a change in scope application, and ACF will consider these applications.

Comment: Commenters recommended that ACF include specific strategies in regulation to support continuity of care (e.g., keeping children with a familiar adult as children move through classrooms/ages and mixed age group settings).

Response: We do not revise the standard to include specific strategies related to continuity of care. ACF encourages programs to access TTA resources provided by OHS to enhance their strategies to effectively support continuity of care.

Comment: Commenters asked ACF to specify how the age of a child should be determined for ratio purposes as well as to clarify the recommended ratio of typically developing children to children with disabilities in Early Head Start classrooms.

Response: We do not revise the standard to address these comments. Section 1302.21(b)(1) requires that programs determine the age of the majority of children in a class for ratio purposes at the start of the year, and they may adjust this determination during the program year, if necessary. Additionally, programs should follow local and State requirements to help them determine children's ages for ratio purposes. Programs can also access TTA resources provided by OHS to enhance their practices to effectively support the learning of children who are typically developing, children with identified disabilities, and children with suspected delays.

Comment: Many commenters noted the desire to temporarily reduce enrollment and lower ratios in classrooms with significant needs without worrying about the impact on their grant funding and inclusion in the Full Enrollment Initiative (FEI). A commenter also suggested that there should be waivers from the FEI so programs can meet the needs of enrolled children without penalties.

Response: We do not revise the standard to address these comments. ACF reminds programs that they must provide services to the number of children and pregnant women noted within their funding award. If programs need to adjust their number of funded

slots, they should contact their regional office to submit a change request.

Center-Based Service Duration for Early Head Start (§ 1302.21)

Section 1302.21(c)(1) outlines requirements for service duration in Early Head Start center-based programs. This final rule removes outdated language from § 1302.21(c)(1)(i) but otherwise maintains the requirement that EHS center-based programs must provide 1,380 annual hours of planned class operations for all enrolled children.

Comment: Of those who commented on this issue, many were not supportive of requiring a 46-week minimum for EHS center-based services. Commenters suggested that 46 weeks is excessive, could lead to burnout for staff, and may negatively impact the mental health of staff and children. Some commenters expressed concern that the proposed changes would limit opportunities for professional development and staff wellness activities, emphasizing the need for breaks, planning, and time off for staff. Commenters also indicated that a 46-week minimum would reduce the time available for staff planning, trainings, and breaks.

Response: In response to the public comments on this issue, we do not maintain in the final rule the proposed change to require EHS center-based services occur across at least 46 weeks per year. While it has been and continues to be a long-standing expectation of ACF that EHS programs provide continuous, year-round services for enrolled children, ACF is committed to prioritizing the flexibility of local programs to determine the program schedule that best meets their community needs, while still achieving the required 1,380 annual hours of services for children.

Comment: Many commenters expressed concern that the 46-week minimum would increase the difficulty in recruiting and retaining qualified staff. Some commenters raised concerns that requiring teachers to work across 46 weeks and give up their summer breaks could drive current employees to seek positions with more favorable work-life balance and result in increased turnover. Several commenters caution that the 46-week minimum would further the gap in days per year between and Head Start and Early Head Start programs, potentially impacting staff morale. Others noted the increased cost associated with a 46-week requirement.

Response: Our intent in this final rule is to support the Head Start workforce and promote consistent quality programming. We understand programs

continue to experience staffing challenges and know that programs must be able to recruit and retain qualified staff to provide high-quality services to children. While our expectation remains that EHS programs provide continuous services, the proposed 46-week minimum is not adopted in the final rule.

Comment: Several commenters suggested that the proposed changes could lead to a decrease in program quality, and several argued that not all children benefit from longer hours in a classroom setting.

Response: We disagree with the idea that a 46-week minimum would lead to a decrease in program quality. Research on full-day and full-year programs suggests children in poverty benefit from longer exposure to high-quality early learning programs than what is provided by part-day and/or part-year programs.

Comment: Some commenters advocated for special provisions to adjust EHS service duration to align with local school district schedules. Others recommended adopting a structure like Head Start Preschool (HSP) service duration, aligning with the HSP center-based service duration requirement (1,020 hours across 8 months), or requiring 1,380 hours over 10–11 months or 34–46 weeks.

Response: While we remove the proposed 46-week minimum, the final rule maintains the current requirement that EHS center-based programs provide 1,380 annual hours of planned class operations for all enrolled children. Research suggests that continuity of care for infant and toddlers is key to healthy growth, development, and learning outcomes. Although we expect programs to provide continuous services, this final rule affords programs the flexibility to develop their program schedules in a manner that best meets community needs.

Comment: Some commenters stressed the importance of local autonomy and being able to tailor programs to meet community needs, with commenters requesting that ACF allow for waivers and exemptions under certain conditions. Several commenters cautioned that adding additional weeks to programs that are already at or above 1,380 hours would substantially increase total service hours or force programs to shorten days to extend the year which would negatively impact parent's ability to work. Some commenters noted that some parents do not want their child attending EHS for long hours or 5 days per week. Some noted that a 46-week requirement would interfere with cultural activities in the

summer, such as those observed by Tribes.

Response: We retain flexibility for programs to decide which program schedules best meet the diverse needs of families and communities. Therefore, the proposed 46-week minimum is not adopted in the final rule.

Comment: A few commenters supported the proposed change, appreciating the clarification provided by the 46-week minimum and reiterating the importance of providing year-round, continuous services to infants and toddlers. However, a few in support of the changes cautioned that this would come at an increased cost to programs.

Response: We agree with the commenters about the importance of providing year-round, continuous services to infants and toddlers and recognize that many programs are already providing these services across 46 weeks or more. However, given the number of possible unintended consequences raised, we remove the proposed 46-week minimum in the final rule.

Center-Based Service Duration for Head Start Preschool (§§ 1302.21; 1302.24)

Section 1302.21(c)(2) outlines requirements for service duration for Head Start preschool center-based programs. This final rule does not change the service duration policies for these programs, but rather, makes six technical corrections to remove outdated regulatory text and improve readability of these standards, including the removal of outdated standards related to Secretarial determinations to lower preschool service duration requirements that previously appeared at § 1302.21(c)(3) and (4). Relatedly, the standards previously at § 1302.21(c)(5) and (6) have been renumbered and are now § 1302.21(c)(3) and (4) in the final rule.

Comment: We did not receive any public comments relevant to the proposed technical changes to the standards for Head Start Preschool duration. The only comments we received on this topic were not germane to this final rule. For instance, a few commenters recommended a reduction in Head Start Preschool service duration; a few advocated for a four-day service week to allow staff time for planning and paperwork; and a few advocated for flexibility for AIAN programs to better align with the traditions, culture, and values of their communities.

Response: We do not make any changes in the final rule in response to

these comments, as they are not germane to the rule.

Ratios in Family Child Care Settings (§ 1302.23)

Section 1302.23 of this final rule adds clarifying language to the previous standard on child ratio and group size requirements for programs that operate a family child care option with enrolled Head Start children. These language changes do not alter the substance of the previous regulation but provide much needed clarity to Head Start programs with a family child care option while acknowledging the importance of maintaining ratios and group sizes that facilitate high-quality interactions and support children's safety and development.

Section 1302.23(b)(2) clarifies maximum group size requirements for family child care programs with one provider based on the ages of the children in the group. To add clarity to this section, the final rule adds two headers, "Mixed Age with Preschoolers" and "Infants and Toddlers Only." Under the header "Mixed Age with Preschoolers" the final rule clarifies that when a mixed age group with one provider includes preschoolers (e.g., children over the age of 36 months), the maximum group size is six children. In addition, no more than two of these six children can be under 24 months of age. Under the heading, "Infants and Toddlers Only" the final rule clarifies that when there is a mixed-age group where all the children are under 36 months of age and there is one family child care provider, the maximum group size is four children.

In making these clarifying revisions, we note that the previous standard in § 1302.23(b)(2) allowed for an increased group size when both a family child care provider and an assistant provider were present. However, the role of "family child care assistant provider" was not defined and was not addressed in the staff qualifications and competency requirements outlined in § 1302.91(e)(5) for child and family services staff. To address this, the final rule now refers to two providers and removes a reference to "assistant provider" from the final sentence of § 1302.23(b)(4). In making these changes, the final rule clarifies the expectation that all staff who may have primary responsibility for children have the necessary training and experience to ensure quality services are not interrupted.

Comment: Many commenters suggested that the second provider in a family child care setting should be

allowed to be in the process of obtaining their CDA credential, rather than having it from the start. They cited increased costs and potential difficulty recruiting qualified providers as the primary reason for this suggestion.

Response: We agree with the commenters and note that programs already have this flexibility under § 1302.91(e)(4)(i), which allows them to hire family child care providers who are in the process of achieving a Family Child Care CDA or state equivalent and plan to earn one of these credentials. Once hired and providing services, these family child care providers have 18 months (after they begin to provide services) to earn the credential.

Comment: Some commenters expressed a concern that the proposed changes will negatively impact partnerships with family child care providers, particularly in rural areas, and could lead to a reduction in the number of children and families served by Head Start programs.

Response: As previously noted, the final rule removes all previous references to “assistant providers” in the standards, thereby emphasizing that programs operating a family child care option must ensure all staff who may have primary responsibility for children have the necessary training and experience to ensure quality services. ACF believes the HSPPS provide ample hiring flexibility for Head Start programs with a family child care option so as to minimize recruitment and/or retention issues that could impact partnerships with community programs. Specifically, under § 1302.91(e)(4)(i), programs may hire family child care providers who are enrolled in a Family Child Care CDA program or state equivalent prior to beginning service provision, and who acquire the credential within eighteen months of beginning to provide services.

While some commenters noted that they do not directly employ family child care providers and therefore lack the authority to require such changes in their community partners, we believe that partnerships offer the opportunity to support programs to meet this standard without causing undue burden. For example, programs operating the family child care option through partnerships can use Head Start professional development funds to support their community partners to hire and retain individuals who are on a path to attaining the required qualification. This access to professional and career development opportunities, provided through the Head Start program, can act as an additional incentive for family child care programs

to enter into and sustain partnerships. Ultimately, providing support to family child care partners to help them meet the required qualifications has the added benefit of increasing the supply of high-quality family child care programs and providers in the community.

Preventing and Addressing Lead Exposure (§ 1302.47)

The prior HSPPS include a requirement at § 1302.47(b)(1)(iii) for all facilities where Head Start children are served to be free from pollutants, hazards, and toxins that are accessible to children. The final rule includes a requirement that Head Start programs take steps to protect children from lead exposure and address any lead detected, but leaves the specific approach to program discretion rather than the more prescribed approach that was proposed in the NPRM.

The NPRM included a new section, § 1302.48, with several specific proposed requirements for programs to prevent and address lead exposure in the water and paint of facilities that serve Head Start children. In the requirements for water, ACF proposed that programs must sample fixtures used for human consumption for lead hazards on an annual basis, and take remediation actions to reduce lead in water to below 5 parts per billion (ppb). In the requirements for paint, ACF proposed that programs inspect for and address lead-based paint hazards with a certified risk assessor and take steps to restrict access to hazards and conduct abatement actions with a certified contractor.

While commenters agreed that children should not be exposed to lead in water or paint, they also emphasized that the proposed regulations were too prescriptive, costly, and would result in administrative burden. ACF also recognizes that there is not uniformity in lead action levels for water, and that related state and Federal requirements for these prescribed levels may change over time. Therefore, in this final rule, ACF does not retain the proposed § 1302.48. Instead, ACF includes a new simpler, more streamlined standard at § 1302.47(b)(10) that addresses the critical need to keep young children safe from exposure to lead, while being responsive to commenters’ concerns about the potential cost, burden, and prescriptiveness of the proposed rule.

The final rule requires Head Start programs to develop a plan to prevent children from being exposed to lead in the water or paint of Head Start facilities. In Head Start facilities where lead may exist, programs must

implement ongoing practices to protect children from lead exposure including testing and inspection at least every two years, with support from trained professionals. HHS is not requiring that the testing and inspection regarding lead in paint include a lead risk assessment for all programs. If a risk assessment is done of a pre-1978 child-occupied facility, the person must be a certified risk assessor and the firm for which the risk assessor works must be a certified risk assessment firm.⁶⁰ This revision ensures that programs establish an appropriate schedule for testing for lead in water and paint based on the age and other physical characteristics of the facility, since for example, older facilities may have lead service lines, plumbing, fixtures, or lead-based paint. This revised requirement also recognizes that, for instance, in some newer facilities or in facilities where water pipes have been fully replaced and a program can document the water is free of lead contaminants, regular testing of water may not be required at the same frequency as for an older facility. If lead hazards are identified in either water or paint, programs must implement appropriate remediation or abatement actions. ACF believes the changes in this final rule balance the need to protect children from exposure to lead while maintaining program flexibility.

Comment: Commenters were supportive of the intent of the proposed requirements to address lead in water and paint. However, the majority of commenters emphasized that the proposed requirements would be costly to implement without financial support, were too prescriptive, and would create significant administrative burden for programs. Commenters noted that implementation would be more expensive in rural and remote communities, with higher costs due to travel for certified testers, and further noted confusion due to the different action level requirements across states and the Federal Government. A few commenters also asked for a longer implementation window so they could budget for testing and remediation costs.

Response: In response to the significant concerns raised regarding cost, burden, and different thresholds at the state and Federal level, ACF does not include the proposed § 1302.48 in

⁶⁰ Independent of this rulemaking, HUD’s regulations require re-evaluations for HUD-assisted properties to be performed by a certified risk assessor (24 CFR 35.1355(3)) and EPA’s regulations require certification of individuals and firms conducting lead-based paint activities in pre-1978 child-occupied facilities (40 CFR part 745, especially subpart L (Lead-Based Paint Activities)).

the final rule. Given that the lead level in water requiring remediation action varies across states, ACF is mindful of not creating a specific requirement in this space that may conflict with state or Federal requirements. Instead, in this final rule, we add paragraph (b)(10) to § 1302.47, Safety practices, which outlines more streamlined requirements for lead in water and paint prevention practices. The final rule provides more flexibility for programs to budget and to establish a plan and practices tailored to the age and condition of their facilities to prevent children from being exposed to lead in water and paint of Head Start facilities. The final rule also provides facilities that can demonstrate children will not be exposed to lead hazards, such as those that have replaced or were constructed without lead-based plumbing or paint, or those using alternative water sources, such as water bottles or coolers, the ability to tailor their testing approaches and schedule appropriately, thereby mitigating costs for testing, inspection, and remediation or abatement to prevent lead exposure.

Comment: Commenters expressed mixed reactions regarding the frequency of testing for lead proposed in the NPRM. Several commenters supported and welcomed the flexibility proposed in the NPRM to test a rotating proportion of water fixtures annually such that all fixtures are tested at least once every five years. However, some noted that some states have their own standards for testing for lead in water and paint in child care facilities and schools. Other commenters emphasized that requiring annual testing for lead in water as well as reassessment every two years for lead-based paint hazards would be labor intensive and create administrative burden for programs. Still other commenters suggested that the testing frequency proposed for lead in paint was too lenient.

Response: As noted previously, ACF does not include the proposed § 1302.48 in this final rule, and instead we add a new paragraph (b)(10) to § 1302.47. In facilities where lead may exist, this new standard requires testing and inspection of lead in water and paint at least every two years.

If a lead hazard is identified, remediation or abatement must be conducted. For lead in water, programs are only required to test water fixtures that are accessible or used by children enrolled in Head Start, thus, providing allowances for programs to minimize their testing frequency on a subset of fixtures at least every two years. This standard provides flexibility for programs to develop a plan to prevent children's exposure to lead in water or

paint that better aligns with the possible risks for lead exposure in their facilities. The revised rule also provides allowances for programs that have confirmed they do not have existing lead hazards in their facilities—or that are taking alternative actions, such as the use of alternative water sources—to minimize continued testing, inspection, remediation, and abatement activities. This two year interval is aligned with the two year re-evaluation interval for HUD-assisted properties, such as child care facilities in common areas of multi-family housing, in the Lead Safe Housing Rule at 24 CFR 35.1355(b)(4).

Comment: Several commenters noted that there are currently considerable differences between state and Federal requirements for identifying and taking action on lead in water, particularly that the proposed requirements in the NPRM to take remediation action if lead levels in water were above 5 ppb differed from the Environmental Protection Agency's (EPA) lead action level of 15 ppb, and that it could be difficult to conduct remediation efforts for water fixtures to achieve a lead level below 5 ppb, as water from faucets generally meet the EPA's standard of 15 ppb. It was also noted that the proposed requirements lacked specificity on the application of Dust-Lead hazard Standards (DLHS) and Dust Lead Clearance Levels (DLCL) for lead in paint.

Response: As described previously, ACF modifies the requirement in the final rule to be less prescriptive including the removal of the 5 ppb lead action level in water, understanding that there are currently differences in state and Federal requirements. Programs should determine lead action levels in water for their facilities informed by Federal and state requirements, guidance from state or local health departments or community water systems, and TTA or guidance from ACF. The final rule requires programs to work with trained professionals to abate lead-based paint hazards as needed. These professionals are equipped to enact EPA standards for DLHS and DLCL and subject to applicable EPA and HUD requirements and regulations.

Comment: Several commenters recommended TTA for addressing and preventing lead in water and paint. Specifically, commenters requested assistance in creating partnerships for remediation efforts and developing lead paint management plans. Commenters also noted there should be training for staff to become certified testers. It was also recommended that supports for finding certified testers and abatement contractors especially in rural or more remote communities are necessary.

Response: ACF will provide TTA and sub-regulatory guidance related to implementation of the new standard following the publication of the final rule. ACF will support programs as they develop a plan and, as needed, implement practices to address identified lead in paint and water of Head Start facilities.

Comment: A few commenters expressed concerns with continuing program operations if lead in water or paint hazards are identified in their facilities. Commenters identified that supports are needed for minimizing interruptions of service if remediation or abatement is required, and to define what restricting access entails.

Response: ACF will provide TTA and sub-regulatory guidance for programs to minimize disruptions in program operations or interruptions of service if a lead in water or paint hazard is identified in Head Start facilities that requires remediation or abatement.

Comment: A few commenters expressed concerns that implementing the proposed requirements for center-based programs located in schools will be difficult to enforce due to specific school system policies, variations in school facility size, and because some programs rent their classroom space from the schools.

Response: ACF revises the final rule so that programs must develop a plan to prevent children's exposure to lead in water and paint, implement appropriate testing and inspection protocols, and, as needed, remediate or abate identified hazards if they are accessible to Head Start children. Programs are only required to test fixtures that are used by the Head Start program. For example, if a Head Start program operates in a school, the program must test fixtures in Head Start classrooms as well as common areas used for the Head Start program. However, the program is not required to test those classrooms that serve older school-age children who are not enrolled in Head Start.

Comment: Some commenters asked for the use of bottled water as an option for remediation and expressed that programs should be required to test children following the identification of exposure to lead in water or paint.

Response: The requirements in the final rule allow programs the flexibility to develop a plan for preventing exposure to lead hazards in water and paint, including any necessary remediation or abatement efforts. A program could choose to permanently restrict access to fixtures impacted by lead and implement the use of an alternative water source, such as bottled water, if that is determined by the

program to best meet program needs. We do not include a new specific requirement for programs to test children following exposure to lead in water or paint. However, the existing standard at § 1302.42(d) already requires programs to facilitate testing, evaluation, treatment, and follow-up as appropriate for children that may have a health problem, including higher lead levels.

Section 1302.47(b)(10) is added to the final rule, requiring programs to develop a plan to prevent children from being exposed to lead in the water or paint of Head Start facilities. If lead may exist, it also requires that programs implement ongoing practices of testing and inspection, at least every two years with support from trained professionals and, as needed, implement remediation or abatement to prevent lead exposure.

Family Partnership Family Assignments (§ 1302.52)

Section 1302.52 outlines the requirements for family partnership services, the foundational and central process by which Head Start staff engage with each family of enrolled children. In this final rule, we include new standards in § 1302.52(d) for assigning staff to work with families. This change is consistent with section 648A(c)(2) of the Act, which explicitly provides ACF with the authority to review and if necessary, revise, requirements related to family assignments, and as suggested by research and best practice, will improve the quality and effectiveness of staff providing services to families. Based on the research on human services case management, PIR data, feedback we received from programs, as well as support from public comments on this proposed change in the NPRM, ACF believes there is a strong need for clearer standards for management of family assignments.

This final rule retains the proposed requirement in the NPRM and includes a maximum family assignment ratio of 40:1, with some exceptions, to address the long-standing problem of excessive family assignments for many staff who work with families. Family wellbeing is the greatest predictor of school readiness, yet Head Start has been without workload standards that promote quality services for parents and families. This new rule establishes more manageable workloads and sets staff up to better address family wellbeing, which includes family health and mental health, finances, educational advancement, employment, housing and food assistance, and other support services.

Specifically, we have retained the exception proposed in the NPRM, with some modifications, to allow programs to demonstrate that they have an alternative approach that affords high-quality with reasonable workloads that exceed 40:1; and made that exception and the process for getting that exception clearer by clarifying it is a waiver for programs that can demonstrate they are meeting staff competency and program outcomes requirements with a higher but reasonable staff workload. We also added an exception in the final rule that allows a program to temporarily exceed the 40:1 ratio to address operational needs during periods of staff absence and attrition, changes in daily operations related to start up or transitional activities, and circumstances of emergency response and recovery. We are establishing this new requirement to ensure more consistent, reasonable family assignments for staff who work directly with families and believe this change will improve staff wellness and the quality of services families receive, while also allowing flexibility for programs to implement assignments in ways that can work best for their families and program design.

Comment: The majority of commenters who submitted comments on this topic supported the idea of reducing family assignments to ensure high-quality services and to allow for more focused and individualized attention with families. Many agreed that a maximum family assignment ratio of 40 families per staff is a positive step towards managing healthy and realistic workloads, which are better for staff and can lead to better outcomes for families and children. A few commenters suggested that 40 is too high while others suggest that their programs are already at or below the proposed limit of 40.

Response: We agree that lower family assignment ratios are ideal for quality services and best for children, families, and staff. As was proposed in the NPRM, we maintain the maximum family assignment number at 40. We know from PIR data that more than half of Head Start programs nationally are already at or below a family assignment ratio of 40 families per staff person. Comments were consistent with this data.

This final rule provides exceptions to meeting the 40:1 ratio, and we made modifications to the NPRM language on these exceptions to improve clarity and enhance program flexibility. First, we added a waiver for programs that can demonstrate they are meeting staff

competency and program outcomes requirements with a higher but reasonable staff workload. We also added a provision that allows programs to temporarily exceed the 40:1 ratio to address certain operational changes caused by, for example, emergencies and staffing changes.

Comment: Some commenters sought clarification about how to interpret and implement the family assignment ratio. A few comments sought additional clarification on how it applies to part-time staff. Some comments pointed to the need for a clearer definition of family services staff and responsibilities in the proposal. For example, some commenters reported that they use different terminology for staff roles or define staff responsibilities differently, and as a result, they were unsure about the meaning of “family services” in the NPRM. A few comments raised questions about how OHS would monitor both the family assignment maximum and the exception clause for programs that could demonstrate how they meet quality and staff wellness requirements using a different approach. A few comments suggested that the regulation should instead establish a desired outcome and let the program determine the approach.

Response: To alleviate confusion about to whom the 40:1 standard applies, we remove the term “family services” from the NPRM and refer more generally to “family partnership services” in the final rule. We also clarify that this requirement refers to family, health, and community engagement staff who work on family goal setting, adding health staff since many staff who conduct the family partnership process support health services as well. We recognize the challenges caused by the pandemic, the operational challenges of running Head Start programs, and the variation of program staffing structures, but believe the goal of the multi-generation Head Start model requires reasonable assignments for family partnership services staff to be able to focus on family support services.

Some commenters asked how programs would demonstrate that they have an alternative approach that affords high-quality while maintaining reasonable workloads. We are including a waiver option to ensure programs can work toward outcomes using innovative and alternative approaches that work best for their staff, families, and communities.

ACF will issue additional guidance to grant recipients on the waiver process. In addition, to ensure programs understand what we mean by high

quality family and community engagement services in the NPRM, the final rule includes references to two existing performance standards that contribute to quality and that programs can use to demonstrate the effectiveness of their alternative approaches. The requirement for systemic staff training and professional development for child and family services staff, when fully implemented, builds staff competencies to improve child and family outcomes (§ 1302.92(b)(4)). Additionally, programs demonstrate quality when they use the Parent, Family and Community Engagement Framework outcomes to assess and provide services related to family strengths, interests, and needs (§ 1302.52).

Comment: Commenters raised the most concerns about the financial implications of implementing a lower family assignment ratio which, they report, would necessitate additional staff and supervisory hires. Some of these comments suggested that without additional funding, programs may have to reduce the number of slots available to children and families, and this is an unfavorable option.

Response: We acknowledge cost implication concerns from those programs who have family assignment ratios above 40:1. We maintain the long view that we need to move toward more consistent service quality for families across all Head Start programs. However, as noted, in the final rule we add a waiver for programs that can demonstrate manageable workloads for staff along with staff competence and quality service provision. We also add an exception whereby a program can temporarily exceed the 40:1 ratio to address operational needs during periods of staff absence and attrition, changes in daily operations related to start up or transitional activities, and circumstances of emergency response and recovery. In addition, we maintain, with modifications, the NPRM-proposed flexibility through which programs can demonstrate alternative approaches to quality. Further, we retain the three-year time frame from the publish date of the final rule to give programs time for planning and implementation.

Comment: A majority of comments highlighted a need for more flexibility in determining and implementing family assignment ratios for reasons that relate to program design, daily operations, staff attrition, geography, and family and community needs. A few commenters suggested that there are variations in responsibilities of staff beyond case management and that some staff duties also include recruitment, eligibility, enrollment, health-related

tracking, classroom breaks for teacher classroom substitutions, supervision of children, and behavioral support in the classroom.

Response: We understand commenters' concerns and questions about implementing this regulation and agree that programs need flexibility in implementing and maintaining their family assignment processes and procedures. As noted previously, we add a temporary exception in the final rule to address operational needs during periods of staff absence and attrition, changes in daily operations related to start up or transitional activities, and circumstances of emergency response and recovery. We also add the option of a waiver in the final rule, maintaining that it allows flexibility for programs with other than a 40:1 approach to continue to be responsive to staff wellness and family strengths and needs.

Comment: Some commenters identified a preference for a family assignment range, with recommendations averaging somewhere between 40–60. Some comments suggested that this would help with staff attrition and hiring, workload considerations related to home visit travel time, and models that include smaller caseloads for some staff assigned to do more intensive work.

Response: We disagree with a 40–60 family assignment range and believe that a maximum of 60 families for any one staff member does not meet the goal of supporting staff wellness and high-quality family engagement and family support services. Instead, we maintain the 40:1 family assignment ratio and both add and clarify exceptions that support program flexibility in implementing this regulation. We believe that these exceptions may address concerns related to attrition, family assignment triage models, and workload factors, including those related to rural and remote programming.

Participation in Quality Rating and Improvement Systems (§ 1302.53)

This final rule clarifies language on Head Start program participation in State quality rating and improvement systems (QRIS). Section 1302.53 establishes the conditions under which Head Start programs should participate in State quality rating and improvement systems. In the previous standard, with the exception of American Indian and Alaska Native programs, each Head Start program must participate in its State QRIS if three conditions are met: (1) its State or local QRIS accepts Head Start monitoring data to document

quality indicators included in the State's tiered system; (2) participation would not impact a program's ability to comply with the HSPPS; and (3) the program has not provided ACF with a compelling reason not to comply with this requirement.

This final rule reinforces the importance of quality improvements and encourages Head Start programs to continue their participation efforts, while clarifying that Head Start programs should participate in QRIS to the extent practicable if the State system has strategies in place to support their participation. The change also removes the three qualifying conditions for non-participation in the State QRIS described in the above paragraph, eliminating the documentation burden on programs that cannot reasonably participate in the QRIS. By eliminating these specific conditions and substituting language that emphasizes the State strategies for Head Start participation in general, we believe Head Start grant recipients, along with Head Start Collaboration Offices and OHS regional staff, can collectively encourage the evolution of State systems like QRIS to better receive Head Start programs. These changes are intended to reduce duplication of effort and reduce burden on programs and allow Head Start programs to focus their resources on activities that are most likely to support quality services for children and families.

Comment: The public comments on the proposed change to QRIS participation requirements indicate consensus that the proposed changes are positive and alleviate unnecessary burden on Head Start programs. Commenters appreciate the shift from mandatory to recommended participation in QRIS, noting that the HSPPS often exceed State QRIS requirements and that in some instances, efforts to participate in QRIS can be duplicative and burdensome. They argued that the previous requirement to participate in QRIS was redundant, sometimes stressful, and created extra work for staff, without significantly benefiting Head Start programs.

Response: As was proposed in the NPRM and retained in the final rule in paragraph (b)(2), we remove the requirement that programs participate in their State or local QRIS and instead clarify that they should to the extent practicable. We eliminate the three conditions for participation in the State QRIS as written in the current standards at § 1302.53(b)(2)(i) through (iii), and add “to the extent practicable, if a State or local QRIS has a strategy to support

Head Start participation without requiring programs to duplicate existing documentation from Office of Head Start oversight.”

Comment: Some commenters noted participation in QRIS can better integrate Head Start programs into the State’s overall early care and education system. They suggest the Head Start program, as a national model for high-quality early learning, could leverage participation in QRIS, along with other state systems collaboration efforts, to influence state QRIS indicators to better address the needs of all children, especially historically marginalized children and families. Overall, the comments support the proposed changes to QRIS participation, advocating for programs to participate in QRIS when appropriate and with greater flexibility and reduced burden.

Response: We agree with commenters who support the changes, which still encourage participation but allow for a more flexible approach that recognizes the high standards of Head Start programs and reduces the duplication of efforts.

Comment: Some commenters questioned the value of State QRIS in general, arguing they include lower quality standards than Head Start and that they are inconsistent across states. A few commenters also noted that QRIS perpetuate racial inequities. Some of these commenters also noted that Head Start programs may be in a position to positively influence the State QRIS systems through their participation.

Response: OHS believes that where practicable, it benefits Head Start Programs to participate in QRIS in order to more fully participate in State early care and education systems and, in some instances, to participate in larger state-led quality improvement efforts.

Services to Enrolled Pregnant Women (§§ 1302.80; 1302.82)

Section 1302.80 Enrolled Pregnant Women

This section specifies standards for services to enrolled pregnant women and other pregnant people. We revise this section in the final rule to clarify what topics program staff must discuss with parents at the two-week newborn visit, to reinforce accountability in documenting and tracking services enrolled pregnant women and other pregnant people receive, and to require data be used to design services that are culturally responsive and intended to prevent pregnancy-related deaths and address disparities across racial and ethnic groups. Early Head Start programs are critical in mitigating

maternal-health related challenges as they are positioned to provide postpartum support by ensuring the required newborn visit provides intentional opportunities for collaboration, intervention, and support.

Comment: Several commenters expressed concern about the feasibility of conducting newborn visits within two weeks of birth and requested flexibility in scheduling and conducting those visits. Commenters suggested allowing either a medical visit by a physician, a telephone call, or a virtual visit within the first two weeks after birth to be counted as a two-week newborn visit if parents are not yet ready to receive staff for visits.

Response: To clarify, the requirement in paragraph (d) is that a program schedule the newborn visit within two weeks after the infant’s birth; the standard proposed in the NPRM and retained in the final rule does not require the program to conduct that visit within the first two weeks. We do not propose any changes to this requirement. While we understand the recommendation to allow a medical visit by a physician to count as this newborn visit, we maintain the NPRM proposal to require Head Start programs to conduct the visit and to cover specific topics during this visit; allowing a different provider to conduct the visit would mean a Head Start program has no control over the content of that visit, and would not position the Head Start program to provide follow-up supports.

Comment: Some commenters suggested we add “safe sleep” to the list of topics we proposed to add to paragraph (d) to clarify what program staff are required to discuss with parents at the two-week newborn visit.

Response: We agree with commenters’ suggestion. We add “safe sleep” to the list of topics staff should discuss, at a minimum, during the newborn visit.

Comment: Many commenters agreed with requirements to enhance pregnancy services and to reduce the impact systemic racism has on maternal health outcomes for the Black and AIAN women and other individuals and families that Head Start programs serve. A few commenters were concerned about costs associated with requiring programs to collect data on enrolled pregnant women and other pregnant people. A few commenters asked for more clarity on how to collect and use data to inform services and address disparities across racial and ethnic groups.

Response: We agree with commenters regarding the importance of reducing the impacts of systemic racism on outcomes for Black, AIAN, and other

pregnant women and other pregnant people programs serve. We maintain this requirement in the final rule and require programs to do their part to reduce disparities in maternal outcomes across racial and ethnic groups.

We encourage programs to refer to Information Memorandum ACF-IM-HS-22-02, “Documenting Services to Enrolled Pregnant Women”, where we clarify how programs can improve their data collection efforts and use the data they collect on enrolled pregnant women and other pregnant people to inform services, leveraging existing resources to limit additional administrative costs. We also encourage programs to continue to work with their regional offices if they require additional support in meeting this standard.

Section 1302.82 Family Partnership Services for Enrolled Pregnant Women

This section requires programs to engage in the family partnership services process described in § 1302.52 for enrolled pregnant women and other pregnant people with a specific focus on their prenatal and postpartum needs. In the previous program standards, programs were not required to use any specific curriculum when engaging with pregnant women and other pregnant people in the family partnership services, nor were there requirements for the type of curriculum if one was used. We revise paragraph (a) in this section by adding language to clarify that if a program chooses to use a curriculum with pregnant women and other pregnant people, they should select a curriculum that focuses on maternal and child health.

Comment: Some commenters recommended that programs serving pregnant women and other pregnant people use evidence-informed curricula, with a focus on maternal and infant health. A few other commenters suggested curricula that consider the unique cultural needs of diverse ethnic and racial groups.

Response: We acknowledge commenters’ suggestions, however, in the final rule, we maintain the changes to paragraph (a) as proposed in the NPRM and decline to make further changes to this paragraph. We believe the revisions to paragraph (a) as proposed in the NPRM (described above) allow programs that use a curriculum in the provision of services to pregnant women the autonomy to decide which maternal health curriculum is right for the families they serve. We encourage programs that provide services to pregnant women and other pregnant people to use a maternal

health curriculum that is culturally relevant and based on the best available research to help guide maternity care decisions.

Comment: Several commenters expressed concerns about the costs associated with developing curricula.

Response: ACF reminds programs that using a curriculum with pregnant women and other pregnant people is optional. The intent of the revision to this standard is to clarify that if a program does choose to use a curriculum, that it should be one that is appropriate for this service population. The Early Childhood Learning and Knowledge Center (ECLKC) provides some information on curricula, including some that are appropriate for use during the prenatal period. Following publication of the final rule, ACF will provide TA as needed to programs on the selection of appropriate curricula for this population.

Facilities (§§ 1303.42; 1303.43; 1303.44; 1303.45)

Part 1303, subpart E (Facilities), implements the statutory requirements related to facilities in section 644(c), (f), and (g) of the Act. It organizes requirements for grant recipients when they apply to use Head Start funds to purchase, construct or make major renovations to facilities, as well as outlines all relevant information and requirements for protecting the Federal interest under a broad variety of circumstances and aligns all provisions with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. In the final rule, ACF makes clarifying changes to several requirements related to facilities, including to the definitions of *major renovation*, *Federal interest*, and *purchase*, which are discussed in a later section. Additionally, in response to comments that the part 1303 process is burdensome for grant recipients, ACF makes other clarifying changes to facility regulation and processes in addition to what was proposed in the NPRM to be responsive to those comments and to reduce burden.

In general, most commenters agreed with the facilities proposals included in the NPRM, noting that they help to improve understanding of confusing areas. Overall, while there was support for the clarifications and revisions to the definition of the terms *major renovation*, *Federal interest*, and *purchase*, and to facilities valuation, under § 1303.44(a)(7), there was a desire for further guidance to ensure that Head Start programs can continue to provide safe and supportive environments for children without undue financial or

administrative burdens. We discuss comments and our responses to changes to subpart E in more detail below.

Comment: One commenter asked ACF to consider the different types of facility-use agreements programs may be using—whether the recipient owns their facility, rents their facility, shares their space with another program, or receives in-kind space within a school building, among others—and how this might impact the application of the major renovation definition.

Response: ACF acknowledges this request for clarification and would like to point to existing relevant regulations on how to navigate variations in facility-use agreements. Per § 1303.44(a)(2), recipients are required to provide the deed or other document showing legal ownership of real property, a legal description of facility site, and an explanation of why the location is appropriate for the service area. And per § 1303.45(a)(2)(i) through (iv), recipients are required to identify who owns the property, develop a cost comparison relevant to the particular facility-use agreement to list all costs, identify costs over the structure's useful life, and demonstrate how the proposed purchase is consistent with goals, community needs, enrollment, and program options, and how it will support quality services to children and families. For leased properties, recipients are required to provide a copy of existing or proposed lease agreement, and the landlord or lessor's consent (§ 1303.44(b)(1)). For a modular unit to be sited on leased property or on property not owned by a recipient, recipients are required to provide a copy of the proposed lease or other occupancy agreement giving grantee access to modular unit for at least 15 years (§ 1303.44(b)(2)).

Comment: Some commenters raised concerns and requested clarification with respect to the Davis-Bacon and Related Acts (DBRA) and its application to Head Start facility projects. Specifically, commenters are concerned that the provisions in the DBRA are a barrier for programs when it pertains to (1) locating qualified vendors to perform repairs and routine maintenance, due to the high labor cost that may be associated with DBRA compliance, and (2) the reporting and paperwork requirements imposed by the DBRA, which are seen as deterrents to timely and cost-effective repairs, especially in rural and suburban areas. These commenters argue that an exemption from the DBRA would provide recipients with large cost savings which could be used to support their staff. Some commenters request that OHS align its guidance with the Head Start

Act and exempt DBRA compliance for minor renovations and repairs necessitated by normal wear and tear. They argue that the DBRA should only apply to construction and major renovations, which they believe is consistent with other funding sources, such as the Department of Housing and Urban Development (HUD). A few comments specifically request that OHS address potential conflicting guidance on the application of the DBRA including in the Facilities Guidance Attachment A to ACF-IM-HS-17-01.

Response: ACF understands the concerns and clarification requested with respect to the DBRA. The application of the DBRA on Head Start facilities is statutory and ACF cannot make exemptions from its coverage through the rulemaking process. In addition, routine maintenance is generally not subject to DBRA requirements. *See, e.g.,* 29 CFR 5.2 (“The term “building or work” generally includes construction activities of all types, as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work.”).

Comment: A few commenters shared concerns that the part 1303 facility grant process is slow and burdensome, with calls for streamlining approval processes and increasing flexibility. These comments share frustration in a long application and approval process that can cost programs time, effort, stress, and large expense. In sum, these commenters feel the proposed changes, or lack thereof, to the part 1303 application process, fall short in addressing the market realities and barriers facing recipients pursuing facility applications.

Response: ACF agrees with commenters' concerns regarding a part 1303 facility application process. As such, ACF makes changes throughout subpart E in this final rule to improve the facility application development and approval process:

- In § 1303.42, ACF strikes § 1303.42(b) so that recipients are no longer required to have a written statement from an independent real estate professional to satisfy the requirement under § 1303.42(a)(1)(iii). This will give recipients the flexibility to demonstrate the lack of suitable facilities in the grantee's service area in a way that is less time-intensive and/or resource-intensive.

- In § 1303.43, we clarify the requirement related to the use of grant funds to pay fees for the application to determine preliminary eligibility. In the prior performance standards, grant recipients could submit a written request to the responsible HHS official

for reasonable fees and costs to determine preliminary eligibility, *and if that request was approved*, the grant recipient could use Federal funds to pay those fees and costs. However, there was a lack of clarity about whether the funds used for the application to determine preliminary eligibility could be disallowed if the application was ultimately disapproved. The final rule makes clear that if recipients seek to use Federal funds for reasonable fees and costs associated with preliminary eligibility and the application to purchase, construct, and renovate a facility, they must receive approval from the HHS official. Once approval is granted to use Federal funds for these purposes, the funds are allowable regardless of the outcome of the application under § 1303.42 or § 1303.44.

- In § 1303.44(a)(3), we clarify that when referencing parking in the plans and specifications for the facility, it is *whether there is space available for parking, if applicable*, understanding that parking may not be relevant in all cases.

- In § 1303.44, we remove in paragraph (a)(7) the phrase “cost” as a description of “value” (“cost value”). In the previous performance standards, a licensed independent certified appraiser must estimate the facility’s “fair market value” when the purchase and associated repairs, construction, and renovation is completed. In the NPRM, we proposed to remove “fair market.” In this final rule, we remove “cost” and “fair market” in recognition that there are multiple types of values and using “cost” could still lead to confusion. We also clarify in paragraph (a)(7) that the estimate from the appraiser can be done either on-site or virtually. ACF understands from recipients that finding an appraiser to come in-person can be challenging, particularly in rural areas. This clarification helps to ensure that all recipients know they have the flexibility to identify an appraiser and provide any necessary plans, specifications, or proposals via email.

- In § 1303.44(a)(14), we revise the requirement to establish clearer parameters around the additional information the responsible HHS official could request as part of the part 1303 process. The previous program standards state that it could be anything the HHS official may require; the final rule stipulates that it must be what the official “needs to determine compliance with regulations.”

- In § 1303.45(a)(2)(iii), we strike “balloon” in reference to mortgage payments because this is outdated language. ACF no longer considers

balloon mortgages given the level of risk associated with them.

Comment: A few commenters raised that investing in facilities is needed to ensure safe and supportive environments for children to thrive and learn. These commenters express that some facilities are inadequate and emphasize the need for additional funding to modernize and safely maintain Head Start buildings, classrooms, and outdoor spaces. These commenters request OHS to provide extra financial support for facility projects.

Response: ACF agrees with commenters that investing in facilities is critically important to ensure high-quality environments for children, families, and staff. ACF reminds commenters that the Head Start program does not receive a separate appropriation for facilities and increasing funding for facilities is not within our authority. ACF reminds recipients that they can request one-time funding to address facility needs.

Comment: A few commenters express the importance of the physical learning environment and the role it plays in the development and health of children and the mental health of staff. In sum, these commenters made recommendations for additional facility requirements, such as ones to address the adverse impact of indoor pollutants, providing ample natural light and maximizing air flow, to enhance accessibility for all children, families, and staff, and ensure that every Head Start child will learn and thrive in a safe and developmentally appropriate learning environment.

Response: ACF acknowledges these recommendations but is not adding these requirements at this time.

Definition of Income (§ 1305.2)

The definition for “income” in the prior HSPPS listed several types of income sources that could be included in the calculation of gross income and referenced additional possible sources in a lengthy document from the Census Bureau published in 1992. This definition has caused confusion regarding what should be included in income calculations for Head Start eligibility determination purposes. In this final rule, we update the definition of income and make it clearer and less burdensome to implement. We maintain the changes for this definition as proposed in the NPRM, with additional changes for further clarity. These changes are intended to ensure programs can more easily identify and calculate an applicant’s income.

To that end, in this final rule, we revise the definition of income as gross

income that only includes wages, business income, unemployment compensation, pension or annuity payments, gifts that exceed the threshold for taxable income, and military income (excluding special pay for a member subject to hostile fire or imminent danger under 37 U.S.C. 310 or any basic allowance for housing under 37 U.S.C. 403 including housing acquired under the alternative authority under 10 U.S.C. 169 or any related provision of law). This revised definition includes the following changes from the prior standards’ definition of income: removes “cash” from “gross cash income”; replaces “earned income” with the more specific terms “wages” and “business income”; adds “gifts that exceed the threshold for taxable income” as a possible source of income; and clarifies that income does not include refundable tax credits or any forms of public assistance.

As a further change from the NPRM proposal, the definition of gross income in the final rule no longer includes Social Security benefits, veterans’ benefits, or alimony. The rationale for these additional changes is described further below.

Comment: The comments we received on the revised definition of income were generally supportive, but there were requests for changes and clarification. Several commenters appreciated the clearer definition of income, including the provision of a finite list of sources of income for income verification purposes, the exclusion of public assistance and tax credits as a source of income, and the removal of the citation to the external document which has caused confusion.

Response: We agree with commenters that this streamlined definition of income provides more clarity for programs. We therefore maintain this definition in the final rule with a few additional changes, as previously summarized.

Comment: Several commenters requested that specific forms of income, specifically alimony, veterans’ benefits, and Social Security benefits, be excluded from the definition of income. These commenters also expressed concern that many low-income parents do not receive their alimony payments; veterans are already facing other adverse challenges, including disabilities; and inclusion of Social Security would negatively impact grandparents who are raising grandchildren.

Response: ACF acknowledges and agrees with the concerns shared by commenters on the inclusion of these specific sources in the calculation of gross income. More specifically, ACF

recognizes that alimony payments may be inconsistent among low-income families, and therefore not a reliable source of income. ACF also recognizes that veterans' benefits typically refer to disability payments for veterans who are unable to work. Finally, ACF agrees that consideration of Social Security benefits as part of income for Head Start eligibility determinations could adversely impact the eligibility of grandchildren being raised by their grandparents, and who otherwise are living just above poverty. Therefore, in this final rule, the definition of gross income is revised so that Social Security benefits, veteran's benefits, and alimony are no longer part of this definition for eligibility determination purposes.

Comment: A few commenters made suggestions or requests for clarity on the inclusion of other sources of income such as child support payments, stipends, and tuition reimbursement.

Response: ACF acknowledges the request for clarity on the inclusion of other sources of income such as child support payments, stipends, and tuition reimbursement. Child support payments are not included in the revised definition of income in this final rule. Further, payments made to directly cover tuition or related school fees are not considered income because the student does not receive the payment. However, stipends would be considered earned income.

Comment: Although not related to the proposed policy on income definition, several commenters requested categorical eligibility for certain groups, including AIAN families and those receiving the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and Medicaid.

Response: Regarding categorical eligibility for AIAN children and families, ACF revises language in the final rule to conform to language in the Further Consolidated Appropriations Act, 2024 (Pub. L. 118–47), which includes a provision that allows Tribes to consider all children in a Tribal Head Start program's service area to be eligible for services regardless of income. The provision emphasizes that Tribes have the discretion to determine and use selection criteria to enroll those children who would benefit from the program, including children and families for which a child, a family member, or a member of the same household, is a member of an Indian Tribe. We acknowledge commenters' requests for categorical eligibility for other groups; however, as eligibility categories are largely determined by Head Start statute, we do not

incorporate these additional suggestions in the final rule.

Definitions of Major Renovation, Federal Interest, and Purchase (§ 1305.2)

Major Renovation

The final rule makes changes to the definition of *major renovation* from the previous performance standards. In addition to correcting a typo, the definition in the final rule clarifies aspects of the definition that have led to confusion and inconsistencies since the 2016 revision of the HSPPS. We maintain aspects of the NPRM proposal regarding this definition as well as make further modifications. We discuss these changes in more detail, as well as the comments and our responses below.

Comment: The majority of comments on the proposed changes regarding the definition of *major renovation* conveyed support for the revisions and clarifications provided. Commenters appreciated the efforts to improve understanding of what constitutes a major renovation and the technical fixes that align with existing practices. Many commenters believed the changes directly address confusion regarding the definitions of minor renovations and repairs by clearly excluding such activities from the definition, except when the activities are included in a purchase application. Commenters also shared that the changes add the level of detail needed to assure that facility projects are not broken up into arbitrary components to avoid a part 1303 application, while also clarifying that unrelated minor repairs, that exceed the major renovations cost threshold, can be submitted into the same application, and will not trigger the need for a part 1303 application.

Response: We acknowledge commenters' reactions that the changes to the definition of *major renovation* address confusion and provide the necessary detail to support the part 1303 process. In the final rule, we maintain key aspects of the definition proposed in the NPRM as well as make modifications designed to further clarify. In addition to correcting a typo, these changes clarify what a "collective group of renovations" means, increases the threshold for a major renovation from \$250,000 to \$350,000, and allows Tribes that jointly apply to use both Tribal Child Care and Development Fund (CCDF) and Head Start funds toward major renovations to comply with the CCDF threshold for major renovation if it is higher.

Comment: Some commenters highlighted ambiguity around the term "consecutively," with respect to

"collective renovation activities," and requested that OHS define a clear timeframe in between renovation activities that would trigger a major renovation definition. These commenters raised the fact that some Head Start programs are in old buildings in need of many repairs that may require multiple renovation projects over time due to the extent of need, cost limitations, and the administrative burden facility projects can impose.

Response: While ACF recognizes that the updated definition of major renovations does not define an explicit time frame for "collective renovation activities," ACF is opting not to prescribe a timeframe with respect to this type of major renovation. ACF clarifies for commenters that for collective renovation activities to equate to a major renovation, the project activities must be intended to occur concurrently or consecutively, or altogether address a specific part or feature of a facility, at the onset of the application development.

Comment: A few commenters suggested raising the threshold for what constitutes a major renovation to reflect the true costs and to facilitate timely and efficient facility repairs.

Response: As noted, ACF agrees with commenters and raises the threshold to \$350,000 to better reflect considerations for increased costs of major renovation facility projects. Additionally, to maintain alignment with the National Defense Authorization Act (NDAA), the major renovation threshold will increase if there are increases made to the simplified acquisition threshold beyond \$350,000. In other words, if the NDAA increases the simplified acquisition threshold above \$350,000 in a given year, the threshold for a major renovation will increase to remain aligned with that increase to the simplified acquisition threshold. Lastly, for Tribes applying jointly to use both CCDF funds and Head Start funds toward a major renovation, they can comply with the CCDF threshold for major renovation if it is higher.

Federal Interest

The final rule retains the definition of *Federal interest*, as proposed in the NPRM. The revised definition provides technical fixes to address confusion with respect to the type of facility activities that result in Federal interest and what satisfies the non-Federal matching requirement. Specifically, the proposed additional language, in tandem with the proposed definition for *major renovation*, clarifies the distinction between repairs and minor renovations versus purchase,

construction and major renovations under part 1303, the latter of which do result in a Federal interest. This proposed definition also clarifies that the non-Federal match, which is separate from the base grant non-Federal match, is only intended to include the non-Federal match associated with the facility activity funded under subpart E. In sum, these changes are not substantive changes to the definition itself but rather provide clarification on how Federal interest works.

The majority of public comments supported the proposed changes to the definition of *Federal interest*, and believed they promote consistent interpretations and clarify that the Federal share, and resulting Federal interest, relate only to the percentage of OHS's participation in the cost of a facility. We retain the NPRM proposal but address some comments related to this topic below.

Comment: A few comments call for more clarity on the expiration of the Federal interest.

Response: ACF clarifies for commenters that Federal interest does not expire, rather, Federal interest *can only be released by the Federal Awarding Agency* and in written permission by the responsible Federal official (in this case, HHS). Federal interest cannot be subordinated, diminished, or nullified through the encumbrance of the property, transfer of the property to another party, or any other such action taken by the recipient. A Federal interest cannot be defeated by a recipient's failure to file a required notice of Federal interest (§ 1303.46(a)) and 45 CFR 75.318(c).

Comment: One commenter believed the definition of *Federal interest* exceeds statutory authority and is inconsistent with the Uniform Guidance. This comment also raised concern that this change could potentially result in improper augmentation of ACF's appropriation, and ultimately, recommended deleting the definition of *Federal interest* in the HSPPS and deferring to the definition in the Uniform Guidance.

Response: ACF disagrees with the commenter. While the definition of *Federal interest* differs from the Uniform Guidance, that difference is related to the non-Federal match, which Congress requires of grant recipients in the Act. The definition of Federal interest is not adding anything new to the regulations since § 1303.44(c) states that "any non-federal match associated with facilities activities becomes part of the federal share of the facility." Lastly, we do not think the non-Federal match is an improper augmentation of

appropriations since Congress required it.

Comment: Additionally, one commenter suggested striking the section of the definition regarding a match requirement, citing concerns that if an agency is successful in raising private funding for building or renovating a facility, and then wishes to utilize a significant private investment for a matching requirement, it seems unreasonable and unwise to require Federal interest in the building, as it may become a disincentive for partnership and investment.

Response: Protection of Federal interest is required by 45 CFR 75.323. The Federal interest includes total project costs paid with Federal funds, those amounts awarded directly from the OHS grant, and amounts claimed by the recipient as cost sharing or matching for the project. ACF does not have the authority to strike this requirement.

Purchase

In this final rule, ACF retains the technical fix to the definition of *purchase*, as proposed in the NPRM. A "capital lease agreement" is updated to a "finance lease agreement," in alignment with the Financial Accounting Standards Board (FASB), Accounting Standards Update No. 2016–2, Lease topic 842. The term is updated so that the definition aligns with the standard accounting standard. ACF did not receive any comments on this proposal.

Definition of the Poverty Line (§ 1305.2)

This final rule establishes a definition for the term *poverty line* in regulation, which codifies the working definition for poverty line in alignment with the Head Start Act and reflective of the way it has been used by the Office of Head Start. This final rule does not change the definition of *poverty line* as it applies to Head Start eligibility.

Comment: Many of the public comments we received on the definition of the poverty line were in relation to the concern that the current Federal poverty guidelines are too low, making it difficult for families to qualify for the program. Commenters suggested that the guidelines have not kept pace with the cost of living, particularly in states with higher minimum wages or high costs of living, such as California and Colorado. This discrepancy is seen as a barrier to enrollment and a hindrance to the program's ability to serve children and families in need.

Many commenters advocated for increasing the poverty guidelines, such as to 130 or 200% of the Federal poverty level to align with other social service

programs and to reflect the true cost of living. They argued that this would simplify the eligibility determination process, reduce administrative burdens, and allow more families to access Head Start services. A few commenters suggested that the program should consider using a percentage of the local median household income instead of the Federal poverty level to determine eligibility.

Response: The inclusion of a definition for *poverty line* in this final rule is only intended to codify the working definition for poverty line used by the Office of Head Start, including the existing practice that the HHS poverty guidelines set for the contiguous-states-and-DC also apply to Puerto Rico and U.S. Territories. The HHS poverty guidelines are used to determine Head Start income eligibility and align with requirements and existing definition of the poverty line in the Head Start Act set by Congress. Changes to the poverty line as requested cannot be considered and, therefore, no changes are made in response to these public comments.

Removal of Outdated Sections

The previous HSPPS contained regulatory language associated with the last overhaul of the standards, published through a final rule in 2016. We removed two sections of the standards that referred to the implementation timeline of those changes, which has since passed and therefore these sections are no longer relevant. The first section we removed is § 1302.103, *Implementation of program performance standards*. The second is the term *transition period*, which is defined under § 1305.2. These changes do not represent substantive policy changes.

Compliance With Section 641A(a)(2) of the Act

We sought extensive input in the process of developing this final rule. We collaborated and consulted with many policy and programmatic expert staff in OHS, ACF's Office of Child Care, and ACF's Office of Early Childhood Development. Several staff, particularly in OHS, are former Head Start program directors, family service workers, teachers, home visitors, etc. and have extensive on-the-ground knowledge of Head Start program operations. We also consulted extensively with OHS regional staff who directly oversee and support Head Start grants and program operations as their primary job responsibility. We held multiple listening and input sessions with these regional office staff to identify the most

challenging aspects of Head Start policy and programmatic requirements for grant recipients. We also sought their feedback on policies we were considering both for the development of the NPRM and the final rule. We intentionally consulted with OHS staff who oversee MSHS and AIAN Head Start programs, to learn about specific challenges and considerations for these programs. Similarly, we met with members of the OHS Diversity, Equity, Inclusion, and Accessibility Commission to discuss possible equity implications of the proposed changes.

In addition, in consultation with our OHS TTA experts, we considered the types of technical assistance requested by and provided to Head Start agencies and programs. We also reviewed findings from monitoring reports to glean more insights into where grant recipients struggle the most with implementing Head Start requirements. We consulted with experts in early childhood development including staff in ACF's Office of Planning, Research and Evaluation. These staff hold research expertise in a wide range of early childhood issues relevant to Head Start. Additionally, we reviewed many research reports on a variety of topics, including National Academy of Science reports on the workforce. Taken together, our consultation with all these groups and sources provided us with relevant data points and advice on how to promote quality across all Head Start settings.

Furthermore, since the last revision of the HSPPS in 2016, OHS has held many webinars for grant recipients on a variety of policy and programmatic topics, including the workforce, eligibility, mental health, child health and safety, and more. OHS has also given multiple presentations on key policy and program issues at Head Start-relevant conferences, including those organized by the National Head Start Association. During these webinars and conference presentations, grant recipient participants often ask questions and provide input regarding challenges with implementing various aspects of program requirements, including for different types of child and family populations and in different types of geographic settings. We also regularly hear from Tribal leaders at OHS's annual Tribal consultations. These touchpoints allow OHS the opportunity to gain critical on-the-ground understanding of areas where the standards are confusing and could be made clearer. We also fielded a survey of grant recipients in November 2022 which provided real time

information on workforce challenges programs were experiencing.

Lastly, ACF asserts that the revisions to the HSPPS promulgated through this final rule will not result in the elimination of or any reduction in quality, scope, or types of health, educational, parental involvement, nutritional, social, or other services required to be provided under the standards that were in effect when the Head Start Act was last reauthorized in 2007.

VII. Regulatory Process Matters

We have examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, Executive Order 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all benefits, costs, and transfers of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity).

Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a “significant regulatory action” as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$200 million or more, or adversely affecting in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities; (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in Executive Order 12866, as specifically authorized in a timely manner by the Administrator of the Office of Information and Regulatory Affairs (OIRA) in each case. This final rule is a significant rule and the Regulatory Impact Analysis for this final rule identifies economic impacts that exceed the threshold for significance under section 3(f)(1) of Executive Order 12866.

Congressional Review Act

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the

Congressional Review Act), OIRA in the Office of Management and Budget (OMB) has determined that this action meets the criteria set forth in 5 U.S.C. 804(2).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the final rule will result in increased expenditures by Head Start programs that exceed HHS's default threshold, we have determined that the final rule will have a significant economic impact on a substantial number of small entities. We have aimed to minimize this impact to some small entities by providing additional flexibility for the new wages and benefits policies for Head Start agencies with 200 or fewer funded slots. Specifically, small agencies with 200 or fewer funded slots must have a wage or salary scale and must demonstrate measurable progress over time in improving wages, but they are not required to meet other wage and benefit requirements that apply to larger programs.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, section 202(a)) requires us to prepare a written statement, which includes estimates of anticipated impacts, before proposing “any rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year.” The current threshold after adjustment for inflation is \$183 million, using the most current (2023) Implicit Price Deflator for the Gross Domestic Product. This final rule will not likely result in unfunded mandates that meet or exceed this amount. Head Start grant recipients receive over \$12 billion annually in Federal funding to implement the requirements of the program, including policy changes as a result of this final rule.

Federalism Assessment Executive Order 13132

Executive Order 13132 requires Federal agencies to consult with State and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This final rule will not have substantial

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

Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. ACF believes it is not necessary to prepare a family policymaking assessment, see Public Law 105–277, because the action it takes in this final rule will not have any impact on the autonomy or integrity of the family as an institution.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 *et seq.*,

minimizes government-imposed burden on the public. In keeping with the notion that government information is a valuable asset, it also is intended to improve the practical utility, quality, and clarity of information collected, maintained, and disclosed.

The PRA requires that agencies obtain OMB approval, which includes issuing an OMB number and expiration date, before requesting most types of information from the public. Regulations at 5 CFR part 1320 implemented the provisions of the PRA and § 1320.3 defines a “collection of information,” “information,” and “burden.” PRA defines “information” as any statement or estimate of fact or opinion, regardless of form or format, whether numerical, graphic, or narrative form, and whether oral or maintained on paper, electronic, or other media (5 CFR 1320.3(h)). This includes requests for information to be sent to the Government, such as forms, written reports and surveys, recordkeeping requirements, and third-party or public disclosures (5 CFR 1320.3(c)). “Burden” means the total time, effort, or financial resources expended by persons to collect, maintain, or disclose information.

This final rule establishes new recordkeeping requirements under the PRA. Under this final rule, Head Start grant recipients will be required to keep

and maintain records related to salary wage scales and staff benefits, improvements to community assessment, documentation related to lead exposure, among several other requirements. In addition, changes to policies included in the final rule may result in changes to existing information collections approved under the PRA, including the information collection for the existing Head Start Program Performance Standards (HSPPS), the Program Information Report (PIR), applicable collections in the Head Start Enterprise Systems (HSES), and other information collections.

The HSPPS are covered already by an existing OMB control number 0970–0148. This OMB control number already covers burden associated with updating personnel policies and documenting eligibility. The below table outlines the burden of complying with the standards in this final rule. These estimated burden hours represent the additional burden to be added to this existing information collection. We estimate the burden at the appropriate level depending on the given information collection, specified in the table below (grant, program, family, or enrollee level). In 2023, there were about 1,900 grants providing Head Start services across 2,900 Head Start, Early Head Start, AIAN, and MSHS programs.

Information Collection	Number of respondents	Average burden hours per response	Annual burden hours
Update and maintain written personnel policies and procedures to reflect changes in staff salary scales, incorporate pay parity, and approach to benefits and staff breaks (program level)	2,900	2	5,800
Waivers for family services family assignments (grant level)	190	1	190
Documenting eligibility with application of revised income definition (family level)	260,000	.167	43,420
Reporting child incidents (enrollee level)	131	.083	11
Maintenance of plan to prevent exposure to lead in water and paint (grant level)	1,900	.5	950
Documenting services to enrolled pregnant women (enrollee level)	13,000	.5	6,500
Tracking wages for Head Start staff and staff in local school districts	2,900	5	14,500
TOTAL BURDEN HOURS			71,371

VIII. Regulatory Impact Analysis

Comment and Response

Here we summarize and respond to comments we received on the Regulatory Impact Analysis in the NPRM. Subsequent sections provide a revised Regulatory Impact Analysis for this final rule.

Comment: Comments indicated that the Regulatory Impact Analysis of the NPRM underestimated the fiscal implications, economic realities, and staff shortages faced by programs and communities.

Response: The Regulatory Impact Analysis in the NPRM used the most recent internal and public data, including the PIR, funded and actual Head Start enrollment, Head Start program budgets, the Consumer Price Index, and the Bureau of Labor Statistics to provide the best estimates for existing Head Start wages and benefits, wage targets, inflation, and projected costs and appropriations. We acknowledge the uncertainty in future costs and economic situations and the assumptions made, including the rate of inflation and increases in appropriations, all of which are necessary to project future impacts. We recognize that our estimates represent national level estimations, while some programs or some communities may be more or less affected by the implementation of the policies in the final rule based on numerous factors including population, the labor market, the availability of early care and education programs, and other considerations. We use the same approach in the final rule's Regulatory Impact Analysis as we did in the NPRM, with updated figures to reflect the most recent information and new timeline.

Comment: Commenters noted that ACF assumed a 2.3% annual increase to Head Start appropriations over time in the Regulatory Impact Analysis, yet inflation has been much higher in recent years.

Response: For purposes of this Regulatory Impact Analysis, and as used in the preliminary analysis performed for the proposed rule, ACF adopts 2.3% for the annual rate of inflation for each year in the time horizon, matching an economic assumption in the President's Budget for Fiscal Year 2024. We also assume an annual increase to Head Start appropriations to fully keep pace with inflation, which is therefore assumed to be 2.3% in our estimates. However, this should not be understood to suggest that the actual increase in annual appropriations will be 2.3%. The actual COLA needed to keep pace with inflation (and thus to yield the results

in the Regulatory Impact Analysis for this final rule) will depend on actual rates of inflation in a given year. In response to public comments, the Regulatory Impact Analysis uses a higher appropriations growth rate for Fiscal Years 2024 and 2025 than in later years in the time horizon. For FY 2025, we have used the economic assumptions used in the FY2025 President's Budget to estimate inflation, as well as assumed increase in appropriations to keep pace with inflation. We continue to use the standard economic assumption of 2.3% for inflation and the assumed increase in annual appropriations, for all fiscal years beyond 2025.

Comment: Commenters highlighted a discrepancy within the NPRM as to whether or not the proposed rule would mandate aggregate expenditures of more than \$177 million by State, local, and Tribal governments.

Response: This was a typographic error in the NPRM. The final rule clarifies that the revised policies do not mandate aggregate expenditures of more than \$177 million by State, local, and Tribal governments. The expenditures required under the rule are a condition of accepting Federal funds and do not constitute a mandated expenditure for State, local, and Tribal governments.

Comment: Commenters indicated that our NPRM cost estimates underestimated true costs because we included projected slot enrollments and did not account for any population growth adjustment to the number of program slots and staff needed to maintain the relative status quo, and that we assumed the number of funded slots would remain the same through 2030.

Response: Congressional investment designated for expansion would be required for additional Head Start slots to be made available in order to maintain the relative status quo in cases of population growth as described by commentors. For the purposes of this Regulatory Impact Analysis, we do not assume any additional congressional appropriations beyond those to keep pace with inflation in our estimates. ACF notes in the Discussion of Uncertainty section of the Regulatory Impact Analysis that the cost estimates presented in this final rule would be underestimated if Congress were to appropriate additional funds for expansion.

Introduction and Summary

A. Introduction

This analysis identifies economic impacts that exceed the threshold for

significance under section 3(f)(1) of Executive Order 12866, as amended by Executive Order 14094. We conducted an initial Regulatory Impact Analysis in the NPRM to estimate and describe the expected costs, transfers, and benefits resulting from the proposed rule. This included evaluating policies in the major areas of policy change: staff wages and benefits; staff breaks; family partnership family assignments; mental health benefits; and lead testing. Based on feedback received during the public comment period, and resulting changes to the policies in this final rule, we have further refined these estimates for the final rule.

B. Summary of Benefits, Costs, and Transfers

The most likely impacts of these provisions depend, in large part, on funds available to Head Start programs; for example, the standards to increase remuneration per teacher will have bigger aggregate effects to the extent that Head Start entities employ more teachers. Historically, Congress has funded Head Start at levels that exceed inflation. During the ten-year period between 2010 and 2020, Head Start appropriations grew by 25 percent, after accounting for inflation.⁶¹ Some of the past increase in appropriations were in response to new initiatives in Head Start, such as the creation of Early Head Start-Child Care Partnerships and other quality initiatives. It is possible that this trend continues and Head Start appropriations will increase in response to the quality improvements under the final rule. In such a case, the regulation's effects manifest themselves as expenditures by taxpayers.⁶² By contrast, if a comparison of the hypothetical futures with and without the rule is not characterized by a difference in Head Start appropriations or by such a difference that is *not* prompted by this rule, then rule-induced spending will instead be shifted within Head Start.

One form that such shifting could take relates to enrollment, so it is important to distinguish between the various benchmarks for enrollment that were used for this analysis. Head Start programs receive funding for a specific number of slots (*i.e.*, funded

⁶¹ If future Head Start appropriations designated for expansion grow at similar rates—for reasons that are independent of this rule—then estimates reflecting growth at or below the rate of inflation (such as what appears in this regulatory impact analysis) would have a tendency toward understating effects.

⁶² Some of the expenditures would, from a society-wide perspective, be categorized as costs and others would be transfers to Head Start entities and participants.

enrollment). Historically there has been little difference between funded enrollment and actual enrollment,⁶³ which represents the number of children who are actually enrolled in Head Start programs. However, in recent years, Head Start programs have experienced significant and persistent under-enrollment where the number of children actually served is far less than the number of funded slots, due in large part to widespread staffing shortages. As Head Start programs work to improve their actual enrollment levels, many are also requesting reductions in their funded enrollment. Head Start programs are trying to right-size their funded enrollment to match their community needs, staffing realities, and fiscal constraints. It is difficult, if not impossible, to predict the net impacts of these ongoing efforts in years to come.

As such, assessing whether the rule's effects will manifest themselves as enrollment reductions is especially challenging. Historically, Congress has invested in Head Start, especially to improve access to quality program services and the final rule includes a seven-year phase in period for wage increases to allow for increases in appropriations. In theory Head Start programs could attempt to stretch their existing budgets to provide the same number of funded enrollment slots while also complying with the new requirements by choosing to not spend funding on optional activities. However, ACF believes, and research supports,⁶⁴ that programs have long stretched their funding as far as is possible and are unlikely to have many optional activities available to drop.⁶⁵ Moreover, the difference between funded and actual enrollment also generates uncertainty regarding the magnitude of regulatory effects; for example, if Head Start entities reallocate funding for teacher bonuses, the estimates, below, of rule-induced effects on teacher remuneration would have some tendency toward overstatement (even as the *form* of the remuneration is changing from bonuses to rule-required salaries or fringe benefits, or changes in working conditions).

Similar to the approach taken in the NPRM but updated to reflect newly

available data, ACF estimates all effects based on the projected FY2024 funded enrollment of 750,000, which is the estimated highest enrollment level, funded or actual, possible absent additional appropriations specifically designated for expansion. This is slightly less than the projected funded enrollment for FY2023 used in the NPRM of 755,074, which reflects programs' changes in scope and slot reductions over the prior year.

Using the current funded enrollment as a starting point, this analysis shows that the expenditures associated with the final rule, when fully phased in after 7 years, can be mostly paid for by aligning funded enrollment levels to the FY2024 actual enrollment, leading to a funded enrollment level decline from 750,000 to approximately 645,500. Importantly, approximately 650,000 of the 750,000 slots are occupied by enrolled children at this time.

As compared to the current enrollment level of about 650,000, the enrollment level of approximately 645,500 represents about a 1 percent reduction from the current number of children served. In other words, implementation of these regulatory changes will be a de minimis impact on actual enrollment. With additional appropriations—in excess of COLA to keep pace with inflation—Head Start could avoid reducing funded enrollment below current actual enrollment. This analysis includes estimates of the necessary appropriations needed under the policy to serve 650,000 children, which reflects the estimated FY2024 actual enrollment. Sometimes the narrative description of this (same) analysis is framed as estimating the increases in expenditures that enable full implementation of this rule without reducing funded enrollment below projected FY2024 funded enrollment levels.

The largest elements of the final rule relate to staff wages and benefits for the Head Start workforce. To fully implement the staff wage provisions, including the wage-parity targets, minimum pay requirement, and impacts associated with wage compression, for all agencies to which all wage and benefits requirements apply (with more

than 200 slots), expenditures on wages⁶⁶ will need to increase by about \$1.2 billion (reported in nominal dollars) in 2031 and then be maintained annually through a COLA. In that same year, the expenditures on staff benefits, which include the policy to increase fringe benefits, will require about an additional \$877 million. We identify the annual expenditures to fully implement the following provisions: staff breaks about \$75 million; family partnership family assignments, \$147 million; and mental health supports, \$75 million. We also quantify expenditures associated with preventing and addressing lead exposure and expenditures associated with program administration.

We estimate that in 2031 (when all policies are in effect) and if we maintain a funded enrollment of 750,000, this final rule will require an increase in expenditures of about \$2.3 billion. These expenditures include full implementation of all the policies described in this final rule, including the wage and benefit policies, mental health supports, and other quality improvements. This expenditure level assumes no reductions in the projected funded enrollment level of 750,000.

Over a 10-year time horizon, which covers the timeline that the policies will take effect, we estimate annualized expenditures of about \$1.4 billion under a 2% discount rate. In addition to calculating the expenditures necessary to fully implement the rule, this analysis also considers a scenario of no additional funding above baseline funding levels (*i.e.*, funding increasing over time, to account for inflation but not in response to this regulation). Under this scenario, we estimate that Head Start programs will need to reduce the total number of funded slots available by about 13% compared to projected FY2024 funded enrollment, or 1% from estimated FY2024 actual enrollment in 2031, to fully implement the final rule. Table 1 reports the summary of expenditures of the final rule, reported in constant 2024 dollars and nominal dollars.

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⁶³ Here we use the term actual enrollment to represent the average number of children enrolled in Head Start programs while programs were in session throughout the year.

⁶⁴ Workman (2018). Where does your child care dollar go? Center for American Progress. <https://www.americanprogress.org/article/child-care-dollar-go/> Neelan, T.S., and Caronongan, P. (2022). Measuring costs to support quality in early care and

education centers. OPRE Early Childhood Research Brief 2022–20. [ichq-measuring-costs-jan-2022.pdf](https://www.ichq-measuring-costs-jan-2022.pdf) (hhs.gov).

⁶⁵ Even if this were the case, ACF asserts that this is unlikely to meaningfully impact the quality of services provided to children, as the necessary components of high-quality services are required under the HSPPS, and could not be dropped from program offerings.

⁶⁶ The additional benefits expenditures associated with increased wages under the wage policy at the baseline fringe rate of 24% are included in the estimated benefits expenditures.

⁶⁷ The transfers illustrated in this table represent transfers from some combination of the Federal Government and would-be Head Start participants to Head Start program staff.

Table 1. Summary of Economic Data for the Final Rule, Constant and Nominal Dollars⁶⁷

Category		Primary Estimate	Units		
			Year Dollars	Discount Rate	Period Covered
Costs	Federal Annualized Monetized (\$m/year)	\$82	2024	7%	2025-2034
		\$86	2024	3%	2025-2034
		\$87	2024	2%	2025-2034
Costs	Federal Annualized Monetized (\$m/year)	\$95	Nominal	7%	2025-2034
		\$99	Nominal	3%	2025-2034
		\$101	Nominal	2%	2025-2034
Transfers	Federal Annualized Monetized (\$m/year)	\$1,153	2024	7%	2025-2034
		\$1,228	2024	3%	2025-2034
		\$1,247	2024	2%	2025-2034
Transfers	Federal Annualized Monetized (\$m/year)	\$1,758	Nominal	7%	2025-2034
		\$1,447	Nominal	3%	2025-2034
		\$1,472	Nominal	2%	2025-2034

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These estimates are somewhat lower than those in the NPRM. This is because of policy changes such as exempting small agencies (defined as those with 200 or fewer funded slots) from most of the wage and benefits requirements, removing paid family leave as a required employer-provided benefit, and increasing flexibility in how programs provide mental health supports and how programs prevent and address lead exposure. These new cost estimates reflect updated information regarding Head Start funded and actual enrollment and appropriations, as described below.

*Final Economic Analysis of Impacts***A. Analytic Approach**

In conducting this analysis, we adopted much of the same approach used in the NPRM. We began by identifying the most consequential impacts that will likely occur under the final rule. We identify expenditures associated with increases in staff wages and staff benefits for the Head Start workforce as the largest potential impact and devote significant attention to those effects. We also identify and monetize expenditures associated with staff breaks, expenditures associated with hiring additional staff to provide family partnership services, expenditures

associated with the increased workload required to provide mental health supports, expenditures associated with preventing and addressing lead exposure, and expenditures associated with administrative implementation costs. We qualitatively discuss other impacts of the final rule.

For the purposes of this analysis, we assume that the final rule will begin to take effect before the 2024–2025 program year. To simplify the narrative, we describe effects occurring in that program year as occurring in “2025.” We shift the ten-year time horizon in the NPRM by one year, now covering the period 2025 through 2034.

This analysis adopts a baseline forecast that assumes Federal appropriations grow at a constant rate of inflation in fiscal years 2026 through 2033, with greater growth during fiscal years 2024 and 2025 as projected by the September month year-over-year estimates by the Presidential Budget Economic Assumptions based on the Consumer Price Index for All Urban Consumers (CPI-U) issued by the Bureau of Labor Statistics (BLS).⁶⁸ These are only projections and are subject to change with updated CPI-U estimates from the BLS. We note that because we assume Federal appropriations will grow at least at the pace of inflation annually, we do not provide quantitative estimates that account for the Secretary's waiver authority or any other possible funding level.⁶⁹

All analyses provided here were completed using national level estimations. National estimates are used in lieu of providing estimates that account for individual program variation due to the fluid nature of Head Start enrollment figures that vary throughout the year as well as substantial variation in the behavior of programs, grants, and agencies. Head Start grants are awarded to a variety of entities that vary in size, scope, and available resources. A model that accounts for every characteristic that may predict variation in slot loss would require HHS to make significant assumptions for which we lack a strong empirical or data driven foundation.

Head Start enrollment fluctuates regularly. For instance, enrollment is usually lower in the first month or two of the program year and grows over the course of the year. In the last year, an unprecedented number of Change in Scope applications, which allow programs to reduce their funded enrollment and reallocate their budget

to meet other needs, such as wages or shifting slots from Head Start to Early Head Start, or to be more responsive to changing community needs by adjusting the operating schedule. Enrollment also fluctuates when new grants are awarded as a result of the Designation Renewal System, grant relinquishments, or other grant transitions. At the end of 2023, approximately 18% of all Head Start agencies (which represents 10.7% of all Head Start slots) had more than 200 funded slots—and would therefore not be considered for the small program exemption—and were considered fully enrolled at 97% or greater. ACF anticipates that these grant recipients will benefit from additional support to use the period between the final rule going into effect and wage requirements to explore additional resources (*i.e.*, Head Start funds made available through increases in appropriations or recaptured funds, state, local, or private funding) or program restructuring. We reiterate that enrollment fluctuates due to a variety of factors and the estimates used in this analysis should not be assumed to be static over time.

In our main analysis, we estimate the increases in Federal appropriations needed to fulfill the goals of the rule while also maintaining the size of the Head Start workforce consistent with the projected FY2024 funded enrollment level of 750,000 slots. We also present a sensitivity analysis that explores how the rule's effects are expected to manifest themselves if there are no increases in Federal appropriations above baseline (or such increases occur but not in response to this regulation and/or the increased appropriations could not be used to support the policies in the final rule). For this scenario, we report the likely reductions in funded enrollment, and associated reductions in the size of the Head Start workforce, under the final rule. We also report the likely reductions in funded enrollment in the absence of additional appropriations compared to the estimated FY2024 actual enrollment under the final rule.

In general, we have rounded total cost estimates but have not rounded itemized cost estimates for transparency and reproducibility of the estimation

process. These unrounded itemized cost estimates should not be interpreted as representing a particular degree of precision.

B. Baseline: Budget, Staffing, and Slots

Baseline Budget Scenario

We measure the impacts of the rule against a common budget baseline forecast that assumes Federal appropriations grow at a constant rate of inflation in fiscal years 2026 through 2034. We adopt 2.3% for the rate of inflation for each year in the time horizon after 2025, matching an economic assumption in the President's Budget for Fiscal Year 2025.⁷⁰ Across all years, we assume that the COLA for Head Start staff will match the rate of inflation. Based on 2023 PIR data, we assume 8.6% of Head Start staff work at agencies with 200 or fewer slots.

In FY2024, Head Start appropriations totaled \$12,271,820,000.⁷¹ About 97% of these appropriations, \$11.9 billion, is awarded to grant recipients for base program operations; and from these amounts, about 76%⁷² go towards personnel costs, or about \$9.1 billion. Compared to FY2024, we assume that FY2025 appropriations will increase with a cost-of-living adjustment amount to fully account for inflation. Thus, we anticipate that total appropriations will increase by 2.61% in FY2025, and 2.3% in all future years. Table B1 reports the appropriations and funding breakdowns in nominal dollars over the time horizon of our analysis.

⁷⁰ Office of Management and Budget. "Analytical Perspectives, Budget of the U.S. Government, Fiscal Year 2025." Economic Assumptions. https://www.whitehouse.gov/wp-content/uploads/2023/03/spec_fy2024.pdf President's Budget | OMB | The White House.

⁷¹ <https://www.congress.gov/bills/118th-congress/house-bill/2882?q=%7B%22search%22%3A%22Consolidated+Appropriations+Act%2C+2024%22%7D&r=2&s=1>.

⁷² Budget data submitted to the Office of Head Start for FY2022 showed that about 74% of operations awards were allocated to personnel costs. In this analysis, we assume a majority share of the savings from the projected reduction in funded enrollment from FY2023 to FY2024 go towards personnel costs, and will therefore increase the overall share of operations awards allocated to personnel costs to about 76%.

⁶⁸ https://www.whitehouse.gov/wp-content/uploads/2024/03/ap_2_assumptions_fy2025.pdf.

⁶⁹ For a discussion of the estimated impact of the Secretary's waiver authority, see section K. (Importantly, the funding level required for the Secretary's waiver or a similarly low level of appropriations would have substantial, negative effects on Head Start's ability to enroll and provide high-quality services to families.)

Table B1. Baseline Head Start Budget Scenario. Nominal Dollars (in thousands)

Year	Total Funding	Total Base Operations Awards	Base Operations: Personnel Costs	Base Operations: Other Costs	Other Head Start Costs
2023	\$11,996,820	\$11,589,715	\$8,518,441	\$3,071,275	\$407,105
2024	\$12,271,820	\$11,864,715	\$9,070,575	\$2,823,802	\$407,105
2025	\$12,592,115	\$12,174,384	\$9,307,317	\$2,897,503	\$417,730
2026	\$12,881,733	\$12,454,395	\$9,521,385	\$2,964,146	\$427,338
2027	\$13,178,013	\$12,740,846	\$9,740,377	\$3,032,321	\$437,167
2028	\$13,481,107	\$13,033,886	\$9,964,406	\$3,102,065	\$447,222
2029	\$13,791,173	\$13,333,665	\$10,193,587	\$3,173,412	\$457,508
2030	\$14,108,370	\$13,640,339	\$10,428,039	\$3,246,401	\$468,030
2031	\$14,432,862	\$13,954,067	\$10,667,884	\$3,321,068	\$478,795
2032	\$14,764,818	\$14,275,011	\$10,913,246	\$3,397,453	\$489,807
2033	\$15,104,409	\$14,603,336	\$11,164,250	\$3,475,594	\$501,073
2034	\$15,451,810	\$14,939,213	\$11,421,028	\$3,555,533	\$512,598

Baseline Scenario for Staffing, Wages, and Enrollment

This analysis adopts one scenario covering projections of staffing, wages, and enrollment at Head Start programs. This baseline scenario assumes long-run staffing, wages, and enrollment that are consistent with those projected for FY 2024, based on patterns observed in FY2023.

This analysis assumes that all programs are fully enrolled, and that actual enrollment is consistent with funded enrollment. Therefore, the analysis does not distinguish between funded slots that are actually filled with enrolled families and funded slots that are vacant. These assumptions introduce uncertainty into the analysis, creating some tendency toward overestimation of effects (a tendency that would partially be mitigated by a number of decisions, for example if Head Start entities use current funds, in the baseline, for teacher bonuses).⁷³

We again note that this estimation does not account for the under-enrollment that Head Start programs are currently facing. In 2024, Head Start programs are projected to be funded to serve 750,000 children; however, ACF estimates only about 650,000 children and families are actually being served. Many Head Start programs are requesting reductions to their funded enrollment, even while they continue to work to improve their enrollment. As

this situation is unprecedented, it is nearly impossible to accurately predict both funded and actual enrollment levels in future years.

As such, ACF first estimates costs by using the FY2024 funded enrollment of 750,000 which represents the funding needed to implement the final rule and maintain current funded enrollment, or the maximum appropriations needed to fully implement the final rule. Using the cost per slot determined by this estimate, we also describe the necessary appropriations needed to maintain funded slots to serve 650,000 children, which reflects the FY2024 actual enrollment estimate. Relatedly, we also provide estimates of the reduction in the total number of funded slots in a scenario where no additional funding is provided (or funding increases occur but not in response to this rule), compared to both projected FY2024 funded enrollment and to estimated FY2024 actual enrollment.

Our baseline scenario is informed by staffing levels, credentials, wage rates, and enrollment figures from PIR data covering 2023,⁷⁴ with a few adjustments. The PIR contains program-level counts of teachers, assistant teachers, home visitors, and family child care providers, each disaggregated by type of credential. For teachers and assistant teachers, we observe the following credential categories: advanced degree, bachelor's degree

(BA), associate degree (AA), Child Development Associate (CDA) credential, and no credential. For home visitors and family child care providers, we observe whether staff holds a credential, but not the type of credential. We make the following adjustments to the raw 2023 PIR data:

(1) We adjust the counts of each role-credential combination to account for a small share of staff without any credential information, which is less than 0.2% of total staff. For simplicity, we assume that the credentials of staff without this information are distributed in proportion with the observed credentials of other staff in the same role.

(2) We augment the 2023 PIR data with 2019 PIR data, which contained information on the specific credential type for home visitors and family child care providers. We assume that, conditional on reporting any credential in 2023, the credentials of staff with each credential type are distributed in proportion with observed credentials of other credentialed staff in the same role in 2019.

With these adjustments, we report 34,904 Head Start teachers, 32,770 Early Head Start teachers, 36,946 Head Start assistant teachers, 6,245 home visitors, and 2,129 family child care providers. Table B2 reports these counts by credential type.

⁷³ For completeness, we also note that Head Start funding increases at greater than the rate of inflation (for reasons independent of this regulation) would lead to effects being

underestimated in this analysis, if that funding is designated for expansion. For exploration not of overall magnitude of effects but instead related to

the form they take, please see the sensitivity analysis below.

⁷⁴ <https://eclkc.ohs.acf.hhs.gov/data-ongoing-monitoring/article/program-information-report-pir>.

Table B2. Head Start Staff Counts by Role and Credential, 2023

Degree	HS Teacher	EHS Teacher	Asst. Teacher	Home Visitor	Family Child Care Provider
Advanced	4,317	772	380	402	39
BA	19,500	6,106	3,238	2,775	225
AA	8,641	7,014	7,211	1,351	251
CDA	1,421	13,323	14,722	1,056	1,287
No Credential	1,024	5,555	11,394	661	326
Total	34,904	32,770	36,946	6,245	2,129

In 2023, Head Start programs were funded to serve 778,420 slots⁷⁵ and reported 112,994 education staff. At the time this analysis was prepared, ACF did not have comparable information from the PIR for 2024, which is ongoing; however, we anticipate significant changes to staffing levels, wage rates, and slots compared to those observed in 2023 for reasons described above, largely driven by Head Start programs requesting to reduce their funding enrollment levels to increase wages. Our funded enrollment data, as described above, are based on the end of the FY 2023 which ended in October 2023, and our Head Start salary figures are from the 2023 PIR data and are reported about the 2022–2023 program year that ended in May 2023 for most programs. This gap in data leaves a period from May to October 2023 during which many programs continued to pursue reductions to their funded enrollment and likely also took other efforts to improve staff compensation that is not reflected in the 2023 PIR salary data, as many programs were likely to make

salary adjustments at the start of the 2023–2024 program year. As such, using the raw compensation data from the 2023 PIR likely underestimates Head Start salaries for FY 2024 which would in turn overestimate the impacts of this rule.

To account for this, we draw from data showing that Head Start salaries grew 7% from program year 2021–2022 to 2022–2023. We estimate a slightly higher growth rate from program year 2022–2023 to 2023–2024 because of substantial COLA and an increased rate of change in scope request that both occurred in the latter part of FY2023. We estimate that one third, 2.5%, of this projected annual growth rate for program year 2023–2024 took place in the four months between May to October 2023. Therefore, we have adjusted for this misalignment in reporting timeframes by adjusting for the projected annual growth that took place between May to October 2023 in our baseline wage estimates by increasing them by 2.5%.

We also anticipate additional enrollment reductions, primarily through requests from programs proposing to reduce their funded enrollment to maintain quality of program services.⁷⁶ We currently project 750,000 funded slots, or a 3.7% reduction in funded enrollment in 2024 compared to 2023, and adopt a corresponding reduction in education staff by the same percentage. This is less than the 9% reduction in enrollment observed from 2022 to 2023. Compared to a scenario of no reduction in slots or education staff, we anticipate that this will lead to increases in total compensation for education staff. Again, this does not reflect the difference between funded enrollment and actual enrollment of families in the program. ACF anticipates that funded enrollment will continue to decline; however, for the reasons described above, we model projections based on funded enrollment in 2024 at 750,000 for the purposes of this analysis.

⁷⁵ This represents funded enrollment at the end of FY 2023.

⁷⁶ <https://eclkc.ohs.acf.hhs.gov/policy/im/acf-im-hs-22-09>.

Table B3. 2024 Enrollment Scenarios

Year	2023	2024
Scenario	N/A	Baseline
Operations Award Amounts	\$11,589,715,163	\$11,864,715,163
Personnel Costs, Share	74%	76%
Personnel Staff Costs, \$	\$8,518,440,645	\$9,070,574,742
Other Costs, Share	27%	24%
Other Costs	\$3,071,274,518	\$2,794,140,421
Education Staff	112,994	108,869
Education Staff Costs	\$5,345,943,115	\$5,692,447,552
Wage Compensation	\$4,062,916,767	\$4,326,260,139
Non-Wage Compensation	\$1,283,026,348	\$1,366,187,412
Cost per Education Staff	\$47,312	\$52,287
Total Slots	778,420	750,000
Cost per Slot	\$14,889	\$15,820

Connecting Baseline Uncertainty With Differing Estimates of Regulatory Effects

Head Start programs must be in a position to serve their full funded enrollment at all times, regardless of their actual enrollment levels. When programs are under-enrolled, they must continue their operations in a way that is sufficient to serve their funded enrollment. As Head Start funds are allocated to a variety of fixed cost categories (e.g., facilities, certain personnel, supplies, and transportation), only some of these costs are saved when a funded slot is empty. If a slot is empty, a program must still pay for a facility with classrooms, along with utilities and maintenance. Programs must also attempt to hire (or, spend the associated funds recruiting) staff and routinely train and onboard staff when there is turnover. Where there is a difference between actual and funded enrollment, much of the difference in allocated funding is used in this manner, thus doing little to improve the Head Start experience for remaining students.

Therefore, to the extent that under-enrolled Head Start programs will, over the analytic time horizon of this regulatory impact assessment, be approved to reduce their funded enrollment *without* those slots being shifted to other Head Start entities, the estimates that use actual enrollment as a key input or comparison—for example, the rightmost columns of Table J1—are informative and meaningful. By contrast, if reductions of funded enrollment at entities that are under-enrolled in the baseline were accompanied (also in the baseline) by shifting of those slots to other Head

Start entities, the estimates that use *funded* enrollment as a key comparison are more informative. Similarly, if under-enrollment were to ease in the future (perhaps to due further stabilization in the labor market as the biggest disruptions of the COVID–19 pandemic recede into the past), the latter set of estimates should receive the analytic focus.

C. Workforce Supports: Staff Wages and Staff Benefits

The final rule outlines four areas of requirements for wages for Head Start staff: (1) that education staff working directly with children as part of their daily job responsibilities must receive a salary comparable to preschool teachers (or 90% of kindergarten teachers) in public school settings in the program's local school district, adjusted for qualifications, experience, job responsibilities, and schedule or hours worked; (2) to establish or enhance a salary scale, wage ladder, or other pay structure that applies to all staff in the program and takes into account job responsibilities, schedule or hours worked, and qualifications and experience relevant to the position; (3) that all staff must receive a salary that is sufficient to cover basic costs of living in their geographic area, including those at the lowest end of the pay structure; and (4) to affirm and emphasize that the requirements for pay parity should also promote comparability of wages across Head Start Preschool and Early Head Start staff positions.

The final rule also outlines requirements for grant recipients to provide benefits to staff, discussing

health care coverage, paid leave, access to short-term free or low-cost mental health services, and other considerations. As described above, these benefits-related requirements have been modified to be more flexible and less prescriptive in response to comments on the NPRM. In this section, we describe baseline wages for Head Start education staff and their corresponding wage-parity targets. We also describe baseline staff benefits and the enhanced-benefit policy.

Wage-Parity Targets

The final rule will result in Head Start staff receiving an annual salary commensurate with preschool teachers (or 90% of kindergarten teachers) in local public school settings, adjusted for qualifications, experience, job responsibilities, and schedule or hours worked. The target comparison of preschool teachers in public school settings is intended to represent substantial progress towards parity with kindergarten to third grade elementary teachers. We intend the benchmark of preschool teacher annual salaries in public school settings to represent about 90% of kindergarten teacher annual salaries, for those with comparable qualifications, and provide programs the option to use either benchmark.⁷⁷ While

⁷⁷ This analysis uses BLS average annual salaries from May 2023, inflation adjusted to February 2024 dollars, as wage targets. However, since the BLS national average for kindergarten teacher salaries (\$67,790 in May 2023) includes all kindergarten teachers, of which approximately half have a master's degree or higher, adjust this annual salary to reflect the target salary for a teacher with a bachelor's degree (\$61,011) guided by salary differences observed in National Center for

wage rates would be determined locally, we present estimates of the likely impact measured at the national level.

For the purposes of this analysis, we adopt an estimate of the target salary in 2023 of \$56,060, which corresponds to the most recent annual wage for preschool teachers in elementary and school-based settings as reported by the Bureau of Labor Statistics for occupation code 25–2011, Preschool Teachers, Except Special Education for May 2023.⁷⁸ This estimate is intended to be consistent with the requirement that annual salaries be comparable to that of preschool teachers in public school settings or to 90% of kindergarten

teacher salaries in public school settings. We assume that a typical preschool teacher works 1,680 hours per year, so this annual salary corresponded to a \$33.37 hourly wage in 2023, or a \$34.05 hourly wage in 2024 under an assumption that preschool and kindergarten teacher salaries will grow approximately in relation to inflation.⁷⁹

We adopt this estimate as the hourly wage target for teachers, home visitors, and family child care providers with a bachelor’s degree, which serves as the base wage rate for other credentials. Following the methodology used in the NPRM, for staff in these roles with an advanced degree (*i.e.*, master’s degree or

higher), we adopt an hourly wage target 10% above the base wage rate; for AA degrees, 20% below the base wage rate; for CDA, 30% below the base wage rate; and for no credential, 40% below the base wage rate. For assistant teachers, who often have fewer responsibilities than lead teachers, we adopt hourly wage targets that are about 17% less than other roles. For example, the wage rate target for assistant teachers with a bachelor’s degree is \$28.26 per hour. Table C1 reports the hourly wage targets for each staff role by credential under the final rule and the baseline scenario.

Table C1. Hourly Wage Targets by Credential Under Wage-Parity Targets (Constant 2024

dollars)

Degree	HS Teacher	EHS Teacher	Asst. Teacher	Home Visitor	Family Child Care Provider
Advanced	\$37.45	\$37.45	\$31.09	\$37.45	\$37.45
BA	\$34.05	\$34.05	\$28.26	\$34.05	\$34.05
AA	\$27.24	\$27.24	\$22.61	\$27.24	\$27.24
CDA	\$23.83	\$23.83	\$19.78	\$23.83	\$23.83
No Credential	\$20.43	\$20.43	\$16.96	\$20.43	\$20.43
Weighted Average	\$31.97	\$26.21	\$20.32	\$29.63	\$25.05

To estimate the likely impact of the wage-parity policy on expenditures, we calculate the expenditures under the baseline scenario, then calculate the expenditures needed to fund the wage increases. Table C2 reports these impacts under the baseline scenario. Note that these are reported in constant 2024 dollars. We take into account the exemption of small agencies from the wage policies with associated costs by reducing costs by 8.6% to take into

account that 8.6% of Head Start staff work at agencies with 200 or fewer slots, according to 2023 PIR data. Data from December 2023 show that about 120 agencies (*i.e.*, 7% of all agencies) are funded between 200–250 slots and a subset of these programs may reduce their slots below the 200 slot threshold as a result of an approved Change in Scope application, which allows Head Start agencies to reduce the funded enrollment level or convert slots from

Head Start Preschool to Early Head Start based on community needs. These agencies are not included in the 8.6% adjustment to our analyses since we do not know how many of these agencies will reduce their funded slots below the 200 slot threshold. Expenditure estimates in this analysis may be overestimated if many or all of those programs are eligible for and take advantage of the small agency exemption.

Education Statistics data (<https://nces.ed.gov/surveys/ntps/>). The BLS reported annual salary for preschool teacher in school settings (\$56,060) is therefore approximately 90% of the annual salary for kindergarten teachers with a bachelor’s degree (\$61,011).

⁷⁸ U.S. Bureau of Labor Statistics. Occupational Employment and Wages. May 2023. 25–2011 Preschool Teachers, Except Special Education. <https://www.bls.gov/oes/current/oes252011.htm>.

⁷⁹ Multiplied by a ratio of February 2024 (310.326) to May 2023 (304.127) CPI. U.S. Bureau

of Labor Statistics. CPI for all Urban Consumers (CPI–U), Not Seasonally Adjusted, <https://data.bls.gov/timeseries/CUUR0000SA0>. Accessed April 9, 2024.

Table C2. Expenditure on Wages to Fund Wage Parity, Constant 2024 Dollars

	HS Teacher	EHS Teacher	Asst. Teacher	Home Visitor	Family Child Care Provider
Baseline Wage (\$)	\$28.03	\$18.92	\$18.57	\$22.46	\$22.46
Hours Per Staff	1,680	2,080	1,680	2,080	2,080
Staff Count	33,630	31,574	35,597	6,017	2,051
Baseline Expenditure (\$M)	\$1,583	\$1,242	\$1,110	\$281	\$96
Parity Expenditures	\$1,651	\$1,573	\$1,111	\$339	\$98
Expenditure Increase	\$67	\$330	53	\$58	\$1.8

Disaggregation of Wage-Parity Policy Implementation Costs

While estimates in this analysis are performed at the national level, the cost of implementing the wage policies will likely not be borne equally by each program. Programmatic data suggests Head Start programs vary in their current compensation practices and therefore will likely have varying costs associated with implementing the wage parity policy. Head Start data shows that wages and enrollment are not distributed evenly across various program types. Furthermore, some programs across the country are experiencing a workforce shortage and are in varying stages of implementing changes to address issues related to lack of qualified and available staff to fill classrooms and associated under-enrollment.

Data from the 2019 PIR shows that programs located in school systems pay classroom teachers at the highest rate, on average. Grant recipients in school districts also have more programs that are fully enrolled compared to other agencies. Meanwhile, grant recipients that are Community Action Agencies are, on average, the lowest paying agency type and pay more than \$10,000

less annually to classroom teachers, on average, compared to school systems.

Finally, ACF published sub-regulatory guidance to encourage Head Start programs to increase staff and teacher wages. Some Head Start programs have responded to this guidance by requesting to reduce their funded enrollment in order to increase staff wages, but those programs are in varying stages of implementing these changes.

Given this information, we expect that the cost of implementing these policies will vary depending on a variety of factors, such as agency type. For instance, programs in school systems that already compensate at a higher level will likely incur lower costs when implementing the wage policies in this rule compared to programs in Community Action Agencies that, on average, tend to provide lower compensation. The costs of implementing these policies will likely further vary based on the local wage targets used for each program, the distribution of qualifications for existing staff, and the degree to which each program has already made efforts to improve compensation. ACF responds to this concern by providing small agencies (defined as those with 200 or fewer funded slots) an exemption from

implementing most of the wage and benefits requirements in this final rule. However, small Head Start agencies are still required develop or update a pay scale and make improvements in wages and benefits for staff over time to reduce disparities between wages and benefits in Head Start and preschool teachers in public schools.

The national estimates provided in this analysis cannot necessarily be applied at the individual program level. For instance, the hourly wage targets described in the previous section (Table C2) represent national averages and targets for individual programs will vary based on salaries for preschool teachers in their community. Program-level wage targets will vary based on factors such as local compensation rates and cost of living. Depending on the existing compensation structure in each program, some programs will have to increase their hourly wages substantially, and others may only need to make small increases. Program-level costs for implementing this policy are expected to be impacted by a variety of factors such as local pay compensation rates, education/credential levels of program staff, and the degree to which programs have already attempted to increase wages.

ACF acknowledges that a limitation of using national level estimates is that these program-level nuances are not specifically illustrated in the analysis. However, in lieu of determining individual program-level variation in the cost of this rule, we use national averages to estimate costs at the national level.

Impact of the Minimum Pay Requirement

This final rule requires that all staff receive, at minimum, a salary that is sufficient to cover basic costs of living in their geographic area, including those at the lowest end of the pay structure. We anticipate that Head Start programs in low-income areas would spend additional resources to fulfill the basic cost-of-living requirement. We assume that the incremental impact of this provision is approximately \$62 million per year, which accounts for \$48 million through hourly wage increases, and \$13 million in corresponding increases in non-wage benefits. This estimate is consistent with about 15% of all Head Start staff, about 35,000 staff members in the baseline, each working an average of 30 hours per week for 42 weeks,

receiving an additional \$2.00⁸⁰ per hour in wages to meet the goal of establishing a minimum hourly wage of \$15.00, or a total average increase in hourly compensation of \$1.40. While the regulation does not establish a dollar amount associated with establishing a minimum hourly wage, as this level will vary geographically, we use \$15.00 for estimation purposes.

Impact on Expenditures Through Wage Compression

In addition to the direct impacts on teachers, assistant teachers, home visitors, and family child care providers, we anticipate that the final rule will result in increased compensation for staff providing family partnership services as well as other non-education staff positions to address wage compression and wage equity issues that would arise. For example, the required wage increases for lead teachers may exceed what a similarly credentialed family service staff makes in a program and those programs would need to plan for compensation increases for such staff to avoid a significant wage gap between those positions. As another example, with rising wages for

education staff, other staff in supervisory or mid-management roles would likely receive wage increases as well (e.g., coaches, education managers, etc.). To account for this impact, we assume that the total impacts on expenditures associated with wages would be 10% higher than the sum of the impacts associated with wage targets and the minimum pay requirement.

Overall Impacts of Wage Parity on Expenditures, Holding Benefits Constant

Next, we report the total expenditures, including the impacts of the wage targets, minimum pay requirement, and impacts associated with wage compression. Table C3 reports the net impacts on expenditures, holding benefits constant. The “wage targets” row is equal to the totals of the “expenditure increase” rows contained in Tables C1 and C2. When pay parity is fully implemented, the wages policies would result in about \$571 million in additional annual expenditures on wages.⁸¹ Note that these estimates are reported in constant 2024 dollars.

Table C3. Total Expenditures on Wages to Fund Wage Policies (Millions of Constant 2024 Dollars)

Scenario	Baseline
Wage Targets	\$458
Minimum Pay	\$62
Subtotal	\$520
Wage Compression	\$52
Total	\$571

⁸⁰In the absence of data from Head Start programs that reports the wages paid to the lowest paid staff, this estimate assumes that all of the 35,000 staff earned minimum wage in their State in 2023, which is consistent with an average hourly wage of \$11.33. The estimate of average minimum wage was calculated using the minimum wage for each State (<https://www.dol.gov/agencies/whd/mw-consolidatedState> Minimum Wages ([ncsl.org](https://www.dol.gov/agencies/whd/mw-consolidatedState))) and which states would have minimum wages at or above \$15 per hour by 2031 based on enacted (but,

in some cases, not presently effective) minimum wages, and the number of Head Start staff in each State according to administrative data from the Office of Head Start in 2023. For those staff where minimum wage data were not available due to lack of data for the U.S. Territory or data entry error, the Federal minimum wage of \$7.25 was used. In the baseline analysis, we assume that all staff receive a pay increase, to \$13.00 per hour, due to the projected reductions in funded enrollment from FY2023 to FY2024, and the associated reduction in

staff and increased share of personnel funds. These staff would therefore need an additional \$2.00 per hour to meet the \$15 per hour minimum pay policy goal.

⁸¹The additional annual expenditures on fringe associated with the wage policies (*i.e.*, the fringe associated with the increased wages in the wage policies at the baseline fringe rate of 24%), are included in the estimates reported in Table C6 in the benefits section.

The estimates in Table C3 reflect the expenditures (in constant 2024 dollars) needed to fully implement pay parity,

which would occur in 2031 under the final rule. Table C4 reports the expenditures by year under the

implementation schedule, reported in constant 2024 dollars and also nominal dollars.

Table C4. Total Additional Expenditures on Wages by Year to Fund Wage Policies, Millions of Dollars

Year	Policy Phase-In	Constant 2024 Dollars	Nominal Dollars
2024	0%	\$0	\$0
2025	5%	\$29	\$29
2026	10%	\$57	\$60
2027	25%	\$143	\$153
2028	40%	\$229	\$250
2029	60%	\$343	\$384
2030	80%	\$457	\$524
2031	100%	\$571	\$670
2032	100%	\$571	\$685
2033	100%	\$571	\$701
2034	100%	\$571	\$717

Expenditures Associated With Fringe Benefits

As discussed above, based on an analysis of current Head Start programs, about 24% of total personnel costs go towards fringe benefits, rather than wage compensation. Table B1 reports personnel costs of about \$9.1 billion in 2024. Of this figure, 76% goes to wage compensation, or about \$6.9 billion, and 24% goes to fringe benefits, or about \$2.2 billion. We assume that this ratio will remain constant over time, absent

the staff benefits provisions of the final rule.

This final rule outlines requirements for grant recipients to provide benefits to staff, discussing health care coverage, paid leave, short-term mental health services, and other considerations. For the purposes of this analysis, we assume that these enhancements would increase the share of total personnel costs that go towards fringe benefits from 24% to 27.2%, holding wages compensation constant. Absent all other provisions in this final rule, adopting the benefits policy at baseline wages would increase

fringe benefits in constant 2024 dollars from \$2.2 billion to about \$2.57 billion, and total compensation from about \$9.0 billion to \$9.48 billion, for an increase of about \$397 million.

Table C5 reports the impacts of the benefits policies over time, accounting for the yearly impact of the wage policies reported in Table C4, reported in constant and nominal dollars. These tables report the changes to benefits, some of which—as presented in more detail in Table C6—are driven by wage increases of the wage policies.

Table C5. Total Additional Expenditures by Year on Benefits, Millions of Dollars

Year	Policy Phase-In	Constant 2024 Dollars	Nominal Dollars
2024	24.0%	\$0	\$0
2025	24.0%	\$17	\$17
2026	24.0%	\$34	\$36
2027	24.0%	\$85	\$91
2028	24.0%	\$135	\$150
2029	27.2%	\$638	\$723
2030	27.2%	\$718	\$835
2031	27.2%	\$798	\$953
2032	27.2%	\$798	\$977
2033	27.2%	\$798	\$1,003
2034	27.2%	\$798	\$1,029

Disaggregation of Fringe Benefit Estimates

We use the same approach as in the NPRM to estimate the cost associated with each category of benefits in the final rule. We refer to the distribution of benefits provided to teachers,⁸² who have an overall fringe rate of 32.5% according to data on employer costs for employee compensation released by BLS in December 2022.⁸³ There are more categories of benefits provided to teachers described by the BLS than will be required under the final rule, specifically retirement benefits are provided to teachers in the BLS data. In order to estimate the expenditures on the major benefits categories that will be required under the final rule, we first estimate the cost of Head Start teachers receiving the same fringe rate and major

benefits categories (32.5%: health insurance, retirement, and paid leave). We then calculate the associated reduction in fringe associated with removing the retirement benefit in order to estimate the cost of the benefits policies under the final rule. We tentatively apply the same distribution of fringe associated with each fringe category to the estimated expenditure on benefits for Head Start using the same overall fringe rate of 32.5%, which represents an increase of 8.5% from the current fringe rate. We then calculate the increased expenditure needed for each of the major benefits categories compared to existing expenditures in each category for Head Start programs.⁸⁴ This approach estimates the total projected cost associated with increasing the fringe rate from 24.0% to 27.2% to account for

requirements in the final rule for health care coverage and paid time off. This is less than the target fringe rate of 27.8% used in NPRM to account for the removal of the requirement to provide paid family leave proposed in the NPRM.⁸⁵ Under the final rule, increased spending on health care coverage will account for 42% of the total cost of the benefits policy, and increased spending on paid time off will account for the remaining 58% of the total cost of the benefits policy. Under the policies proposed in the NPRM, the benefits requirements were required after two years; the final rule extends the implementation timeline for benefits by two years to year four. Table C6 reports an expenditure breakdown for each major category of benefits that would be impacted by the final rule.

Table C6. Additional Expenditure Breakdown by Benefit Policy, Millions of Nominal Dollars

Year	Total Benefits Expenditures ^{1, 2}	Benefits Policy: Total	Benefits Policy: Paid Time Off	Benefits Policy: Health Insurance	Fringe Associated with Wage Policy ³
2025	\$17	\$0	\$0	\$0	\$17
2026	\$36	\$0	\$0	\$0	\$36
2027	\$91	\$0	\$0	\$0	\$91
2028	\$150	\$0	\$0	\$0	\$150
2029	\$723	\$550	\$416	\$307	\$173
2030	\$835	\$599	\$481	\$354	\$236
2031	\$953	\$651	\$548	\$404	\$302
2032	\$977	\$669	\$563	\$415	\$309
2033	\$1,003	\$687	\$577	\$426	\$316
2034	\$1,029	\$706	\$593	\$437	\$323

¹ Only benefits expenditures associated with baseline staff are shown here. Benefits expenditures associated with hiring additional staff under other policies in the final rule (e.g., additional family services staff hired under the Family Services Family Assignments policy) are included in the estimates for each specific policy.

² These estimates are calculated using the wages estimated under the wage policy.

³ This cost represents the additional benefits expenditures associated with increased wages under the wage policy at the baseline fringe rate of 24%.

We identify several significant caveats to this analysis. First, because many existing Head Start grant recipients provide health care coverage to staff, the growth in costs for expanded health care coverage may be smaller than projected. We do expect that there will be improvements in the quality of health

plans and what employees are covered, and increases in the provision of life and disability insurance, which may increase overall insurance costs for some grant recipients, but it is likely not to increase linearly with wage increases. Further, some grant recipients may choose to encourage staff to enroll in

plans available in the Marketplace because the quality and expenses of health insurance in the Marketplace may be better than what they can obtain as an employer, and therefore the proportion of fringe spent on insurance for those grant recipients would decrease. Second, legally required fringe

⁸² This occupational group was chosen because the total fringe rate aligns with internal estimates of the total fringe rate that would be associated with the benefit policies. The occupational group includes postsecondary teachers; primary, secondary, and special education teachers; and other teachers and instructors.

⁸³ https://www.bls.gov/news.release/archives/ecec_03172023.pdf. As reported in March 2024, the fringe rate in December 2023 was 32.1% for

teachers overall and 34.2% for primary, secondary, and special education school teachers. We retain our target fringe of 32.5%, which is between these numbers. [ecec.pdf \(bls.gov\)](#).

⁸⁴ Estimates based on average fringe for each category of benefits calculated from a sample of Head Start program budgets.

⁸⁵ The reduction in the fringe rate of 0.6% is made to account for the removal of the requirement

for paid family and medical leave. This estimate is based on the 2017 report estimating that, as a share of national payroll, total benefits estimated to be paid out for a national paid family and medical leave policy range from 0.45 percent to 0.63 percent of payroll depending on the generosity of the model simulated. [IMPAQ-Family-Leave-Insurance.pdf \(dol.gov\)](#).

components such as Social Security taxes are not necessarily comparable between the reference group of teachers included in the BLS data and Head Start staff. Most, but not all, State and local employees are not covered by Social Security because they are covered by State or local pension plans; as a result, legally required fringe may be lower for some teachers and retirement fringe higher for many teachers relative to a comparable benefits package for Head Start staff.

Discussion of Uncertainty

We have attempted to provide our best estimates of the potential effects of the staff wages and staff benefit provisions. We acknowledge several significant and unresolved sources of uncertainty. First, we note that these estimates use a single baseline, which is a limitation of this analysis. We have provided estimates using a single baseline that assumes a stable funded enrollment level consistent with projected FY2024 funded enrollment of 750,000, very similar to the funded enrollment levels we projected in the NPRM for FY2023. If funded enrollment were to increase, which would require congressional investment designated for expansion (and such increase occurs for reasons separate from this regulation), the impacts of this final rule would be underestimated. If funded enrollment were to decrease, particularly if it were to decrease below the level of our current actual enrollment of 650,000, then the impacts of this rule would be overestimated. Furthermore, if other baseline assumptions were to vary, such as the child-to-staff ratio or the share of appropriations allocated to personnel costs, that would also impact the estimated effects. However, absent guiding data for the timing and magnitude of these possible variations, ACF presents estimates using the single, data-informed baseline.

Second, we followed a partial equilibrium modeling approach, focusing the primary scope of our analysis on the impacts to Head Start. General equilibrium or multi-market partial equilibrium modeling could potentially explore the impacts of the final rule on wages beyond Head Start staff. These effects could be informative for the estimates on expenditures, since

wage increases experienced by Head Start staff could result in wage increases to other occupations that draw from a similar supply of workers, such as Kindergarten teachers. It is possible to anticipate a gradual feedback effect between Head Start staff and occupations that provide reference wages under the wage-parity policy. If this is the case, this would tend to indicate that our expenditure estimates are underestimated.

Third, the analysis assumes that average compensation for Head Start staff (in the baseline scenario) and preschool teachers in public school settings (in the baseline scenario and under the final rule) increases with inflation, or equivalently, that their average compensation remains constant in real terms, over the time horizon of this analysis. If compensation for preschool teachers in public school settings grows more slowly over time than compensation for Head Start staff, this would tend to indicate that our expenditure estimates are overestimated. Alternatively, if compensation for preschool teachers in public school settings grows faster than compensation for Head Start staff, this would tend to indicate that our expenditure estimates are underestimated.

In regard to the inherent uncertainty over the availability of funding to fully implement this final rule, section J presents a sensitivity analysis on that significant source of uncertainty.

D. Workforce Supports: Staff Wellness—Staff Breaks

The final rule outlines requirements for programs to provide break times during work shifts. Specifically, for each staff member, a program must provide regular breaks of adequate length based on hours worked.

This increased flexibility does not change our approach to estimating the costs of the staff breaks requirements (in other words, we expect that programs will adopt similar breaks policies and frequencies). The scope of this element of the final rule covers approximately 108,869 education staff, the estimate of education staff that is proportionally decreased to reflect the reduced enrollment in 2024 compared to 2023. Across all staff, the final rule requires an

average break time of about 28 minutes per shift.⁸⁶ We assume 180 average shifts per year for each education staff, for a total of 5,049 minutes of break time per year per staff.⁸⁷ For 108,869 total education staff, the final rule requires a minimum of about 9.2 million hours of break time per year.⁸⁸ We do not have detailed information from Head Start programs on their current policies for staff breaks. For the purposes of this analysis, we adopt the following assumptions:

(1) Under the baseline scenario of no regulatory action, 20% of Head Start programs offer break time for education staff.

(2) Under the final rule, 50% of Head Start programs will shift the workloads of existing Head Start staff to provide coverage during the additional breaks.

(3) Under the final rule, Head Start programs who do not already provide breaks and cannot shift workloads of existing staff would provide coverage during the additional breaks by hiring ‘floaters.’

(4) On average, Head Start programs will pay the ‘floaters’ hourly wages in line with assistant teachers with no credential.

In line with assumptions 1 and 2, we adjust the 9.2 million hours estimate downwards by 70% and estimate that the final rule would result in about 2.7 million hours of additional breaks for educational staff. Using the wage target for assistant teachers of \$16.96 per hour under the wage-parity target and accounting for the benefits policy, the breaks policy would result in additional expenditures of about \$64 million per year (in constant 2024 dollars). This policy would take effect in 2027, and the total expenditures would increase in line with the wages under the wage-parity policy. Table D1 reports the expenditures needed to fund this policy, in constant and nominal dollars. Table D2 reports the additional value-of-time costs by year for those programs who provide breaks by shifting existing workloads, in constant and nominal dollars. Tables D1 and D2 reflect the policy cost using the benefits fringe rate in the final rule benefits policy.

⁸⁶ $13\% * 15 + 87\% * 30 = 28.05$.

⁸⁷ $2,805 * 180 = 5,049$.

⁸⁸ $5,049 * 108,869/60 = 9,161,293$.

Table D1. Expenditures by Year to Fund Staff Breaks Policy, Millions of Dollars

Year	Constant 2024 Dollars	Nominal Dollars
2024	\$0	\$0
2025	\$0	\$0
2026	\$0	\$0
2027	\$64	\$69
2028	\$64	\$70
2029	\$64	\$72
2030	\$64	\$74
2031	\$64	\$75
2032	\$64	\$77
2033	\$64	\$79
2034	\$64	\$81

Table D2. Additional Value-of-Time Costs by Year for Staff Breaks Policy, Millions of Dollars

Year	Constant 2024 Dollars	Nominal Dollars
2024	\$0	\$0
2025	\$0	\$0
2026	\$0	\$0
2027	\$107	\$115
2028	\$107	\$117
2029	\$107	\$120
2030	\$107	\$123
2031	\$107	\$125
2032	\$107	\$128
2033	\$107	\$131
2034	\$107	\$134

E. Family Partnership Family Assignments

This final rule ensures that the planned number of families assigned to work with individual family services staff is no greater than 40, unless a program can demonstrate higher family assignments provide high quality family and community engagement services and maintain reasonable staff workload. 2023 PIR data reveals that approximately 44 percent of grants have staff family assignments that are 40 families or less. Across all grants with ratios of families per family services

staff that exceed 40, we estimate that Head Start programs would need to hire an additional 2,282 staff to provide family partnership services to meet this new caseload requirement. The policy allows programs to request a waiver to go above the caseload of 40 families, if they can demonstrate appropriate staff competencies, program outcomes, and reasonable staff workload. This estimate includes an assumption that 10% of programs will apply for and receive this waiver to exceed a caseload of 40.⁸⁹ This estimate also assumes that grants will only provide family partnership services to 85% of families they serve at

any given time, due to average family turnover.

We adopt an estimate of \$40,000 in wage compensation per year per family service staff, which results in a \$52,631 total compensation in the baseline scenario or \$54,945 total compensation under the benefit policy. For 2,282 workers, this would result in additional expenditures across Head Start programs of \$125 million. This policy would begin to take effect in 2028. Table E1 reports the expenditures needed to fund this policy, in constant and nominal dollars.

⁸⁹For the purposes of this estimation, we assume that all of the programs that exceed the threshold have an average caseload of 60.

Table E1. Expenditures by Year to Fund Family Service Family Assignments Policy, Millions of Dollars

Year	Constant 2024 Dollars	Nominal Dollars
2024	\$0	\$0
2025	\$0	\$0
2026	\$0	\$0
2027	\$125	\$135
2028	\$125	\$138
2029	\$125	\$141
2030	\$125	\$144
2031	\$125	\$147
2032	\$125	\$151
2033	\$125	\$154
2034	\$125	\$158

F. Mental Health Services

The final rule enhances requirements for mental health supports to integrate mental health more fully into every aspect of program services as well as elevate the role of mental health consultation to support the wellbeing of children, families, and staff. In response to comments, we incorporated flexibility into the requirements for mental health supports, including by centering a multidisciplinary approach instead of a specific team, and by revising the requirement related to mental health consultation to allow programs to meet the monthly frequency requirement, in part, with behavioral

health specialists. Given this additional flexibility, we adjust our NPRM estimates to anticipate that this element of the rule so that half of agencies will hire roughly equivalent to one additional full-time employee (FTE) per Head Start agency to support the requirements for mental health supports in the final rule. We estimate 775 agencies will need an additional FTE to comply with the policy.

As we did in the NPRM, we adopt an estimate of \$60,000 in wage compensation per year per FTE which represents an average of the various salaries of the staff members who we assume will complete the additional work. In addition to wage

compensation, we assume that fringe benefits will be associated with the additional FTE, or about \$18,947 under the baseline assumptions for benefits, or \$22,418 under the benefit policy. In total, under the final rule, we estimate that each additional FTE would require \$78,947 in total compensation in years prior to the effective date of the benefits policy, and \$82,418 in total compensation in all future years. For 775 FTEs, this would result in additional expenditures across Head Start programs of \$64 million. We assume that these impacts would begin immediately. Table F1 reports the expenditures needed to fund this policy, in constant and nominal dollars.

Table F1. Expenditures by Year to Fund Mental Health Services Policy, Millions of Dollars

Year	Constant 2024 Dollars	Nominal Dollars
2024	\$0	\$0
2025	\$61	\$63
2026	\$61	\$64
2027	\$64	\$68
2028	\$64	\$70
2029	\$64	\$72
2030	\$64	\$73
2031	\$64	\$75
2032	\$64	\$77
2033	\$64	\$78
2034	\$64	\$80

G. Preventing and Addressing Lead Exposure

The final rule includes new requirements to prevent and address lead exposure through water and lead-based paint in Head Start facilities. This analysis presents estimates of the costs

associated with testing, inspection, and, as needed, remediation or abatement actions, in Head Start facilities where lead hazards may still exist. For purposes of this analysis, the cost estimates are split between preventing

exposure to lead in water and preventing exposure to lead in paint.

Preventing Exposure to Lead in Water

To assess the likely magnitude of the costs associated with preventing exposure to the lead in water requirement, we assume the majority of

plans and ongoing practices by programs will align with approaches states have developed to address exposure to lead in water in school systems. We estimate a total of 18,500 service locations, with an average of 7.5 water fixtures per service location, for 138,750 total fixtures. States use varying approaches on the frequency of testing, percent of fixtures tested in a facility, and remediation. For frequency of testing, we assume some portion of all fixtures each year at a rate of 25% of all fixtures would be tested in the first year, or 34,688 water fixtures, and following the first year, about 4% of all water fixtures would be tested every year, about 4% would be tested every 3 years, and 16% of will be tested every 5 years. We adopt an estimate of \$100 per fixture tested. For remediation costs, we assume 12 percent of all water fixtures sampled will have a lead concentration at or above the state's action level, or about 4,163 water fixtures. We assume for the cost of remediation that about 95% of water fixtures will be using point-of-use devices, while 5% will be addressed through lead service line replacements, although we recognize that there may be other approaches to remediation including restricting access to the water fixture and using an alternative water source. For point-of-use devices, we adopt an estimate of \$30 per filter, with filters replaced quarterly, or a cost per fixture of \$120 per year. For lead service line replacement, we assume \$6,500 per lead service line replaced. To estimate the cost of remediation for the 4,163 water fixtures with a lead concentration at or above the state's action level, we calculate an

annual cost of \$890,882 for remediation. Although replacement of lead service lines would reduce ongoing costs of remediation, we maintain this cost consistent each year assuming new lead hazards in water fixtures would emerge over time. Some of this cost can be covered by Federal funding under the Bipartisan Infrastructure Law (as enacted by the Infrastructure Investment and Jobs Act); many states are already using this funding.

Preventing Exposure to Lead in Paint

To assess the likely magnitude of the costs associated with the preventing exposure to lead in paint requirement, we first adopt estimates of 18,500 service locations with about 1,762 average square feet per service location based on required usable indoor space of 35 square feet for each child served increased by 25% for other general common areas where children may be served. We assume a prevalence of lead-based paint in about 28% Head Start facilities. Thus, about 5,180 service locations would be inspected for an estimate \$1,000 per service location. Across all service locations requiring evaluation, we estimate an initial total cost associated with evaluations of about \$5.18 million that would be split evenly among the first two years for a total of \$2.59 million in the first year.

Of rooms undergoing an evaluation, we assume that 14% of rooms would be identified as having a significant lead-based paint hazard needing abatement.⁹⁰ Thus, after the first round

of assessments covering 5,180 service locations, we estimate that 2,590 service locations would have a significant lead-based paint hazard needing abatement split across the first two years, or 1,259 service locations in the first year. We assume \$2,750 cost for remediation or abatement of lead in paint hazards per service location which includes costs associated with interior paint repair (\$710); friction/impact work (\$430); area cleanup (\$110), and unit cleanup (\$640). These cost estimates reflect the costs for a single family unit at 1,775 square feet but are then increased to account for additional administrative costs for these type of activities in a Head Start facility setting. Across all 1,259 service locations requiring abatement following the first round of assessments, this would be about \$3.56 million.

To model reassessments and remediation or abatement in future years, we assume reinspection for all facilities with lead-based paint in years 3 and 4, followed by half of those programs continuing to be reinspected in years 5 and onward. Since lead-based paint abatement reflects measures that are expected to eliminate or reduce exposures to lead hazards for at least 20 years under normal conditions and other remediation or interim controls can also be effective for many years with proper maintenance, we assume a significant decrease in continuing costs associated with remediation or abatement of exposure to lead in paint.

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⁹⁰ <https://downloads.regulations.gov/EPA-HQ-OPPT-2020-0063-0197/content.pdf>.

Table G1. Expenditures by Year to Fund the Exposure to Lead in Paint Prevention Policy

(Millions of Constant 2024 Dollars)

Year	Inspection	Reinspection	Remediation or Abatement	Cost of Evaluations	Cost of Remediation or Abatement	Cost of Policy to Prevent Exposure to Lead in Paint
2025	2,590	0	1,295	\$2,590,000	\$3,561,250	\$6,151,250
2026	2,590	0	1,295	\$2,590,000	\$3,561,250	\$6,151,250
2027	0	2,590	259	\$2,590,000	\$712,250	\$3,302,250
2028	0	2,590	259	\$2,590,000	\$712,250	\$3,302,250
2029	0	648	65	\$647,500	\$178,063	\$825,563
2030	0	648	65	\$647,500	\$178,063	\$825,563
2031	0	648	65	\$647,500	\$178,063	\$825,563
2032	0	648	65	\$647,500	\$178,063	\$825,563
2033	0	648	65	\$647,500	\$178,063	\$825,563
2034	0	648	65	\$647,500	\$178,063	\$825,563

Table G2 reports the yearly costs associated with the lead in water policy.

Table G2. Expenditures by Year to Fund the Exposure to Lead in Water Prevention Policy

(Millions of Constant 2024 Dollars)

Year	Testing	Retesting	Remediation	Cost of Testing	Cost of Remediation	Cost of Policy to Prevent Exposure to Lead in Water
2025	34,688	0	4,163	\$3,468,800	\$890,882	\$4,359,682
2026	0	5,550	4,163	\$555,000	\$890,882	\$1,445,882
2027	0	5,550	4,163	\$555,000	\$890,882	\$1,445,882
2028	0	11,100	4,163	\$1,110,000	\$890,882	\$2,000,882
2029	0	5,550	4,163	\$555,000	\$890,882	\$1,445,882
2030	0	27,750	4,163	\$2,775,000	\$890,882	\$3,665,882
2031	0	11,100	4,163	\$1,110,000	\$890,882	\$2,000,882
2032	0	5,550	4,163	\$555,000	\$890,882	\$1,445,882
2033	0	5,550	4,163	\$555,000	\$890,882	\$1,445,882
2034	0	11,100	4,163	\$1,110,000	\$890,882	\$2,000,882

Table G3. Expenditures by Year to Fund the Lead Policies (Millions of Constant 2024 Dollars and Nominal Dollars)

Year	Cost of Lead in Water Policy	Cost of Lead-Based Paint Policy	Total Cost, Constant \$	Total Cost, Nominal \$
2025	\$4.4	\$6.2	\$10.5	\$10.8
2026	\$1.4	\$6.2	\$7.6	\$8.0
2027	\$1.4	\$3.3	\$4.7	\$5.1
2028	\$2.0	\$3.3	\$5.3	\$5.8
2029	\$1.4	\$0.8	\$2.3	\$2.5
2030	\$3.7	\$0.8	\$4.5	\$5.1
2031	\$2.0	\$0.8	\$2.8	\$3.3
2032	\$1.4	\$0.8	\$2.3	\$2.7
2033	\$1.4	\$0.8	\$2.3	\$2.8
2034	\$2.0	\$0.8	\$2.8	\$3.5

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H. Administrative Costs

Several of the provisions of the final rule will likely entail additional administrative costs beyond those that we have otherwise quantified in this analysis. For example, we anticipate that programs would expend resources to develop program-specific policies while preparing to implement the workforce wage and benefits provisions. To account for these impacts, we use the same approach as we did in the NPRM. We adopt an assumption that each Head Start program would spend a total of 600 hours per program, spread across directors, education managers, disability

managers, health managers, and other management staff to develop program-specific policies. To value the time spent on these activities, we adopt a fully loaded hourly wage of \$60 per hour, reflecting a mix of wages across several roles. We assume that this impact will primarily occur in the first year of the time horizon of our analysis, before most of the impacts associated with wage and benefits policies take effect, and thus we do not adjust these upwards to account for other provisions of the final rule. For each program, we value this impact at \$36,000.⁹¹ Across nearly 3,000 Head Start programs, we estimate the total impact as \$108 million, all occurring in 2025.⁹²

I. Timing of Impacts

The final rule includes an implementation timeline for several of the provisions, described above. Table I1 summarizes the impacts on expenditures assuming a funded enrollment level consistent with the projected FY2024 funded enrollment, consistent with this implementation timeline, reporting yearly estimates, and present value and annualized values corresponding to a 2% discount rate, with all monetary estimates reported in millions of constant 2024 dollars. Tables I2 reports the same impacts except in nominal dollars.

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⁹¹ \$36,000 = 600 hours * \$60/hour.

⁹² \$108,000,000 = \$36,000/program * 3,000 programs. Head Start funding is only used for a

portion of the salaries of these management positions.

Table I1. Expenditures of the Final Rule, Baseline Scenario (Millions of Constant 2024 Dollars)

Year	Wage	Benefit	Breaks	Family Services	Mental Health	Lead	Other	Total
2025	\$49	\$16	\$0	\$0	\$61	\$11	\$108	\$245
2026	\$99	\$31	\$0	\$0	\$61	\$8	\$0	\$199
2027	\$247	\$78	\$64	\$125	\$64	\$5	\$0	\$583
2028	\$395	\$125	\$64	\$125	\$64	\$5	\$0	\$778
2029	\$592	\$587	\$64	\$125	\$64	\$2	\$0	\$1,435
2030	\$789	\$661	\$64	\$125	\$64	\$4	\$0	\$1,708
2031	\$987	\$735	\$64	\$125	\$64	\$3	\$0	\$1,978
2032	\$987	\$735	\$64	\$125	\$64	\$2	\$0	\$1,977
2033	\$987	\$735	\$64	\$125	\$64	\$2	\$0	\$1,977
2034	\$987	\$735	\$64	\$125	\$64	\$3	\$0	\$1,978
PV, 2%	\$5,314	\$3,836	\$451	\$883	\$568	\$42	\$106	\$11,200
Annualized, 2%	\$592	\$427	\$50	\$98	\$63	\$5	\$12	\$1,247

Table I2. Expenditures of the Final Rule, Baseline Scenario (Millions of Nominal Dollars)

Year	Wage	Benefit	Breaks	Family Services	Mental Health	Lead	Other	Total
2025	\$51	\$16	\$0	\$0	\$63	\$11	\$110	\$251
2026	\$103	\$33	\$0	\$0	\$64	\$8	\$0	\$208
2027	\$264	\$84	\$69	\$135	\$69	\$5	\$0	\$625
2028	\$432	\$138	\$70	\$138	\$70	\$6	\$0	\$854
2029	\$663	\$666	\$72	\$141	\$72	\$3	\$0	\$1,616
2030	\$905	\$769	\$74	\$144	\$73	\$5	\$0	\$1,970
2031	\$1,157	\$877	\$75	\$147	\$75	\$3	\$0	\$2,335
2032	\$1,184	\$900	\$77	\$151	\$77	\$3	\$0	\$2,391
2033	\$1,211	\$924	\$79	\$154	\$79	\$3	\$0	\$2,449
2034	\$1,239	\$948	\$81	\$158	\$80	\$4	\$0	\$2,509
PV, 2%	\$6,249	\$4,621	\$524	\$1,026	\$645	\$46	\$108	\$13,219
Annualized, 2%	\$696	\$514	\$58	\$114	\$72	\$5	\$12	\$1,472

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All estimates reported above are impacts compared to our baseline budget scenario described in Table B1. Further, we calculate the cost per child, in 2031, when the rule is fully implemented, using 2024 funded enrollment levels to be \$22,357 (nominal dollars). As discussed previously, we recognize that projected FY2024 funded enrollment exceeds estimated FY2024 actual enrollment. Based on national estimates, if programs fully implement these policies and maintain funded enrollment at least consistent with FY2024 actual enrollment (*i.e.*, 650,000), they will not need additional appropriations beyond

the baseline budget scenario until 2031, when they would need an additional \$100 million. In 2032, programs will need an additional \$104 million, \$109 million in 2033, and additional \$114 million in 2034 above the baseline budget scenario funding levels to fully implement the policies and maintain a funded enrollment level consistent with estimated FY2024 actual enrollment. However, as previously discussed, individual programs may need additional resources depending on their current policies, local wages, and cost of living in their area.

J. Sensitivity Analysis—Potential Enrollment Reductions

In the previous analysis, we framed results as the Federal appropriations increase needed to fully fund these requirements and maintain current funded enrollment of 750,000.

As we did in the NPRM, in the interest of transparency, we perform a sensitivity analysis to evaluate the impacts of the final rule under a scenario of no additional funding above the baseline budget scenario in Table B1 (or increased appropriations that cannot be used to support this regulation and/or are not increased in response to it). Under this scenario, Head Start

programs will likely comply with the final rule by reducing the size of their funded enrollment, which would also result in a reduced workforce at Head Start programs.

To calculate the number of slots at Head Start programs under this last scenario, we multiply the total number of slots under the full-funding scenario by the share of funding available compared to full funding. For example, we estimate that \$15.7 billion in total Head Start funding will be necessary to fully implement the final rule in 2034 and maintain funded enrollment consistent with the estimated FY2024 actual enrollment of 650,000. Under our baseline budget scenario, \$15.5 billion

will be available, which is about 99% of the funding needed. Thus, we estimate approximately 645,500 slots will be available, which is 99% of enrollment at the estimated FY2024 actual enrollment level, or a % change in slots of -1%.

Table J1 reports the change in total slots⁹³ over time that we estimate may be necessary to implement the final rule compared to both projected FY2024 funded enrollment and estimated FY2024 actual enrollment, absent an increase in Federal appropriations. Based on national estimates, we estimate that programs can approach full implementation of the policies in the final rule without additional appropriations by aligning their funded

enrollment levels with their actual enrollment. As in the NPRM, we estimate that only a small reduction in slots from estimated FY2024 actual enrollment, 1%, will be needed to reach full implementation of the policies in the final rule. Specifically, programs may need to reduce funded enrollment from the projected FY2024 funded enrollment of 750,000 by 14%, to a funded enrollment of approximately 645,500 in 2031, which reflects a 1% reduction from estimated FY2024 actual enrollment of 650,000.⁹⁴ All monetary estimates are reported in nominal dollars.

Table J1. Slot Loss under Baseline Head Start Budget Scenario (Millions of Nominal Dollars)

Year	Funding under Baseline Budget Scenario	Slots Funded by Baseline Budget under Final Rule	% Change in Slots from 2024 Funded Enrollment	% Decline in Slots from 2024 Actual Enrollment*
2025	\$12,592	735,364	-2%	--
2026	\$12,882	738,074	-2%	--
2027	\$13,178	716,037	-5%	--
2028	\$13,481	705,315	-6%	--
2029	\$13,791	671,318	-10%	--
2030	\$14,108	658,098	-12%	--
2031	\$14,433	645,543	-14%	-1%
2032	\$14,765	645,466	-14%	-1%
2033	\$15,104	645,364	-14%	-1%
2034	\$15,452	645,236	-14%	-1%

* We note that reductions in funded enrollment in response to the final rule will require some degree of shifting of funds from existing expenditures, such as those to support funded slots that are currently empty or spending to recruit and train staff in a high turnover environment. Please see the discussion under the heading “Connecting Baseline Uncertainty with Differing Estimates of Regulatory Effects.”

K. Non-Quantified Impacts of Certain Elements of the Final Rule

In addition to the effects that are quantified elsewhere in this analysis, we have identified a select number of provisions that are expected to have impacts that are not quantified or monetized.

Estimated Impact of Relevant Provisions on Slot Loss

Sections C through G of this Regulatory Impact Analysis (RIA) monetize the provisions of this final rule that we anticipate will have the largest potential impact. Some of the

provisions described in this section may also result in costs that have not been monetized. As quantified above, one potential impact of enacting these standards at current funding levels is a reduction in Head Start slots in some programs. A reduction in Head Start slots would reduce access to high-quality early childhood education for some children ages birth to 5 from low-income families. However, this impact is difficult to quantify because a substantial number of current Head Start slots remain unfilled currently, due to staffing shortage and other constraining factors. A loss of funded

slots that are unfilled would not impact children who are currently enrolled.

The children who may be impacted by this loss of access will not receive high-quality services from Head Start and would not experience the positive outcomes for children and families who participate in the Head Start program. Some children who lose access to Head Start may receive early childhood education through State or local preschool programs, which are offered in many areas of the country. Another potential impact is that some children who would otherwise have been served by Head Start may receive early care

⁹³ For this analysis, we assume that staffing reductions occur at the same rate as slot reductions.

⁹⁴ We note that reductions in funded enrollment in response to the final rule will require some

shifting of funds from existing expenditures, such as those to support funded slots that are currently empty or spending to recruit and train staff in a high turnover environment. Please see the

discussion under the heading “Connecting Baseline Uncertainty with Differing Estimates of Regulatory Effects.”

and education in programs or settings that lack the quality to adequately support their learning and development, though we note that, absent the quality improvements under this final rule, Head Start quality is likely to deteriorate over time. Loss of access to Head Start may also reduce opportunity for parents and caregivers to participate in the workforce.

Expected Impact of Preventing and Addressing Lead Exposure (§ 1302.48)

This final rule has new requirements for programs to have a plan to prevent children from being exposed to lead in the water or paint of Head Start facilities. Below we summarize findings from a few select research studies. Decades of research have shown that high lead levels are harmful for children's development.⁹⁵ Research also shows, however, that lead remediation has long-term benefits to children's health and economic benefits to society as they mature into adolescence and beyond. For instance, a 2002 CDC study found that reduced lead exposure in the United States since 1976 has resulted in a \$110 billion to \$319 billion economic benefit due to higher IQs and worker productivity.⁹⁶ Furthermore, a research study that conducted a cost-benefit analysis on every dollar invested in lead paint control has been estimated to be a \$17 to \$221 return.⁹⁷ This research suggests there may be a societal benefit that lead remediation regulations can make.⁹⁸ Additionally, there is research showing that having classmates who were exposed to lead has implications for everyone in the classroom.⁹⁹ While we cannot estimate the quantitative cost savings that this provision will have, we

note that testing on its own does not make anyone healthier; the cause-and-effect chain between testing and health outcomes includes activities that have costs.

Additional Impact of Workforce Supports: Staff Wages and Benefits (§ 1302.90)

In addition to the effects (costs) quantified in this RIA, these provisions may also result in potential cost savings to governments at various jurisdictional levels (which are mostly transfers, when categorized from a society-wide perspective) due to benefit reductions for ECE workers. Specifically, an increase in wages and benefits for Head Start workers may result in a reduction in the number of households receiving a range of safety net benefits, including Low Income Home Energy Assistance Program (LIHEAP), housing assistance, Medicaid/Children's Health Insurance Program (CHIP), Marketplace premium tax credits, SNAP, Supplemental Security Income (SSI), TANF, and WIC. Additionally, increases in staff wages will likely have an outsized impact on improving the educational quality of Head Start programming. While descriptive and non-causal, research illustrates that low wages are a primary driver of high turnover in early childhood educator positions.¹⁰⁰ When early childhood teachers achieve pay parity with teachers in public schools their stress likely decreases, and research finds evidence that increased wages reduces turnover and improves worker focus and attention to children's needs.¹⁰¹ This will improve the quality of services delivered in programs.

Research has also demonstrated that improved wages are correlated with higher quality programs.¹⁰² The majority of research in this area is not causal and, to the best of our knowledge, no cost-benefit analysis has been conducted related to the impact of increased wages in the early childhood sector. Therefore, our conclusions here are tentative but rooted in strong developmental science on the importance of continuity of care and adult-child interaction as a predictor of program quality in early education settings.

By improving wages, teachers may choose to stay in the profession longer and may spend more time building the skills necessary to support high-quality early childhood programming and high-quality teacher-child interactions. Furthermore, improvements in staff retention overall due to improved wages and benefits likely promotes more stable staffing across the program and provides continuity of services for enrolled children and may also reduce stress and workload for other staff in the program due to fewer staff vacancies. Further, a strong and stable early childhood workforce can lead to improved child behavior and stronger social competence.¹⁰³

It is also likely that there will be potential cost savings from the effects of this final rule mitigating the high expenses associated with high turnover. When Head Start programs experience staffing shortages, they often ask existing staff to work additional hours to compensate for the lack of adequate coverage. In some cases, substitute or temporary staff will be hired and sometimes this comes at an increased cost. Presumably, after the implementation of this policy, these excess costs (experienced as remunerations increases for the aggregate collection of Head Start teachers) will be reduced because the workforce will be more stable and programs will experience improved retention.

Estimated Impact of Secretary's Waiver Authority for Wage Policies (§ 1302.90)

This RIA assumes annual increases in appropriations that are sufficient to keep pace with inflation. The

⁹⁵ Finkelstein, Y., Markowitz, M.E., & Rosen, J.F. (1998). Low-level lead-induced neurotoxicity in children: an update on central nervous system effects. *Brain research reviews*, 27, 168–176.

⁹⁶ Grosse, S.D., Matte, T.D., Schwartz, J., & Jackson, R.J. (2002). Economic gains resulting from the reduction in children's exposure to lead in the United States. *Environmental health perspectives*, 110(6), 563–569. <https://doi.org/10.1289/ehp.02110563>.

⁹⁷ Gould, E. (2009). Childhood Lead Poisoning: Conservative Estimates of the Social and Economic Benefits of Lead Hazard Control. *Environmental Health Perspectives*, 117(7). <https://doi.org/10.1289/ehp.0800408>.

⁹⁸ Gazze, Ludovica, Persico, Claudia and Spirovska, Sandra (2022). "The Spillover Effects of Pollution: How Exposure to Lead Affects Everyone in the Classroom." (forthcoming) *Journal of Labor Economics*. The Long-Run Spillover Effects of Pollution: How Exposure to Lead Affects Everyone in the Classroom | NBER.

⁹⁹ Gazze, Ludovica, Persico, Claudia and Spirovska, Sandra (2022). "The Spillover Effects of Pollution: How Exposure to Lead Affects Everyone in the Classroom." *Journal of Labor Economics*. The Long-Run Spillover Effects of Pollution: How Exposure to Lead Affects Everyone in the Classroom | NBER.

¹⁰⁰ Caven, M., Khanani, N., Zhang, X., & Parker, C.E. (2021). *Center-and program-level factors associated with turnover in the early childhood education workforce (REL 2021–069)*. U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Northeast & Islands.; Whitebook, M., Howes, C., & Phillips, D. (2014). *Worthy Work, STILL Unlivable Wages: The Early Childhood Workforce 25 Years after the National Child Care Staffing Study*. Center for the Study of Child Care Employment. <https://cscce.berkeley.edu/wp-content/uploads/publications/ReportFINAL.pdf>. Morrissey, T.W., & Bowman, K. (2024). Early care and education workforce compensation, program quality, and child outcomes: A review of the research. *Early Education & Development*. Early Care and Education Workforce Compensation, Program Quality, and Child Outcomes: A Review of the Research: Early Education and Development: Vol 0, No 0—Get Access (tandfonline.com).

¹⁰¹ Doromal et al. (2024). Wage supplements strengthen the child care workforce. The Urban Institute. Wage Supplements Strengthen the Child Care Workforce | Urban Institute. Bassok et al. (2021). The effects of financial incentives on teacher turnover in early childhood settings: Experimental evidence from Virginia. The University of Virginia. [6de6fd54-e921-4c88-a452-ad7cabccc362.pdf](https://doi.org/10.1289/ehp.0800408) (elfsightcdn.com).

¹⁰² Isaccs, J., Adelstein, S., Kuehn, D. (2018). Early Childhood Educator Compensation in the Washington Region. Urban Institute. https://www.urban.org/sites/default/files/publication/97676/early_childhood_educator_compensation_final_2.pdf.

¹⁰³ Choi, Y., Horm, D., Jeon, S. & Ryu, D. (2019). Do Stability of Care and Teacher-Child Interaction Quality Predict Child Outcomes in Early Head Start? *Early Education and Development*, 30:3, 337–356.

Secretary's waiver authority described in § 1302.90(e)(7) through (10) protects against unintended consequences if annual appropriations are far below what is sufficient to keep pace with inflation (*i.e.*, less than 1.3%) for programs that meet certain criteria. This funding scenario would be an historic anomaly and ACF would expect significant impacts on programs as a result of unprecedented low funding levels. While this scenario is unlikely, ACF is providing information on how costs and slots could be impacted should appropriations be much lower than anticipated.

In order to qualify for the waiver, should the authority be exercised, programs must meet several criteria. ACF assumes that most programs will meet several of the criteria to be eligible for a waiver by 2028. First, programs must demonstrate they would need to cut enrolled slots in order to comply with the wage policies. By 2028, when the Secretary's authority could be exercised, we expect that nearly all programs will have reached full enrollment, either through enrolling more children or through reducing their funded service level and would thus meet this criterion. Programs must also demonstrate that they are making progress toward pay parity, which ACF expects all programs will do as a requirement of the final rule.

However, ACF believes some programs will not be eligible because they do not meet health, safety, and quality criteria. ACF anticipates that the majority of programs that are disqualified for a waiver due to this criterion will be ineligible because they were required to compete as part of the DRS. Over the last 10 years (from 2013–2023), an average of 21% of Head Start grants that were monitored in a given year were designated to compete for continued funding and thus would not be eligible for a waiver. Should this waiver authority be exercised, we estimate that approximately 80% of programs would be eligible under the Secretary's waiver authority.

Combined with the exemption for small programs, we estimate that the vast majority of programs could be exempt from many of the wage policies if the Secretary's waiver authority is exercised. Further, we expect that the costs (experienced by workers as increased remuneration) associated with the wage requirements of this rule would decrease significantly as a result of this Secretarial authority, which would likely lead to slower loss of funded slots attributable to the rule implementation. However, we would also expect that the overall expenditures

on wages would continue to increase, albeit at a slower rate, as programs with an exemption or waiver would be required to continue to make progress on wages.

Estimated Impact of Mental Health Services (Part 1302, Subparts D, H, and I)

In addition to the effects (costs) quantified in section E of this RIA, there are numerous additional benefits to enhancing provisions related to mental health supports. Advancing science in child development demonstrates that birth to age five is an important period for brain development and is a critical foundation on which all later development builds. Mental health and social-emotional well-being during this period are foundational for family well-being, children's healthy development, and early learning and are associated with positive long-term outcomes. Early childhood experiences, like trusting relationships with caregivers in a stable, nurturing environment, aid in the development of skills that build resilience. The enhancements to the requirements for mental health supports are expected to promote higher-quality services for children in Head Start programs across the country and support child, family, and staff well-being.

Specifically, revisions to part 1302, subpart D, enhances health program services to explicitly include mental health. These regulatory changes also reflect a preventative approach to mental health across comprehensive service areas, such as health and family engagement. The addition of mental health screening will support programs in having conversations about mental health early and often. Screening will facilitate the identification of children, families, and staff with specific needs and allow for intervention before more time and resource intensive care becomes necessary. Mental health screening may result in nominal costs to programs that elect to purchase specific screening tools. This rule also adds a requirement that a program take a multidisciplinary approach to mental health. We expect that this work would be carried out by existing staff and may have an associated opportunity cost not reflected in budgets.

Expected Benefits of Child Health and Safety (§§ 1302.47; 1302.90; 1302.92; 1302.101; 1302.102)

The rule includes several provisions to ensure basic health and safety measures are taken to protect all children. These provisions include a revision of previous requirements to

ensure we are as clear as possible and that our requirements reflect current best practices and more precise terminology around standards of conduct. These changes will result in aligned definitions with other Federal resources and clarifications to existing requirements. Non-quantifiable benefits of these enhancements include critical supports to child safety by supporting staff in recognizing potential child abuse and neglect and understanding their legal responsibility as mandated reporters, which will improve child safety and program response to violations of standards of conduct.

These provisions also enhance requirements for incorporating child health and safety training into existing annual staff training and professional development. We assume there will be nominal costs (included in the estimates below) associated with improved training on child health and safety because programs will replace other on-the-job activities. Non-quantifiable benefits of an increased frequency of training include allowing programs to offer staff advanced training opportunities on areas of local importance or greater complexity, such as culturally responsive practices in reporting, issues related to disproportionate reporting, and information about at-risk populations. This policy change also creates more equitable opportunities for staff to understand and discuss their ethical and legal responsibilities. Annual training on positive strategies to understand and support children's social and emotional development also enhances the use of positive strategies and have the added benefit of increasing opportunities for peer support as appropriate. Together, these changes will have the benefit of ensuring the safety and wellbeing of all who participate in Head Start programs.

The cost estimates for the additional annual training content are provided below and represent value-of-time costs by year for all staff in Head Start programs who will be required to take this annual training. We predict this cost will be borne out by shifting existing content of existing staff trainings to accommodate this new requirement. Table K1 reflects this value-of-time cost using the average target wage for all position types and the benefits fringe rate in the final rule benefits policy. These costs were estimated using an hourly wage of \$24.36 which represents the midpoint between the baseline and target wage averages, which is \$33.46 per hour when final rule benefits policy are included. We assume 0.5 hours of

training annually for 178,690 staff
(which represents all education staff

and half of other types of staff who will
expect will receive the training).

Table K1. Additional Value-of-Time Costs by Year for Child Health and Safety Training

Policy, Millions of Dollars

Year	Constant 2024 Dollars	Nominal Dollars
2024	\$0	\$0
2025	\$3	\$3
2026	\$3	\$3
2027	\$3	\$3
2028	\$3	\$3
2029	\$3	\$3
2030	\$3	\$3
2031	\$3	\$4
2032	\$3	\$4
2033	\$3	\$4
2034	\$3	\$4

Estimated Impact of Modernizing
Engagement With Families (§§ 1302.11;
1302.13; 1302.15; 1302.34; 1302.50)

These provisions enhance existing requirements that programs must follow when completing their community needs assessments. Programs will be required to identify communication methods to best engage with prospective and enrolled families, and to use modern technologies to streamline information gathering and improve communications. There is significant benefit to families in giving them a voice in the way that programs choose to communicate. Using communication modalities and methods that are easiest to families would enhance engagement with Head Start and increase program accessibility. Programs will also be required to implement improvements to streamline the enrollment experience for families. There may be nominal costs for programs to make these determinations and implement new technologies. Streamlining the enrollment experience for families will create more user-friendly and efficient processes, reduce burden and build trust with families, and support Head Start in more equitably and effectively delivering services.

Estimated Impact of Community
Assessment (§ 1302.11)

The changes to these provisions address concerns that Head Start

programs and others in the field have raised about the burdens of the community needs assessment. These provisions promote clarity on the intent of the community assessment, align with best practices, and increase the effectiveness in how the community assessment is used to inform key aspects of program design and approach. Requiring a strategic approach to determine what data to collect prior to conducting the community needs assessment and how to use the needs assessment to achieve intended outcomes will promote overall effectiveness of the community assessment to drive programmatic decision making. These changes may also facilitate reductions in cost of time-consuming or complex assessment and analytical techniques and reduce barriers to programs being able to use their community assessment data to effectively guide programmatic decisions. Programs will also be allowed to use readily available data on their community, which will reduce duplication of efforts and further lessen burden, and may facilitate coordination with other community programs.

Other new requirements related to the collection of specific elements in the community needs assessment, such as geographic location, race, ethnicity, and languages, facilitate Head Start's ability to understand the diversity of populations most in need of services,

which in turn will help promote equity, inclusion, and accessibility in service delivery. Factors related to transportation needs and resources in communities reflects that transportation remains a significant barrier for many of the hardest to serve families and impedes Head Start's mission. Ensuring transportation needs and resources are part of the data that informs a program's design and service delivery will enable Head Start to more effectively meet the needs of families and improve access to Head Start services.

Estimated Impact of Adjustment for
Excessive Housing Costs for Eligibility
Determination (§ 1302.12)

This provision allows a program to adjust a family's income to account for excessive housing costs. This provision reflects a transfer of benefits from one potentially eligible family to another, however, consistent with §§ 1302.14 and 1302.13 in the HSPPS which are unchanged in this rule, programs will continue to establish selection criteria that prioritize selection of participants based on need. There may be nominal implementation costs as Head Start programs implement these new income calculations. Children whose families have few resources because they earn near-poverty level wages and live in areas with a high-cost of living may be newly eligible for Head Start. This enables Head Start to continue to

prioritize the enrollment of families most in need of services. This provision also increases alignment with other means-tested Federal programs that use an income adjustment to account for excessive housing costs.

Estimated Impact of Tribal Eligibility (§ 1302.12)

The modifications to eligibility requirements for Tribal programs in this provision benefits Tribal programs by reducing barriers to families in need of program services. The rule allows Tribal programs the flexibility to consider eligibility regardless of income. Tribal programs can use their selection criteria to enroll pregnant women and age-eligible children who would benefit from Head Start services but do not meet income eligibility requirements. This selection criteria may include prioritizing children in families in which a child, family member, or member of the household is a member of an Indian Tribe. There may be nominal costs for Tribal programs to establish or revise their selection criteria and administrative procedures for enrollment.

Estimated Impact of Migrant and Seasonal Head Start Eligibility (§ 1302.12)

The modifications to eligibility requirements for MSHS programs in this provision benefits MSHS programs and families by reducing barriers to enrolling farmworker families in need of program services. First, MSHS programs may now serve any pregnant woman or age-eligible child who has one family member whose income comes primarily from agricultural employment as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802), even if they do not meet other income eligibility requirements. This change will allow for the families of migrant and seasonal farmworkers to benefit from Head Start without losing their eligibility if they pursue additional economic opportunities in other sectors. Second, the provisions related to eligibility duration address an existing inequity between infants and toddlers served in Early Head Start programs and those served in MSHS programs. The existing requirement creates an inequity because infants and toddlers served in Early Head Start programs can receive services for the duration of the program, meaning until they turn three and age out of the program, whereas the MSHS family is no longer considered eligible for the program after two years. Therefore, the young children of agricultural workers are not provided

the same potential duration of services as infants and toddlers served by Early Head Start. This change also promotes continuity for families served by MSHS and reduces paperwork for families and programs.

Estimated Impact of Serving Children With Disabilities (§ 1302.14)

These provisions clarify language to address an inconsistency between the HSPPS and the Act. This provision reflects a transfer of benefits from one potentially eligible family to another. A non-quantifiable benefit of this provision is to address confusion caused by the discrepancy. Further clarification that the requirement to fill ten percent of slots with children with disabilities under IDEA is a floor and not a ceiling supports Head Start in maximizing services to children with disabilities who benefit from the program's strong focus on inclusive early childhood settings.

Expected Benefits of Family Partnership Family Assignments (§ 1302.52)

This provision seeks to ensure that an individual family services staff is assigned to work with no greater than 40 families. Based on internal data, 44 percent of programs have caseloads that exceed 40 families. We estimate that a total of 2,282 new family services staff will need to be hired to meet this new requirement at a total cost of \$125 million. There are numerous non-quantifiable benefits to lower family assignments. This provision will address staff well-being, reduce burnout, and reduce job frustration and dissatisfaction. For staff well-being, large caseloads are associated with staff burnout and turnover, feeling overwhelmed, and expression of job frustration and dissatisfaction. This provision will improve the quality of family services and improve staff well-being and reflects best practice in the field.

Expected Benefits of Participation in Quality Rating and Improvement Systems (§ 1302.53)

This provision encourages Head Start programs to participate in State QRIS to the extent practicable if the State system has strategies in place to support their participation. We assume that programs newly participating in QRIS will incur additional costs and burden from substantive changes in the form of revised processes and potentially additional or different documentation, as well as possible duplication of monitoring and assessment processes. However, the rule allows for program to choose not to participate in QRIS if it

presents an undue burden. Non-quantifiable benefits of participation in QRIS include continued quality improvement efforts, providing a common metric through which families can understand and make decisions about program options, and aligning standards across a statewide early care and education system.

Expected Benefits of Services To Enrolled Pregnant People (§§ 1302.80; 1302.82)

This provision enhances services to enrolled pregnant people by requiring the newborn visit to include a discussion of maternal mental and physical health, infant health, and support for basic needs; and requiring programs to track and record information on service delivery for enrolled pregnant women. We assume programs may incur nominal costs associated with enhancements to recordkeeping. Non-quantifiable benefits of these provisions include assessing the child care, health, and mental health needs of mothers in the critical period after child birth, which will enable Head Start to provide support to mothers and identify opportunities for collaboration and intervention. Improved tracking and recording of services to enrolled pregnant women also supports ACF in understanding the services provided and identifying how to best be responsive to the needs of enrolled pregnant people. These records will also be used to validate the use of Federal funds to serve pregnant people and to inform ongoing conversations program staff have with the pregnant person about their needs before and after the baby is born.

Expected Benefits of Definition of Income (§ 1305.2)

This provision revises the definition of income by providing a clear and finite list of what is considered income and what is not considered income. Non-quantifiable benefits of this provision include making the policy less burdensome and complicated for programs to implement, ensuring programs can more easily identify an applicants' income, and promoting consistent interpretation on what to include in calculating income across programs.

Final Small Entity Analysis

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This analysis, as well as other sections in this document and the

Preamble of this final rule, serves as the Final Regulatory Flexibility Analysis, as required under the Regulatory Flexibility Act.

A. Description and Number of Affected Small Entities

The SBA maintains a Table of Small Business Size Standards Matched to North American Industry Classification System Codes (NAICS).¹⁰⁴ We replicate the SBA's description of this table:

This table lists small business size standards matched to industries described in the North American Industry Classification System (NAICS), as modified by the Office of Management and Budget, effective January 1, 2022.

The size standards are for the most part expressed in either millions of dollars (those preceded by "\$") or number of employees (those without the "\$"). A size standard is the largest that a concern can be and still qualify as a small business for Federal Government programs. For the most part, size standards are the average annual receipts or the average employment of a firm. How to calculate average annual receipts and average employment of a firm can be found in 13 CFR 121.104 and 13 CFR 121.106, respectively.

This final rule will impact small entities in NAICS category 624410, Child Care Services, which has a size standard of \$9.5 million dollars. We assume that most Head Start programs, if not all, are below this threshold and are considered small entities.

B. Description of the Potential Impacts of the Rule on Small Entities

In the main analysis, we estimate that about \$2.51 billion (nominal dollars) in additional funding will be necessary to fully implement the final rule in 2034, which is about a 17% increase above baseline funding levels. Most of the funding needed is proportional to the size of the Head Start program or agency, so we do not separately assess the potential impacts of the rule on small entities of different sizes. The Department considers a rule to have a significant impact on a substantial number of small entities if it has at least a 3% impact on revenue on at least 5% of small entities. Since the final rule will likely result in increased expenditures of about 17%, we find that the final rule will likely have a significant impact on a substantial number of small entities.

In response to comments and concerns regarding the sustainability of small programs in implementing these policies, ACF is exempting agencies with 200 or fewer funded slots from

most of the staff wage and benefit requirements in the final rule. However, small Head Start agencies are still required to make improvements in wages and benefits for staff over time to reduce disparities between wages and benefits in Head Start and preschool teachers in public schools. While small agencies have flexibility to phase in wage increases according to their budgets, ACF strongly encourages these programs to invest in higher wages by restructuring their budgets, targeting annual COLA increases to wages, and seeking other available funding sources that can be used to enhance wages.

C. Alternatives To Minimize the Burden on Small Entities

ACF considered many policy alternatives to the final rule, some of which are quantified in this analysis. Tables I1 and I2 summarize the impacts on expenditures under the wage-parity policy, reporting yearly estimates, and present value and annualized values corresponding to a 2% discount rate. These tables present separate analyses of the following policies: staff wages, staff benefits, staff breaks, family service worker family assignments, mental health supports, and preventing and addressing lead exposure. This document also considers the impacts of expenditures associated with the minimum pay requirement, and itemized impacts of the lead in water and lead-based paint policies. These analyses demonstrate the impact of exempting Head Start agencies with 200 or fewer funded slots from the wages and benefits requirements, estimated to be among the most expensive requirements of the final rule, and minimizes burden on small entities. The estimates in this final rule are lower than those estimated in the NPRM because of policy changes, such as removing the requirement for paid family leave, and the exemption of Head Start agencies with 200 or fewer slots from the wage and benefits requirements, which was added in response to comments and the particular challenges that small Head Start agencies may face in implementing these policies. In the NPRM, we also modeled an alternative policy that included retirement benefits, which the final does not include. In section J of this Regulatory Impact Analysis, we describe a sensitivity analysis that explores how the rule's effects are expected to manifest themselves if there are no increases in Federal appropriations above baseline (or such increases occur but not in response to this regulation and/or the increased appropriations could not be used to

support the policies in the final rule). In addition, we report the likely reductions in funded enrollment under the final rule, which are also lower than estimated for the provisions in the NPRM. These tables and additional analyses in the narrative of this document enabled ACF to appropriately consider a range of feasible policy alternatives.

List of Subjects

45 CFR Part 1301

Early education, Grant programs, Head Start, Program governance, Social programs.

45 CFR Part 1302

Compensation, Early education, Grant programs, Head Start, Mental health, Quality improvement, Social programs, Workforce.

45 CFR Part 1303

Early education, Financial management, Grant programs, Head Start, Social programs.

45 CFR Part 1304

Accountability, Early education, Grant programs, Head Start, Monitoring, Social programs.

45 CFR Part 1305

Definitions, Early education, Grant programs, Head Start, Social programs.

Dated: August 1, 2024.

Xavier Becerra,

Secretary, Department of Health and Human Services.

For reasons stated in the preamble, we amend 45 CFR parts 1301, 1302, 1303, 1304, and 1305 as follows.

PART 1301—PROGRAM GOVERNANCE

- 1. The authority citation for part 1301 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

- 2. Revise § 1301.1 to read as follows:

§ 1301.1 Purpose.

An agency, as defined in part 1305 of this chapter, must establish and maintain a formal structure for program governance that includes a governing body, a policy council at the agency level and policy committee at the delegate level, and a parent committee. Governing bodies have a legal and fiscal responsibility to administer and oversee the agency's Head Start programs. Policy councils are responsible for the direction of the agency's Head Start programs.

- 3. Amend § 1301.3 by:

- a. Revising paragraph (a); and

¹⁰⁴ U.S. Small Business Administration (2023). "Table of Size Standards." March 17, 2023, <https://www.sba.gov/document/support-table-size-standards>.

■ b. In paragraph (b)(2), removing the word “grantees” and adding in its place the words “grant recipients”.

The revision reads as follows:

§ 1301.3 Policy council and policy committee.

(a) *Establishing policy councils and policy committees.* Each agency must establish and maintain a policy council responsible for the direction of the Head Start program at the agency level, and a policy committee at the delegate level. If an agency delegates operational responsibility for the entire Head Start program to one delegate agency, the policy council and policy committee may be the same body.

* * * * *

■ 4. Amend § 1301.4 by revising paragraph (b)(3) to read as follows:

§ 1301.4 Parent committees.

* * * * *

(b) * * *

(3) Within the guidelines established by the governing body, policy council, or policy committee, participate in the recruitment and screening of Head Start employees.

PART 1302—PROGRAM OPERATIONS

■ 5. The authority for part 1302 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

■ 6. Revise § 1302.1 to read as follows:

§ 1302.1 Overview.

This part implements the statutory requirements in sections 641A, 645, 645A, and 648A of the Act by describing all of the program performance standards that are required to operate Head Start Preschool, Early Head Start, American Indian and Alaska Native and Migrant or Seasonal Head Start programs. This part covers the full range of operations from enrolling eligible children and providing program services to those children and their families, to managing programs to ensure staff are qualified and supported to effectively provide services. This part also focuses on using data through ongoing program improvement to ensure high-quality service. As required in the Act, the provisions in this part do not narrow the scope or quality of services covered in previous regulations. Instead, the regulations in this part raise the quality standard to reflect science and best practices, and streamline and simplify requirements so programs can better understand what is required for quality services.

Subpart A—Eligibility, Recruitment, Selection, Enrollment, and Attendance

§ 1302.10 [Amended]

■ 7. Amend § 1302.10 in the first sentence by removing the word “grantees” and adding in its place the words “grant recipients”.

■ 8. Amend § 1302.11 by revising paragraph (b) to read as follows:

§ 1302.11 Determining community strengths, needs, and resources.

* * * * *

(b) *Community wide strategic planning and needs assessment (community assessment).* (1) A program must conduct a comprehensive community assessment at least once over the five-year grant period and annually review and update if any significant changes are needed as described in paragraph (b)(5) of this section to:

(i) Identify populations most in need of services including prevalent social or economic factors, challenges, and barriers experienced by families and children;

(ii) Inform the program’s design and to ensure equitable, inclusive, and accessible service delivery that reflect needs and diversity of the community;

(iii) Inform the enrollment, recruitment, and selection process to prioritize the enrollment of those populations with relevant circumstances identified under paragraph (b)(1)(i) of this section;

(iv) Identify strengths and resources in the community that can be leveraged for service delivery, coordination, and partnership efforts for education, health, nutrition, and referrals to social services to eligible children and families; and, (v) Identify the communication methods and modalities available to the program that best engage with prospective and enrolled families in accessible ways.

(2) In conducting the community assessment, a program must collect and utilize data that describes community strengths, needs, and resources and include, at a minimum:

(i) Relevant demographic data about eligible children and expectant mothers, including:

(A) Race and ethnicity;

(B) Children living in poverty;

(C) Children experiencing homelessness in collaboration with, to the extent possible, McKinney-Vento Local Education Agency Liaisons (42 U.S.C. 11432 (6)(A));

(D) Children in foster care;

(E) Children with disabilities, including types of disabilities and relevant services and resources

provided to these children by community agencies; and

(F) Geographic location and languages they speak;

(ii) The education, health, nutrition and social service needs of eligible children and their families, including prevalent social or economic factors, challenges, and barriers to program participation such as transportation needs;

(iii) Typical work, school, and training schedules of parents with eligible children;

(iv) Other child development, child care centers, and family child care programs that serve eligible children, including home visiting, publicly funded State and local preschools, and the approximate number of eligible children served and their ages;

(v) Resources that are available in the community to address the needs of eligible children and their families, especially transportation resources, and culturally appropriate and responsive supports;

(vi) Strengths of the community; and,

(vii) Gaps in community resources in areas relevant to addressing the needs of eligible children and their families such as gaps in health and human services, housing assistance, food assistance, employment assistance, early childhood development, and social services.

(3) Programs should have a strategic approach:

(i) To determine what data to acquire to reach goals in paragraph (b)(1) of this section prior to conducting the community assessment; and

(ii) For how to use the data acquired to reach goals in paragraph (b)(1) of this section after conducting the community assessment.

(4) When determining what data to acquire under paragraph (b)(2) of this section programs should consider what information is most relevant to inform services for families most in need. Data gathering should be informed by the program’s understanding of the community and be intentionally designed to help the program identify community strengths, needs and resources, and plan the program accordingly. Programs are not required to collect all information themselves; rather programs should utilize community partners and utilize existing available data sources relevant to the local community.

(5) A program must annually review and, where needed, update the community assessment to identify any significant shifts in community demographics, needs, and resources that may impact program design and service delivery. As described in paragraph

(b)(4) of this section, programs should consider results from their self-assessment as required in subpart J of this part (§§ 1302.101 through 1302.103) and their annual funding application to inform this process. The annual update review must consider at a minimum: changes related to children and families experiencing homelessness; how the program addresses equity, accessibility, and inclusiveness in its provision of services; and changes to the availability of publicly funded pre-kindergarten and whether it meets needs of families. Programs must consider how the annual review and update can inform and support management approaches for continuous quality improvement, program goals, and ongoing oversight.

(6) A program must consider whether the characteristics of the community allow it to include children from diverse economic backgrounds that would be supported by other funding sources, including private pay, in addition to the program's eligible funded enrollment. A program must not enroll children from diverse economic backgrounds if it would result in a program serving less than its eligible funded enrollment.

■ 9. Amend § 1302.12 by:

■ a. Revising paragraphs (b)(1), (b)(2) introductory text, (b)(2)(i), (e), and (f);

■ b. Redesignating paragraphs (i)(1)(i) through (iii) as paragraphs (i)(1)(iii) through (v);

■ c. Adding new paragraphs (i)(1)(i) and (ii);

■ d. Revising paragraphs (j)(3) and (4);

■ e. Adding paragraph (j)(5); and

■ f. Revising paragraph (l).

The revisions and additions read as follows:

§ 1302.12 Determining, verifying, and documenting eligibility.

* * * * *

(b) * * *

(1) For Early Head Start, except when the child is transitioning to Head Start Preschool, a child must be an infant or a toddler younger than three years old.

(2) For Head Start Preschool, a child must:

(i) Be at least three years old or, turn three years old by the date used to determine eligibility for public school in the community in which the Head Start Preschool program is located; and,

* * * * *

(e) *Additional allowances for Indian tribes.* (1) Notwithstanding paragraph (c) of this section, a Tribal program may determine any pregnant women or children in the approved service area to be eligible for services regardless of income, if they meet the requirements of paragraph (b) of this section.

(2) An Indian Tribe or Tribes that operates both an Early Head Start program and a Head Start Preschool program may, at its discretion, at any time during the grant period involved, reallocate funds between the Early Head Start program and the Head Start Preschool program in order to address fluctuations in client populations, including pregnant women and children from birth to compulsory school age. The reallocation of such funds between programs by an Indian Tribe or Tribes during a year may not serve as a basis for any reduction of the base grant for either program in succeeding years.

(f) *Migrant or Seasonal eligibility requirements.* Notwithstanding paragraph (c) of this section, pregnant women and children are eligible for Migrant or Seasonal Head Start if they have at least one family member whose income comes primarily from agricultural employment as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802), and if they meet the requirements of paragraph (b) of this section.

* * * * *

(i) * * *

(1) * * *

(i) The program must calculate total gross income using applicable sources of income.

(ii) A program may make an adjustment to a family's gross income calculation for the purposes of determining eligibility to account for excessive housing costs. A program may use available bills, bank statements, and other relevant documentation provided by the family to calculate total annual housing costs with appropriate multipliers to:

(A) Determine if a family spends more than 30 percent of their total gross income on housing costs, as defined in part 1305 of this chapter; and

(B) If applicable, reduce the total gross income by the amount spent on housing costs that exceed more than 30 percent.

* * * * *

(j) * * *

(3) If a child moves from an Early Head Start program to a Head Start Preschool program, program staff must verify the family's eligibility again.

(4) If a program operates both an Early Head Start and a Head Start Preschool program, and the parents wish to enroll their child who has been enrolled in the program's Early Head Start, the program must ensure, whenever possible, the child receives Head Start Preschool services until enrolled in school, provided the child is eligible.

(5) If a program operates a Migrant and Seasonal Head Start program,

children younger than age three participating in the program remain eligible until they turn three years old consistent with paragraph (j)(2) of this section.

* * * * *

(l) *Program policies and procedures on violating eligibility determination regulations.* A program must establish written policies and procedures that describe all actions taken against staff who intentionally violate Federal and program eligibility determination regulations and who enroll pregnant women and children that are not eligible to receive Head Start services.

* * * * *

■ 10. Revise § 1302.13 to read as follows:

§ 1302.13 Recruitment of children.

In order to reach those most in need of services, a program must develop and implement a recruitment process designed to actively inform all families with eligible children within the recruitment area of the availability of program services. A program must include modern technologies to encourage and assist families in applying for admission to the program, and to reduce the family's administrative and paperwork burden in the application and enrollment process. A program must include specific efforts to actively locate and recruit children with disabilities and other children in need, including children experiencing homelessness and children in foster care.

■ 11. Amend § 1302.14 by:

■ a. Revising and republishing paragraph (a);

■ b. Revising paragraph (b)(1); and

■ c. Adding paragraph (d).

The revisions, republication, and additions read as follows:

§ 1302.14 Selection process.

(a) *Selection criteria.* (1) A program must annually establish selection criteria that weigh the prioritization of selection of participants, based on community needs identified in the community needs assessment as described in § 1302.11(b), and including family income, whether the child is homeless, whether the child is in foster care, the child's age, whether the child is eligible for special education and related services, or early intervention services, as appropriate, as determined under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*) and, other relevant family or child risk factors.

(2) An Indian Tribe that operates a Head Start program must annually

establish selection criteria that weigh the prioritization of selection of participants, based on community needs identified in the community needs assessment as described in § 1302.11(b), and may, at its discretion, give priority to children in families for which a child, a family member, or a member of the same household, is a member of an Indian Tribe, and would benefit from the Head Start program.

(3) If a program serves migrant or seasonal families, it must annually establish selection criteria that weigh the prioritization of selection of participants, based on community needs identified in the community needs assessment as described in § 1302.11(b), and give priority to children whose families can demonstrate they have relocated frequently within the past two-years to pursue agricultural work.

(4) If a program operates in a service area where Head Start Preschool eligible children can enroll in high-quality publicly funded pre-kindergarten for a full school day, the program must prioritize younger children as part of the selection criteria in paragraph (a)(1) of this section. If this priority would disrupt partnerships with local education agencies, then it is not required. An American Indian and Alaska Native or Migrant or Seasonal Head Start program must consider whether such prioritization is appropriate in their community.

(5) A program must not deny enrollment based on a disability or chronic health condition or its severity.

(6) A program may consider the enrollment of children of staff members as part of the selection criteria in paragraph (a)(1) of this section.

(b) * * *

(1) A program must ensure at least 10 percent of its total actual enrollment is filled by children eligible for services under IDEA, unless the responsible HHS official grants a waiver.

(d) *Understanding barriers to enrollment.* A program is required to use data from the community assessment to identify the population of eligible children and families and potential barriers to enrollment and attendance, including using data to understand access to transportation for the highest need families. A program must use this data to inform ongoing program improvement efforts as described in § 1302.102(c) to promote enrolling the children most in need of program services.

■ 12. Amend § 1302.15 by revising paragraph (b)(2) and adding paragraph (g) to read as follows:

§ 1302.15 Enrollment.

* * * * *

(b) * * *

(2) Under exceptional circumstances, a program may maintain a child's enrollment in Head Start Preschool for a third year, provided that family income is verified again. A program may maintain a child's enrollment in Early Head Start as described in § 1302.12(j)(2).

* * * * *

(g) *User-friendly enrollment process.* A program must regularly examine their enrollment processes and implement any identified improvements to streamline the enrollment experience for families.

■ 13. Amend § 1302.16 by:

■ a. Removing “and,” at the end of paragraph (a)(2)(iii);

■ b. Removing the period at the end of paragraph (a)(2)(iv) and adding “; and” in its place; and

■ c. Adding paragraph (a)(2)(v).

The addition reads as follows:

§ 1302.16 Attendance.

(a) * * *

(2) * * *

(v) Examine barriers to regular attendance, such as access to safe and reliable transportation, and where possible, provide or facilitate transportation for the child if needed.

* * * * *

■ 14. Amend § 1302.17 by revising paragraphs (a)(2) and (4) and (b)(2) introductory text to read as follows:

§ 1302.17 Suspension and expulsion.

(a) * * *

(2) A temporary suspension must be used only as a last resort in extraordinary circumstances where there is a serious safety threat that has not been reduced or eliminated by the provision of interventions and supports recommended by the mental health consultant and the program needs time to put additional appropriate services in place.

* * * * *

(4) If a temporary suspension is deemed necessary, a program must help the child return to full participation in all program activities as quickly as possible while ensuring child safety. A program must explore all possible steps and document all steps taken to address the behavior(s) and supports needed to facilitate the child's safe reentry and continued participation in the program. Such steps must include, at a minimum:

(i) Continuing to engage with the parents, mental health consultant, and other appropriate staff, and continuing to utilize appropriate community resources;

(ii) Providing additional program supports and services, including home visits; and,

(iii) Determining whether a referral to a local agency responsible for implementing IDEA is appropriate, or if the child has an individualized family service plan (IFSP) or individualized education program (IEP), consulting with the responsible agency to ensure the child receives the needed support services.

(b) * * *

(2) When a child exhibits persistent and serious behavioral concerns, a program must explore all possible steps and document all steps taken to address such problems, and facilitate the child's safe participation in the program. Such steps must include, at a minimum, engaging a mental health consultant, considering the appropriateness of providing appropriate services and supports under section 504 of the Rehabilitation Act of 1973 to ensure that the child who satisfies the definition of disability in 29 U.S.C. 705(9)(b) of the Rehabilitation Act is not excluded from the program on the basis of disability, and consulting with the parents and the child's teacher, and:

* * * * *

Subpart B—Program Structure

■ 15. Amend § 1302.20 by:

■ a. Revising paragraphs (a) and (c)(1) and (2);

■ b. Removing the word “grantees” and adding in its place words “grant recipients” wherever it appears in paragraph (c)(3);

■ c. Revising paragraphs (c)(3)(i) and (iii); and

■ d. Revising paragraphs (c)(4) and (d).

The revisions read as follows:

§ 1302.20 Determining program structure.

(a) *Choose a program option.* (1) A program must choose to operate one or more of the following program options: center-based, home-based, family child care, or an approved locally designed variation as described in § 1302.24. The program option(s) chosen must meet the needs of children and families based on the community assessment described in § 1302.11(b). A Head Start Preschool program may not provide only the option described in § 1302.22(a) and (c)(2).

(2) To choose a program option and develop a program calendar, a program must consider in conjunction with the annual review of the community assessment described in § 1302.11(b)(2), whether it would better meet child and family needs through conversion of existing slots to full school day or full

working day slots, extending the program year, conversion of existing Head Start Preschool slots to Early Head Start slots as described in paragraph (c) of this section, and ways to promote continuity of care and services. A program must work to identify alternate sources to support full working day services. If no additional funding is available, program resources may be used.

* * * * *

(c) * * *

(1) Consistent with section 645(a)(5) of the Head Start Act, grant recipients may request to convert Head Start Preschool slots to Early Head Start slots through the refunding application process or as a separate grant amendment.

(2) Any grant recipient proposing a conversion of Head Start Preschool services to Early Head Start services must obtain policy council and governing body approval and submit the request to their regional office.

(3) * * *

(i) A grant application budget and a budget narrative that clearly identifies the funding amount for the Head Start Preschool and Early Head Start programs before and after the proposed conversion;

* * * * *

(iii) A revised program schedule that describes the program option(s) and the number of funded enrollment slots for Head Start Preschool and Early Head Start programs before and after the proposed conversion;

* * * * *

(4) Consistent with section 645(d)(3) of the Act, any American Indian and Alaska Native grant recipient that operates both an Early Head Start program and a Head Start Preschool program may reallocate funds between the programs at its discretion and at any time during the grant period involved, in order to address fluctuations in client populations. An American Indian and Alaska Native program that exercises this discretion must notify the regional office.

(d) *Source of funding.* A program may consider hours of service that meet the Head Start Program Performance Standards, regardless of the source of funding, as hours of planned class operations for the purposes of meeting the Head Start Preschool and Early Head Start service duration requirements in this subpart.

■ 16. Amend § 1302.21 by revising and republishing paragraph (c) to read as follows:

§ 1302.21 Center-based option.

* * * * *

(c) *Service duration*—(1) *Early Head Start.* (i) A program must provide 1,380 annual hours of planned class operations for all enrolled children.

(ii) A program that is designed to meet the needs of young parents enrolled in school settings may meet the service duration requirements in paragraph (c)(1)(i) of this section if it operates a center-based program schedule during the school year aligned with its local education agency requirements and provides regular home-based services during the summer break.

(2) *Head Start Preschool*—(i) *Service duration for at least 45 percent.* A program must provide 1,020 annual hours of planned class operation over the course of at least eight months per year for at least 45 percent of its Head Start Preschool center-based funded enrollment.

(ii) *Service duration for remaining slots.* A program must provide, at a minimum, at least 160 days per year of planned class operations if it operates for five days per week, or at least 128 days per year if it operates four days per week. Classes must operate for a minimum of 3.5 hours per day.

(iii) *Double session.* Double session variation must provide classes for four days per week for a minimum of 128 days per year and 3.5 hours per day. Each double session class staff member must be provided adequate break time during the course of the day. In addition, teachers, assistants, and volunteers must have appropriate time to prepare for each session together, to set up the classroom environment, and to give individual attention to children entering and leaving the center.

(iv) *Special provision for alignment with local education agency.* A Head Start Preschool program providing fewer than 1,020 annual hours of planned class operations or fewer than eight months of service is considered to meet the requirements described in paragraph (c)(2)(i) of this section if its program schedule aligns with the annual hours required by its local education agency for grade one and such alignment is necessary to support partnerships for service delivery.

(3) *Exemption for Migrant or Seasonal Head Start programs.* A Migrant or Seasonal program is not subject to the requirements described in paragraph (c)(1) or (2) of this section, but must make every effort to provide as many days and hours of service as possible to each child and family.

(4) *Calendar planning.* A program must:

(i) Plan its year using a reasonable estimate of the number of days during a year that classes may be closed due to problems such as inclement weather; and,

(ii) Make every effort to schedule makeup days using existing resources if hours of planned class operations fall below the number required per year.

* * * * *

■ 17. Amend § 1302.22 by revising paragraphs (a) and (c)(2) paragraph heading and introductory text to read as follows:

§ 1302.22 Home-based option.

(a) *Setting.* The home-based option delivers the full range of services, consistent with § 1302.20(b), through visits with the child's parents, primarily in the child's home and through group socialization opportunities in a Head Start classroom, community facility, home, or on field trips. For Early Head Start programs, the home-based option may be used to deliver services to some or all of a program's enrolled children. For Head Start Preschool programs, the home-based option may only be used to deliver services to a portion of a program's enrolled children.

* * * * *

(c) * * *

(2) *Head Start Preschool.* A Head Start Preschool home-based program must:

* * * * *

■ 18. Amend § 1302.23 by revising paragraph (b) to read as follows:

§ 1302.23 Family child care option.

* * * * *

(b) *Ratios and group size*—(1) *Group size.* A program that operates the family child care option where Head Start children are enrolled must ensure group size does not exceed the limits specified in this section. If the family child care provider's own children under the age of six are present, they must be included in the group size.

(2) *Mixed age with preschoolers.* When there is one family child care provider, with a mixed-age group of children that includes children over 36 months of age, the maximum group size is six children and no more than two of the six may be under 24 months of age. When there are two providers, the maximum group size is twelve children with no more than four of the twelve children under 24 months of age.

(3) *Infants and toddlers only.* When there is one family child care provider with a group of children that are all under 36 months of age, the maximum group size is four children, and no more than two of the four children may be under 18 months of age.

(4) *Maintaining ratios.* A program must maintain appropriate ratios during all hours of program operation. A program must ensure providers have systems to ensure the safety of any child not within view for any period. A program must make substitute staff available with the necessary training and experience to ensure quality services to children are not interrupted.

* * * * *

■ 19. Amend § 1302.24 by:

■ a. Revising paragraphs (c)(1), (3), and (5); and

■ b. Removing paragraph (d).

The revisions read as follows:

§ 1302.24 Locally-designed program option variations.

* * * * *

(c) * * *

(1) The responsible HHS official may waive one or more of the requirements contained in §§ 1302.21(b), (c)(1)(i), and (c)(2)(i); 1302.22(a) through (c); and 1302.23(b) and (c) but may not waive ratios or group size for children under 24 months. Center-based locally designed options must meet the minimums described in section 640(k)(1) of the Act for center-based programs.

* * * * *

(3) If the responsible HHS official approves a waiver to allow a program to operate below the minimums described in § 1302.21(c)(2)(i), a program must meet the requirements described in § 1302.21(c)(2)(ii), or in the case of a double session variation, a program must meet the requirements described in § 1302.21(c)(2)(iii).

* * * * *

(5) In order to receive a waiver of service duration, a program must meet the requirement in paragraph (c)(4) of this section, provide supporting evidence that it better meets the needs of parents than the applicable service duration minimums described in § 1302.21(c)(1) and (c)(2)(i), § 1302.22(c), or § 1302.23(c), and assess the effectiveness of the variation in supporting appropriate development and progress in children's early learning outcomes.

Subpart C—Education and Child Development Program Services

■ 20. Amend § 1302.34 by:

■ a. Removing “and,” at the end of paragraph (b)(7);

■ b. Removing the period at the end of paragraph (b)(8) and adding “; and” in its place; and

■ c. Adding paragraph (b)(9).

The addition reads as follows:

§ 1302.34 Parent and family engagement in education and child development services.

* * * * *

(b) * * *

(9) The program utilizes accessible communication methods and modalities that meet the needs of the community when engaging with prospective and enrolled families.

Subpart D—Health and Mental Health Program Services

■ 21. Revise the heading for subpart D to read as set forth above.

■ 22. Amend § 1302.40 by revising paragraph (b) to read as follows:

§ 1302.40 Purpose.

* * * * *

(b) A program must establish and maintain a Health and Mental Health Services Advisory Committee that includes Head Start parents, professionals, and other volunteers from the community.

■ 23. Revise § 1302.41 to read as follows:

§ 1302.41 Collaboration and communication with parents.

(a) For all activities described in this part, programs must collaborate with parents as partners in the health, mental health, and well-being of their children in a linguistically and culturally appropriate manner and communicate with parents about their child's health and mental health needs and development concerns in a timely and effective manner.

(b) At a minimum, a program must:

(1) Obtain advance authorization from the parent or other person with legal authority for all health, mental health, and developmental procedures administered through the program or by contract or agreement, and, maintain written documentation if they refuse to give authorization for health and mental health services; and,

(2) Share with parents the policies for health or mental health emergencies that require rapid response on the part of staff or immediate medical attention.

■ 24. Amend § 1302.42 by:

■ a. Revising paragraph (b)(1)(i) and (b)(4); and

■ b. Removing the word “grantee” and adding in its place the words “grant recipient” in paragraph (e)(2).

The revisions read as follows:

§ 1302.42 Child health status and care.

* * * * *

(b) * * *

(1) * * *

(i) Obtain determinations from health care and oral health care professionals

as to whether or not the child is up-to-date on a schedule of age appropriate preventive and primary medical, mental health, and oral health care, based on: the well-child visits and dental periodicity schedules as prescribed by the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program of the Medicaid agency of the State in which they operate, immunization recommendations issued by the Centers for Disease Control and Prevention, and any additional recommendations from the local Health and Mental Health Services Advisory Committee that are based on prevalent community health problems; and

* * * * *

(4) A program must identify each child's nutritional health needs, taking into account available health information, including the child's health records, relevant developmental or mental health concerns, and family and staff concerns, including special dietary requirements, food allergies, and community nutrition issues as identified through the community assessment or by the Health and Mental Health Services Advisory Committee.

* * * * *

■ 25. Amend § 1302.44 by revising paragraph (b) to read as follows:

§ 1302.44 Child nutrition.

* * * * *

(b) *Payment sources.* A program must use funds from USDA Food, Nutrition, and Consumer Services Child Nutrition programs as the primary source of payment for meal services. Head Start funds may be used to cover those allowable costs not covered by the USDA.

■ 26. Revise § 1302.45 to read as follows:

§ 1302.45 Supports for mental health and well-being.

(a) *Program-wide wellness supports.*

To support a program-wide culture that promotes mental health, social and emotional well-being, and overall health and safety, a program must use a multidisciplinary approach that:

(1) Coordinates supports for adult mental health and well-being, including engaging in nurturing and responsive relationships with families, engaging families in home visiting services, and promoting staff health and wellness, as described in § 1302.93.

(2) Coordinates supports for positive learning environments for all children; supportive teacher practices; and strategies for supporting children with social, emotional, behavioral, or mental health concerns.

(3) Secures ongoing mental health consultation services and examines the approach to mental health consultation on an annual basis to determine if it meets the needs of the program.

(4) Ensures mental health consultation services are available at a frequency of at least once a month.

(i) If a mental health consultant is not available to provide services at least once a month, programs must use other licensed mental health professionals or behavioral health support specialists certified and trained in their profession or recognized by their Tribal governments, such as peer specialists, community health workers, promotores, traditional practitioners, or behavioral health aides, to ensure mental health supports are available on at least a monthly basis.

(ii) If the program uses other licensed mental health professionals or behavioral health support specialists, the program must ensure their regular coordination and consultation with mental health consultants.

(5) Ensures that all children receive adequate screening and appropriate follow up and the parent receives referrals about how to access services for potential social, emotional, behavioral, or other mental health concerns, as described in § 1302.33.

(6) Facilitates multidisciplinary coordination and collaboration between mental health and other relevant program services, including education, disability, family engagement, and health services.

(7) Builds community partnerships to facilitate access to additional mental health resources and services, as needed, including through the Health and Mental Health Services Advisory Committee in § 1302.40.

(b) *Mental health consultants.* A program must ensure that mental health consultants provide consultation services that build the capacity of adults in an infant or young child's life to strengthen and support the mental health and social and emotional development of children, including consultation with any of the following:

(1) The program to implement strategies that promote a program-wide culture of mental health, prevent mental health challenges from developing, and identify and support children with mental health and social and emotional concerns;

(2) Child and family services staff to implement strategies that build nurturing and responsive relationships and create positive learning environments that promote the mental health and social and emotional development of all children;

(3) Staff who have contact with children to understand and appropriately respond to prevalent child mental health concerns, including internalizing problems such as appearing withdrawn; externalizing problems such as behavioral concerns; and how exposure to trauma and substance use can influence risk;

(4) Families and staff to understand mental health and access mental health interventions or supports, if needed, including in the event of a natural disaster or crisis;

(5) The program to implement policies to limit suspension and prohibit expulsion as described in § 1302.17; and

(6) The program to support the well-being of children and families involved in any significant child health, mental health, or safety incident described in § 1302.102(d)(1)(ii).

■ 27. Amend § 1302.46 by revising paragraphs (b)(1)(iii) and (iv), and revising and republishing paragraph (b)(2) to read as follows:

§ 1302.46 Family support services for health, nutrition, and mental health.

* * * * *

(b) * * *

(1) * * *

(iii) Learn about healthy pregnancy and postpartum care, as appropriate, including breastfeeding support and treatment options for parental mental health, including depression, anxiety, and substance use concerns;

(iv) Discuss information related to their child's mental health with staff, including typical and atypical behavior and development, and how to appropriately respond to their child and promote their child's social and emotional development; and,

* * * * *

(2) A program must provide ongoing support to assist parents' navigation through health and mental health systems to meet the general health and specifically identified needs of their children and must assist parents:

(i) In understanding how to access health insurance for themselves and their families, including information about private and public health insurance and designated enrollment periods;

(ii) In understanding the results of diagnostic and treatment procedures as well as plans for ongoing care;

(iii) In familiarizing their children with services they will receive while enrolled in the program and to enroll and participate in a system of ongoing family health care; and

(iv) In providing information about how to access mental health services for

young children and their families, including referrals if appropriate.

■ 28. Amend § 1302.47 by revising paragraphs (b)(5) introductory text and (b)(5)(i), (iii), and (v) and adding paragraph (b)(10) to read as follows:

§ 1302.47 Safety practices.

* * * * *

(b) * * *

(5) *Safety practices.* All staff, consultants, contractors, and volunteers follow appropriate practices to keep children safe during all activities, including, at a minimum:

(i) Reporting of suspected or known child abuse and neglect, as defined by the Federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5101 note), including that staff comply with applicable Federal, State, local, and Tribal laws;

* * * * *

(iii) Appropriate supervision of children at all times;

* * * * *

(v) All standards of conduct described in § 1302.90(c)(1)(ii).

* * * * *

(10) *Exposure to lead in water and paint prevention practices.* A program must develop a plan to prevent children from being exposed to lead in water and paint in Head Start facilities. In facilities where lead may exist, a program must implement ongoing practices, including testing and inspection at least every two years, with support from trained professionals. As needed, a program must pursue remediation or abatement to prevent lead exposure.

* * * * *

Subpart E—Family and Community Engagement Program Services

■ 29. Amend § 1302.50 by revising paragraph (a) to read as follows:

§ 1302.50 Family engagement.

(a) *Purpose.* A program must integrate parent and family engagement strategies into all systems and program services to support family well-being and promote children's learning and development. Programs are encouraged to develop innovative multi-generation approaches that address prevalent needs of families across their program that may leverage community partnerships or other funding sources. This includes communicating with families in a format that meets the needs of each individual family.

* * * * *

■ 30. Amend § 1302.52 by:

■ a. Revising paragraphs (c)(2) and (3);

■ b. Removing paragraph (c)(4);

- c. Redesignating paragraph (d) as paragraph (e); and
- d. Adding a new paragraph (d).

The revisions and addition read as follows:

§ 1302.52 Family partnership services.

* * * * *

(c) * * *

(2) Help families achieve identified individualized family engagement outcomes; and

(3) Establish and implement a family partnership agreement process that is jointly developed and shared with parents in which staff and families review individual progress, revise goals, evaluate and track whether identified needs and goals are met, and adjust strategies on an ongoing basis, as necessary.

(d) *Approaches to family partnership services.* A program must:

(1) Ensure the family assignment process takes into account the varied interests, urgency, and intensity of identified family needs and goals.

(2) Ensure the planned number of families assigned to work with staff that conduct the family partnership process and work on family, health and community engagement services is no greater than 40:1. A program must maintain this ratio, except:

(i) When the responsible HHS official grants a waiver if the program can demonstrate staff competencies at § 1302.92(b)(4); program outcomes at paragraph (b) of this section; and reasonable staff workload as described in paragraph (d)(3) of this section.

(ii) During temporary periods of staff absence or attrition; changes in daily operations related to start-up or transitional activities; or extenuating circumstances related to emergency response and recovery.

(3) Ensure meaningful employee engagement practices address family services workload experiences, in accordance with § 1302.101(a)(2).

* * * * *

- 31. Amend § 1302.53 by revising paragraph (b)(1) and (2) to read as follows:

§ 1302.53 Community partnerships and coordination with other early childhood and education programs.

* * * * *

(b) * * *

(1) *Memorandum of understanding.* To support coordination between Head Start Preschool and publicly funded preschool programs, a program must enter into a memorandum of understanding with the appropriate local entity responsible for managing publicly funded preschool programs in

the service area of the program, as described in section 642(e)(5) of the Act.

(2) *Quality Rating and Improvement Systems.* A program, with the exception of American Indian and Alaska Native programs, should participate in its State or local Quality Rating and Improvement System (QRIS), to the extent practicable, if a State or local QRIS has a strategy to support Head Start participation without requiring programs to duplicate existing documentation from Office of Head Start oversight.

* * * * *

Subpart F—Additional Services for Children With Disabilities

- 32. Amend § 1302.61 by revising paragraphs (c)(1)(v) and (c)(2)(ii) to read as follows:

§ 1302.61 Additional services for children.

* * * * *

(c) * * *

(1) * * *

(v) Services are provided in a child's regular Head Start classroom or family child care home to the greatest extent possible.

(2) * * *

(ii) For children with an IEP who are transitioning out of Head Start Preschool to kindergarten, collaborate with the parents, and the local agency responsible for implementing IDEA, to ensure steps are undertaken in a timely and appropriate manner to support the child and family as they transition to a new setting.

Subpart G—Transition Services

- 33. Amend § 1302.70 by revising paragraphs (b)(1) and (2) and (d) to read as follows:

§ 1302.70 Transitions from Early Head Start.

* * * * *

(b) * * *

(1) Takes into account the child's developmental level and health and disability status, progress made by the child and family while in Early Head Start, current and changing family circumstances and, the availability of Head Start Preschool, other public pre-kindergarten, and other early education and child development services in the community that will meet the needs of the child and family; and

(2) Transitions the child into Head Start Preschool or another program as soon as possible after the child's third birthday but permits the child to remain in Early Head Start for a limited number of additional months following the

child's third birthday if necessary for an appropriate transition.

* * * * *

(d) *Early Head Start and Head Start Preschool collaboration.* Early Head Start and Head Start Preschool programs must work together to maximize enrollment transitions from Early Head Start to Head Start Preschool, consistent with the eligibility provisions in subpart A of this part, and promote successful transitions through collaboration and communication.

* * * * *

- 34. Amend § 1302.71 by revising the section heading to read as follows:

§ 1302.71 Transitions from Head Start Preschool to kindergarten.

* * * * *

- 35. Amend § 1302.72 by revising paragraphs (a) and (c) to read as follows:

§ 1302.72 Transitions between programs.

(a) For families and children who move out of the community in which they are currently served, including families experiencing homelessness and children in foster care, a program must undertake efforts to support effective transitions to other Head Start programs. If Head Start is not available, the program should assist the family to identify another early childhood program that meets their needs.

* * * * *

(c) A migrant or seasonal Head Start program must undertake efforts to support effective transitions to other migrant or seasonal Head Start or, if appropriate, Early Head Start or Head Start Preschool programs for families and children moving out of the community in which they are currently served.

Subpart H—Services to Enrolled Pregnant Women

- 36. Amend § 1302.80 by revising paragraph (d) and adding paragraphs (e) and (f) to read as follows:

§ 1302.80 Enrolled pregnant women.

* * * * *

(d) A program must provide a newborn visit with each mother and baby to offer support and identify family needs. A program must schedule the newborn visit within two weeks after the infant's birth. At a minimum, the visit must include a discussion of the following: maternal mental and physical health, safe sleep, infant health, and support for basic needs.

(e) A program must track and record services an enrolled pregnant woman receives both from the program and through referrals, to help identify

specific prenatal care services and resources the enrolled pregnant woman needs to support a healthy pregnancy.

(f) The program must provide services that help reduce barriers to healthy maternal and birthing outcomes for each family, including services that address disparities across racial and ethnic groups, and use data on enrolled pregnant women to inform program services.

■ 37. Revise § 1302.81 to read as follows:

§ 1302.81 Prenatal and postpartum information, education, and services.

(a) A program must provide enrolled pregnant women, mothers, fathers, and partners or other family members the prenatal and postpartum information, education and services that address, as appropriate, fetal development, the importance of nutrition in the prenatal and postpartum stage including breastfeeding, the risks of alcohol, drugs, and smoking and the benefits of substance use treatment, labor and delivery, postpartum recovery, and infant care and safe sleep practices.

(b) A program must support pregnant women, mothers, fathers, partners, or other family members to access mental health services, including referrals, as appropriate, to address concerns including prenatal and postpartum mental health concerns including but not limited to anxiety, depression, grief or loss, birth trauma, and substance use.

(c) A program must also address pregnant women's needs for appropriate supports for social and emotional well-being, nurturing and responsive caregiving, and father, partner, or other family member engagement during pregnancy and early childhood.

■ 38. Amend § 1302.82 by revising paragraph (a) to read as follows:

§ 1302.82 Family partnership services for enrolled pregnant women.

(a) A program must engage enrolled pregnant women and other relevant family members, such as fathers, in the family partnership services as described in § 1302.52 and include a specific focus on factors that influence prenatal and postpartum maternal and infant health. If a program uses a curriculum in the provision of services to pregnant women, this should be a maternal health curriculum, to support prenatal and postpartum education needs.

* * * * *

Subpart I—Human Resources Management

■ 39. Amend § 1302.90 by revising and republishing paragraph (c)(1) and

adding paragraphs (e) and (f) to read as follows:

§ 1302.90 Personnel policies.

* * * * *

(c) * * *

(1) A program must ensure all staff, consultants, contractors, and volunteers abide by the program's standards of conduct that:

(i) Ensure staff, consultants, contractors, and volunteers implement positive strategies to support children's well-being and prevent and address challenging behavior;

(ii) Ensure staff, consultants, contractors, and volunteers do not engage in behaviors that maltreat or endanger the health or safety of children, including at a minimum:

(A) Corporal punishment or physically abusive behavior, defined as intentional use of physical force that results in, or has the potential to result in, physical injury. Examples include, but are not limited to, hitting, kicking, shaking, biting, pushing, restraining, force feeding, or dragging;

(B) Sexually abusive behavior, defined as any completed or attempted sexual act, sexual contact, or exploitation. Examples include, but are not limited to, behaviors such as inappropriate touching, inappropriate filming, or exposing a child to other sexual activities;

(C) Emotionally harmful or abusive behavior, defined as behaviors that harm a child's self worth or emotional well-being. Examples include, but are not limited to, using seclusion, using or exposing a child to public or private humiliation, or name calling, shaming, intimidating, or threatening a child; and

(D) Neglectful behavior, defined as the failure to meet a child's basic physical and emotional needs including access to food, education, medical care, appropriate supervision by an adequate caregiver, and safe physical and emotional environments. Examples include, but are not limited to, leaving a child unattended on a bus, withholding food as punishment or refusing to change soiled diapers as punishment;

(iii) Ensure staff, consultants, contractors, and volunteers report reasonably suspected or known incidents of child abuse and neglect, as defined by the Federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5101 note) and in compliance with Federal, State, local, and Tribal laws;

(iv) Ensure staff, consultants, contractors, and volunteers respect and promote the unique identity of each individual and do not stereotype on any

basis, including gender, race, ethnicity, culture, religion, disability, sexual orientation, or family composition; and

(v) Require staff, consultants, contractors, and volunteers to comply with program confidentiality policies concerning personally identifiable information about children, families, and other staff members in accordance with subpart C of part 1303 of this chapter and applicable Federal, State, local, and Tribal laws; and,

(vi) Ensure no child is left alone or unsupervised.

* * * * *

(e) *Wages*—(1) *Pay scale*. (i) By August 1, 2031, a program must implement a salary scale, salary schedule, wage ladder, or other similar pay structure for program staff salaries that incorporates the requirements in paragraphs (e)(2) through (4) of this section; reflects salaries or wages for all other staff in the program; promotes salaries that are comparable to similar services in relevant industries in their geographic area; and considers, at a minimum, responsibilities, qualifications, experience relevant to the position, and schedule or hours worked.

(ii) After August 1, 2031, a program must review its pay structure at least once every 5 years to assess whether it continues to meet the expectations described in paragraph (e)(1)(i) of this section.

(iii) A program must ensure that staff salaries are not in excess of level II of the Executive Schedule, as required in 42 U.S.C. 9848(b)(1).

(2) *Progress to pay parity for education staff with elementary school staff*. (i) By August 1, 2031, a program must demonstrate it has made progress to parity with kindergarten through third grade teachers by ensuring that each Head Start teacher receives an annual salary that is at least comparable to the annual salary paid to preschool teachers in public school settings in the program's local school district, adjusted for responsibilities, qualifications, experience, and schedule or hours worked. A program may provide annual salaries comparable to a neighboring school district if the salaries are higher than a program's local school district.

(ii) A program must make measurable progress towards pay parity for all other Head Start education staff who work directly with children as part of their daily job responsibilities. By August 1, 2031, a program must demonstrate it has made progress to parity by ensuring that each staff member described in this provision receives an annual salary that is at least comparable to the salaries

described in paragraph (e)(2)(i) of this section, adjusted for role, responsibilities, qualifications, experience, and schedule or hours worked.

(iii) For Head Start teachers and education staff described in paragraphs (e)(2)(i) and (ii) of this section, progress to parity must be demonstrated for those staff who are employees as well as those whose salary is funded by Head Start through a contract.

(iv) A program may use an alternative method to determine appropriate comparison salaries in order to implement the requirements in paragraphs (e)(2)(i) and (ii) of this section. The alternative method must use a comparison salary that is equivalent to at least 90 percent of the annual salary paid to kindergarten teachers in public school settings in the program's local school district, adjusted for role, responsibilities, qualifications, experience, and schedule or hours worked.

(v) To demonstrate measurable progress towards pay parity as described in paragraph (e)(2)(i) of this section, a program must regularly track data on how wages paid to their education staff compare to wages paid to preschool through third grade teachers in their local or neighboring school district.

(3) *Salary floor.* By August 1, 2031, a program must ensure, at a minimum, the wage or salary structure established or updated under paragraph (e)(1)(i) of this section provides all staff with a wage or salary that is generally sufficient to cover basic needs such as food, housing, utilities, medical costs, transportation, and taxes, or would be sufficient if the worker's hourly rate were paid according to a full-time, full-year schedule (or over 2,080 hours per year).

(4) *Wage comparability for all ages served.* A program must ensure the wage or salary structure established or updated under paragraph (e)(1)(i) of this section does not differ by age of children served for similar program staff positions with similar qualifications and experience.

(5) *Small agency exemption.* An agency with 200 or fewer funded slots is exempt from the requirements described in this paragraph (e), except that such an agency must still establish or update a pay scale or structure that promotes competitive wages for all staff. The agency must also make measurable improvements in wages for Head Start staff over time and demonstrate progress towards meeting the requirements of paragraphs (e)(2) through (4) of this section.

(6) *Interim service providers.* The exemption described in paragraph (e)(5) of this section also applies to an interim service provider that is temporarily providing Head Start services in place of a Head Start agency that would otherwise qualify for the small agency exemption.

(7) *Secretarial determination of waiver authority.* Between January 1, 2028, and December 31, 2028, the Secretary may establish a waiver process for the requirements described in paragraphs (e)(2) through (4) of this section for eligible Head Start programs, if over the preceding four fiscal years, the average annual increase in Federal appropriations for the Head Start program was less than 1.3 percent.

(8) *Waiver conditions.* If the Secretary establishes the waiver process described in paragraph (e)(7) of this section, the responsible HHS official designated by the Secretary may grant a waiver if the program requests a waiver and meets the following conditions:

(i) The program can demonstrate that it would need to reduce enrolled Head Start slots in order to implement the requirements described in paragraphs (e)(2) through (4) of this section;

(ii) The program is meeting quality benchmarks including:

(A) Demonstrated improvements in staff wages during the preceding four years, to the greatest extent practicable;

(B) Has not been designated to compete under the Designation Renewal System after August 21, 2024; and

(C) The responsible HHS official determines the program does not have significant child health, safety, or quality concerns;

(iii) The program held the Head Start grant for the service area prior to August 21, 2024; and

(iv) The program continues to make improvements in wages for Head Start staff over time, to the greatest extent practicable.

(9) *Reassessing waiver eligibility.* For any program granted a waiver under the process established in paragraph (e)(7) of this section, the responsible HHS official will reassess waiver eligibility for each successive grant period, in line with the process established and criteria described in paragraph (e)(8) of this section.

(10) *Ongoing waiver authority.* Waivers granted under the process established in paragraph (e)(7) of this section may only be granted if over the preceding four fiscal years, the average annual increase in Federal appropriations for the Head Start program was less than 1.3 percent.

(f) *Staff benefits.* (1) For each full-time staff member, defined as those working

30 or more hours per week with the Head Start program during the program year, a program must:

(i) Provide or facilitate access to high-quality affordable health care coverage;

(ii) Offer paid leave; and,

(iii) Offer access to short-term, free or minimal cost behavioral health services.

(2) For each part-time staff member, a program must facilitate access to high-quality, affordable health care coverage.

(3) For each staff member, a program must facilitate access to available resources and information on child care, including connections to child care resource and referral agencies or other child care consumer education organizations and, for staff who meet eligibility guidelines, facilitate access to the child care subsidy program.

(4) For each staff member who may be eligible, a program must facilitate access to the Public Service Loan Forgiveness (PSLF) program, or other applicable student loan debt relief programs, including timely certification of employment.

(5) To the extent practicable, a program must assess and determine if their benefits package for full-time staff is at least comparable to those provided to elementary school staff in the program's local or neighboring school district at least once every 5 years. Programs may offer additional benefits to staff, including more enhanced health benefits, retirement benefits, flexible savings accounts, or life, disability, and long-term care insurance.

(6) An agency with 200 or fewer funded slots is exempt from the requirements described in this paragraph (f). Such an agency must make measurable improvements in benefits for Head Start staff over time and demonstrate progress towards meeting the requirements of paragraphs (f)(1) through (5) of this section.

(7) The exemption described in paragraph (f)(6) of this section also applies to an interim service provider that is temporarily providing Head Start services in place of a Head Start agency that would otherwise qualify for the small agency exemption.

■ 40. Amend § 1302.91 by revising paragraphs (b), (e)(2) and (3), and (e)(8)(ii) to read as follows:

§ 1302.91 Staff qualifications and competency requirements.

* * * * *

(b) *Head Start director.* A program must ensure a Head Start director hired after November 7, 2016, has, at a minimum, a baccalaureate degree and experience in supervision of staff, fiscal management, and administration.

* * * * *

(e) * * *

(2) *Head Start Preschool center-based teacher qualification requirements.* (i) The Secretary must ensure no less than fifty percent of all Head Start Preschool teachers, nation- wide, have a baccalaureate degree in child development, early childhood education, or equivalent coursework.

(ii) As prescribed in section 648A(a)(3)(B) of the Act, a program must ensure all center-based teachers have at least an associate's or bachelor's degree in child development or early childhood education, equivalent coursework, or otherwise meet the requirements of section 648A(a)(3)(B) of the Act.

(3) *Head Start Preschool assistant teacher qualification requirements.* As prescribed in section 648A(a)(2)(B)(ii) of the Act, a program must ensure Head Start Preschool assistant teachers, at a minimum, have a CDA credential or a State-awarded certificate that meets or exceeds the requirements for a CDA credential, are enrolled in a program that will lead to an associate or baccalaureate degree or, are enrolled in a CDA credential program to be completed within two years of the time of hire.

* * * * *

(8) * * *

(ii) A program must ensure all mental health consultants are licensed or under the supervision of a licensed mental health professional. A program must use mental health consultants with knowledge of and experience in serving young children and their families.

* * * * *

■ 41. Amend § 1302.92 by revising paragraph (b) to read as follows:

§ 1302.92 Training and professional development.

* * * * *

(b) A program must establish and implement a systematic approach to staff training and professional development designed to assist staff in acquiring or increasing the knowledge and skills needed to provide high-quality, comprehensive services within the scope of their job responsibilities, and attached to academic credit as appropriate, and integrated with employee engagement practices in accordance with § 1302.101(a)(2). At a minimum, the system must include:

(1) Staff completing a minimum of 15 clock hours of professional development per year. For teaching staff, such professional development must meet the requirements described in section 648A(a)(5) of the Act, and includes creating individual professional development plans as described in section 648A(f) of the Act;

(2) Annual training on mandatory reporting of suspected or known child abuse and neglect, that complies with applicable Federal, State, local, and Tribal laws;

(3) Annual training on positive strategies to understand and support children's social and emotional development, such as tools for managing children's behavior;

(4) Training for child and family services staff on best practices for implementing family engagement strategies in a systemic way, as described throughout this part;

(5) Training for child and family services staff, including staff that work on family services, health, and disabilities, that builds their knowledge, experience, and competencies to improve child and family outcomes; and,

(6) Research-based approaches to professional development for education staff, that are focused on effective curricula implementation, knowledge of the content in Head Start Early Learning Outcomes Framework: Ages Birth to Five, partnering with families, supporting children with disabilities and their families, providing effective and nurturing adult-child interactions, supporting dual language learners as appropriate, addressing challenging behaviors, preparing children and families for transitions (as described in subpart G of this part), and use of data to individualize learning experiences to improve outcomes for all children.

* * * * *

■ 42. Amend § 1302.93 by adding paragraphs (c) and (d) to read as follows:

§ 1302.93 Staff health and wellness.

* * * * *

(c)(1) A program must provide, for each staff member, regular breaks of adequate length and frequency based on hours worked, including, but not limited to, time for meal breaks as appropriate.

(2) If applicable Federal, State, or local laws or regulations have more stringent requirements for breaks, a program should comply with the more stringent requirements.

(3) During break times for classroom staff described in paragraph (c)(1) of this section, one teaching staff member may be replaced by one staff member who does not meet the teaching qualifications required for the age, provided that this staff member has the necessary training and experience to ensure safety of children and minimal disruption to the quality of services. If providing a break during nap time, a program may comply with § 1302.21(b)(1)(ii).

(d) A program should cultivate a program-wide culture of wellness that empowers staff as professionals and supports staff to effectively accomplish their job responsibilities in a high-quality manner, in line with the requirement at § 1302.101(a)(2).

■ 43. Amend § 1302.94 by revising paragraph (a) to read as follows:

§ 1302.94 Volunteers.

(a) A program must ensure volunteers have been screened for appropriate communicable diseases in accordance with State, Tribal, or local laws. In the absence of State, Tribal, or local law, the Health and Mental Health Services Advisory Committee must be consulted regarding the need for such screenings.

* * * * *

Subpart J—Program Management and Quality Improvement

■ 44. Amend § 1302.101 by:

■ a. Revising paragraph (a)(2);

■ b. Removing “and,” at the end of paragraph (a)(3);

■ c. Removing the period at the end of paragraph (a)(4) and adding “; and” in its place; and

■ d. Adding paragraph (a)(5).

The revision and addition read as follows:

§ 1302.101 Management system.

(a) * * *

(2) Promotes clear and reasonable roles and responsibilities for all staff and provides regular and ongoing staff supervision with meaningful and effective employee engagement practices;

* * * * *

(5) Ensures that all staff are trained to implement reporting procedures in § 1302.102(d)(1)(ii).

* * * * *

■ 45. Amend § 1302.102 by revising the section heading and paragraph (d)(1)(ii) and adding paragraph (d)(1)(iii) to read as follows:

§ 1302.102 Program goals, continuous improvement, and reporting.

* * * * *

(d) * * *

(1) * * *

(ii) Reports, as appropriate, to the responsible HHS official immediately but no later than 7 calendar days following the incident, related to:

(A) Any significant incident that affects the health or safety of a child that occurs in a setting where Head Start services are provided and that involves:

(1) A staff member, contractor, or volunteer that participates in either a Head Start program or a classroom at

least partially funded by Head Start, regardless of whether the child receives Head Start services; or

(2) A child that receives services fully or partially funded by Head Start or a child that participates in a classroom at least partially funded by Head Start; or

(B) Circumstances affecting the financial viability of the program; breaches of personally identifiable information, or program involvement in legal proceedings; any matter for which notification or a report to State, Tribal, or local authorities is required by applicable law; and

(iii) Reportable incidents under paragraph (d)(1)(ii) of this section include at a minimum:

(A) Any mandated reports regarding agency staff or volunteer compliance with Federal, State, Tribal, or local laws addressing child abuse and neglect or laws governing sex offenders;

(B) Incidents that require classrooms or centers to be closed;

(C) Legal proceedings by any party that are directly related to program operations;

(D) All conditions required to be reported under § 1304.12 of this chapter, including disqualification from the Child and Adult Care Food Program (CACFP) and license revocation;

(E) Any suspected or known maltreatment or endangerment of a child by staff, consultants, contractors, and volunteers under § 1302.90(c)(1)(ii);

(F) Serious harm or injury of a child resulting from lack of preventative maintenance;

(G) Serious harm, injury, or endangerment of a child resulting from lack of supervision; and,

(H) Any unauthorized release of a child.

* * * * *

§ 1302.103 [Removed]

- 46. Remove § 1302.103.

PART 1303—FINANCIAL AND ADMINISTRATIVE REQUIREMENTS

- 47. The authority for part 1303 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

PART 1303 [Amended]

- 48. Amend part 1303 by:

- a. Removing the word “grantee” and adding the words “grant recipient” in its place wherever it appears; and
- b. Removing the word “grantee’s” and adding the words “grant recipient’s” in its place wherever it appears.

Subpart D—Delegation of Program Operations

- 49. Amend § 1303.30 by revising the section heading to read as follows:

§ 1303.30 Grant recipient responsibility and accountability.

* * * * *

Subpart E—Facilities

- 50. Revise § 1303.42 to as follows:

§ 1303.42 Eligibility to purchase, construct, and renovate facilities.

Before a grant recipient can apply for funds to purchase, construct, or renovate a facility under § 1303.44, it must establish that:

(a) The facility will be available to Indian Tribes, or rural or other low-income communities;

(b) The proposed purchase, construction, or major renovation is within the grant recipient’s designated service area;

(c) The proposed purchase, construction, or major renovation is necessary because the lack of suitable facilities in the grant recipient’s service area will inhibit the operation of the program; and

(d) The proposed construction of a facility is more cost-effective than the purchase of available facilities or renovation.

- 51. Revise § 1303.43 to read as follows:

§ 1303.43 Use of grant funds to pay fees.

If a recipient seeks to use Federal funds for reasonable fees and costs necessary to submit an application under §§ 1303.42 and 1303.44, they must be granted approval from the responsible HHS official. Once approval is granted to use Federal funds to submit an application, the funds are allowable regardless of the outcome of the preliminary eligibility under § 1303.42 and the application under § 1303.44.

- 52. Amend § 1303.44 by revising paragraphs (a)(3), (7), and (14) to read as follows:

§ 1303.44 Applications to purchase, construct, and renovate facilities.

(a) * * *

(3) Plans and specifications for the facility, including square footage, structure type, the number of rooms the facility will have or has, how the rooms will be used, where the structure will be positioned or located on the building site, whether there is space available for outdoor play, and whether there is

space available for parking, if applicable;

* * * * *

(7) An estimate by a licensed independent certified appraiser of the facility’s value after proposed purchase and associated repairs and renovations, construction, or major renovation is completed, either on-site or virtually, is required for all facilities activities except for major renovations to leased property;

* * * * *

(14) Any additional information the responsible HHS official needs to determine compliance with the regulations in this part.

* * * * *

- 53. Amend § 1303.45 by revising paragraph (a)(2)(iii) to read as follows:

§ 1303.45 Cost-comparison to purchase, construct, and renovate facilities.

(a) * * *

(2) * * *

(iii) Identify costs over the structure’s useful life, which is at least 20 years for a facility that the grant recipient purchased or constructed and at least 15 years for a modular unit the grant recipient renovated, and deferred costs, including mortgage payments, as costs with associated due dates; and,

* * * * *

- 54. Amend § 1303.48 by revising the section heading to read as follows:

§ 1303.48 Grant recipient limitations on Federal interest.

* * * * *

Subpart F—Transportation

- 55. Amend § 1303.70 by revising paragraph (c)(1) introductory text to read as follows:

§ 1303.70 Purpose.

* * * * *

(c) * * *

(1) A program that provides transportation services must comply with all provisions in this subpart. A Head Start Preschool program may request to waive a specific requirement in this part, in writing, to the responsible HHS official, as part of an agency’s annual application for financial assistance or amendment and must submit any required documentation the responsible HHS official deems necessary to support the waiver. The responsible HHS official is not authorized to waive any requirements with regard to children enrolled in an Early Head Start program. A program may request a waiver when:

* * * * *

- 56. Amend § 1303.75 by revising paragraph (a) to read as follows:

§ 1303.75 Children with disabilities.

(a) A program must ensure there are school buses or allowable alternate vehicles adapted or designed for transportation of children with disabilities available as necessary to transport such children enrolled in the program. This requirement does not apply to the transportation of children receiving home-based services unless school buses or allowable alternate vehicles are used to transport the other children served under the home-based option by the grant recipient. Whenever possible, children with disabilities must be transported in the same vehicles used to transport other children enrolled in the Head Start program.

* * * * *

PART 1304—FEDERAL ADMINISTRATIVE PROCEDURES

- 57. The authority for part 1304 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

PART 1304 [Amended]

- 58. Amend part 1304 by:
- a. Removing the word “grantee” and adding the words “grant recipient” in its place wherever it appears;
 - b. Removing the word “grantees” and adding the words “grant recipients” in its place wherever it appears; and
 - c. Removing the word “grantee’s” and adding the words “grant recipient’s” in its place wherever it appears.

Subpart A—Monitoring, Suspension, Termination, Denial of Refunding, Reduction in Funding, and Their Appeals

§ 1304.5 [Amended]

- 59. Amend § 1304.5 by removing the word “Grantee’s” and adding in its place the words “Grant recipient’s” in paragraph (c) heading.

Subpart B—Designation Renewal

- 60. Revise § 1304.10 to read as follows:

§ 1304.10 Purpose and scope.

The purpose of this subpart is to set forth policies and procedures for the designation renewal of Head Start programs. It is intended that these programs be administered effectively and responsibly; that applicants to administer programs receive fair and equitable consideration; and that the legal rights of current Head Start grant recipients be fully protected. The

Designation Renewal System is established in this part to determine whether Head Start agencies deliver high-quality services to meet the educational, health, nutritional, and social needs of the children and families they serve; meet the program and financial requirements and standards described in section 641A(a)(1) of the Head Start Act; and qualify to be designated for funding for five years without competing for such funding as required under section 641(c) or 645A(b)(12) and (d) of the Head Start Act. A competition to select a new Head Start agency to replace a Head Start agency that has been terminated voluntarily or involuntarily is not part of the Designation Renewal System established in this part, and is subject instead to the requirements of § 1304.20.

- 61. Amend § 1304.11 by:
- a. Revising the introductory text;
 - b. Removing “grantees’” in paragraph (b)(2)(i) and adding “grant recipients” in its place; and
 - c. Revising paragraphs (d) and (e).
- The revisions read as follows:

§ 1304.11 Basis for determining whether a Head Start agency will be subject to an open competition.

A Head Start agency will be required to compete for its next five years of funding whenever the responsible HHS official determines that one or more of the following seven conditions existed during the relevant time period under § 1304.15:

* * * * *

(d) An agency has had a revocation of its license to operate a Head Start center or program by a State or local licensing agency during the relevant time period under § 1304.15, and the revocation has not been overturned or withdrawn before a competition for funding for the next five-year period is announced. A pending challenge to the license revocation or restoration of the license after correction of the violation will not affect application of this requirement after the competition for funding for the next five-year period has been announced.

(e) An agency has been suspended from the Head Start program by ACF during the relevant time period covered by the responsible HHS official’s review under § 1304.15 and the suspension has not been overturned or withdrawn. If the agency did not have an opportunity to show cause as to why the suspension should not have been imposed or why the suspension should have been lifted if it had already been imposed under this part, the agency will not be required to compete based on this condition. If an agency has received an opportunity

to show cause and the suspension remains in place, the condition will be implemented.

* * * * *

- 62. Amend § 1304.12 by revising the section heading to read as follows:

§ 1304.12 Grant recipient reporting requirements concerning certain conditions.

* * * * *

- 63. Revise § 1304.13 to read as follows:

§ 1304.13 Requirements to be considered for designation for a five-year period when the existing grant recipient in a community is not determined to be delivering a high-quality and comprehensive Head Start program and is not automatically renewed.

In order to compete for the opportunity to be awarded a five-year grant, an agency must submit an application to the responsible HHS official that demonstrates that it is the most qualified entity to deliver a high-quality and comprehensive Head Start program. The application must address the criteria for selection listed at section 641(d)(2) of the Head Start Act. Any agency that has had its Head Start grant terminated for cause in the preceding five years is excluded from competing in such competition for the next five years. A Head Start agency that has had a denial of refunding, as defined in 45 CFR part 1305, in the preceding five years is also excluded from competing.

- 64. Revise and republish § 1304.14 to read as follows:

§ 1304.14 Tribal government consultation under the Designation Renewal System for when an Indian Head Start grant is being considered for competition.

(a) In the case of an Indian Head Start agency determined not to be delivering a high-quality and comprehensive Head Start program, the responsible HHS official will engage in government-to-government consultation with the appropriate Tribal government or governments for the purpose of establishing a plan to improve the quality of the Head Start program operated by the Indian Head Start agency.

(1) The plan will be established and implemented within six months after the responsible HHS official’s determination.

(2) Not more than six months after the implementation of that plan, the responsible HHS official will reevaluate the performance of the Indian Head Start agency.

(3) If the Indian Head Start agency is still not delivering a high-quality and comprehensive Head Start program, the

responsible HHS official will conduct an open competition to select a grant recipient to provide services for the community currently being served by the Indian Head Start agency.

(b) A non-Indian Head Start agency will not be eligible to receive a grant to carry out an Indian Head Start program, unless there is no Indian Head Start agency available for designation to carry out an Indian Head Start program.

(c) A non-Indian Head Start agency may receive a grant to carry out an Indian Head Start program only until such time as an Indian Head Start agency in such community becomes available and is designated pursuant to this part.

■ 65. Revise and republish § 1304.15 to read as follows:

§ 1304.15 Designation request, review and notification process.

(a) A grant recipient must apply to be considered for Designation Renewal. A Head Start agency wishing to be considered to have its designation as a Head Start agency renewed for another five-year period without competition must request that status from ACF at least 12 months before the end of their five-year grant period or by such time as required by the Secretary.

(b) ACF will review the relevant data to determine if one or more of the conditions under § 1304.11 were met by the Head Start agency during the current project period.

(c) ACF will give notice to grant recipients on Designation Renewal System status, except as provided in § 1304.14, at least 12 months before the expiration date of a Head Start agency's current grant, stating:

(1) The Head Start agency will be required to compete for funding for an additional five-year period because ACF finds that one or more conditions under § 1304.11 were met by the agency's program during the relevant time period described in paragraph (b) of this section, identifying the conditions ACF found, and summarizing the basis for the finding; or

(2) That such agency has been determined on a preliminary basis to be eligible for renewed funding for five years without competition because ACF finds that none of the conditions under § 1304.11 have been met during the relevant time period described in paragraph (b) of this section. If prior to the award of that grant, ACF determines that the grantee has met one of the conditions under § 1304.11 during the relevant time period described in paragraph (b) of this section, this determination will change and the grantee will receive notice under

paragraph (c)(1) of this section that it will be required to compete for funding for an additional five-year period.

Subpart C—Selection of Grant Recipients Through Competition

■ 66. Revise the heading for subpart C to read as set forth above.

■ 67. Amend § 1304.20 by revising paragraph (a) to read as follows:

§ 1304.20 Selection among applicants.

(a) In selecting an agency to be designated to provide Head Start Preschool, Early Head Start, Migrant or Seasonal Head Start or Tribal Head Start Preschool or Early Head Start services, the responsible HHS official will consider the applicable criteria at section 641(d) of the Head Start Act and any other criteria outlined in the funding opportunity announcement.

* * * * *

Subpart D—Replacement of American Indian and Alaska Native Grant Recipients

■ 68. Revise the heading for subpart D to read as set forth above.

PART 1305—DEFINITIONS

■ 69. The authority for part 1305 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

■ 70. Amend § 1305.2 by:

■ a. Revising the definition of “Continuity of care”;

■ b. Removing the word “grantee” and adding in its place the words “grant recipient” in the definition of “Denial of Refunding”;

■ c. Adding in alphabetical order a definition for “Early Head Start”;

■ d. Removing the definition of “Early Head Start agency”;

■ e. Revising the definitions of “Federal interest”, “Fixed route”, and “Full-working-day”;

■ f. Removing the word “grantee” and adding in its place the words “grant recipient” in the definition of “Funded enrollment”;

■ g. Removing the definition of “Grantee”;

■ h. Adding in alphabetical order definitions for “Grant recipient” and “Head Start”;

■ i. Revising the definition of “Head Start agency”;

■ j. Adding in alphabetical order definitions for “Head Start Preschool” and “Housing costs”;

■ k. Revising the definitions of “Income”;

■ l. Removing the word “grantee” and adding in its place the words “grant

recipient” in the definition of “Legal status”;

■ m. Revising the definitions of “Major renovation” and “Migrant family”;

■ n. Removing the word “grantee” and adding in its place the words “grant recipient” in the definition of “Modular unit”;

■ o. Revising the definition of “Participant”;

■ p. Adding in alphabetical order a definition for “Poverty line”;

■ q. Revising the definitions of “Program” and “Purchase”;

■ r. Removing the word “grantee” and adding in its place the words “grant recipient” in the definition of “Service area”;

■ s. Adding in alphabetical order a definition for “Suspension”;

■ t. In the definition of “Termination of a grant or delegate agency agreement”:

■ i. Removing the word “grantee’s” and adding in its place the words “grant recipient’s” in the introductory text and paragraph (1); and

■ ii. Removing the word “grantee” and adding in its place the words “grant recipient” in introductory text;

■ u. Removing the definition of “Transition period”; and

■ v. Revising the definition of “Transportation services”.

The additions and revisions read as follows:

§ 1305.2 Terms.

* * * * *

Continuity of care means Head Start services provided to children in a manner that promotes primary caregiving and minimizes the number of transitions in teachers and teacher assistants that children experience over the course of the day, week, program year, and to the extent possible, during the course of their participation from birth to age three in Early Head Start and in Head Start Preschool.

* * * * *

Early Head Start means a program that serves pregnant women and children from birth to age three, pursuant to section 645A(e) of the Head Start Act. This includes Tribal and migrant or seasonal programs.

* * * * *

Federal interest is a property right which secures the right of the Federal awarding agency to recover the current fair market value of its percentage of participation in the cost of the facility subject to part 1303, subpart E, of this chapter funding in the event the facility is no longer used for Head Start purposes by the grant recipient or upon the disposition of the property. When a grant recipient uses Head Start funds to

purchase, construct or make major renovations to a facility, or make mortgage payments, it creates a Federal interest. The Federal interest includes any portion of the cost of purchase, construction, or major renovation contributed by or for the entity, or a related donor organization, to satisfy a matching requirement.

* * * * *

Fixed route means the established routes to be traveled on a regular basis by vehicles that transport children to and from Head Start program activities, and which include specifically designated stops where children board or exit the vehicle.

* * * * *

Full-working-day means not less than 10 hours of Head Start services per day.

* * * * *

Grant recipient means the local public or private non-profit agency or for-profit agency which has been designated as a Head Start agency under 42 U.S.C. 9836 and which has been granted financial assistance by the responsible HHS official to operate a Head Start program.

Head Start means any program authorized under the Head Start Act.

Head Start agency means a local public or private non-profit or for-profit entity designated by ACF to operate a Head Start Preschool program, an Early Head Start program, or Migrant or Seasonal Head Start program pursuant to the Head Start Act.

* * * * *

Head Start Preschool means a program that serves children aged three to compulsory school age, pursuant to section 641(b) and (d) of the Head Start Act. This includes Tribal and migrant or seasonal programs.

* * * * *

Housing costs means the total annual applicable expenses on housing which may include rent or mortgage payments, homeowner's or renter's insurance, utilities, interest, and taxes on the home. Utilities include electricity, gas, water, sewer, and trash.

Income means gross income and only includes wages, business income, unemployment compensation, pension or annuity payments, gifts that exceed the threshold for taxable income, and military income (excluding special pay for a member subject to hostile fire or imminent danger under 37 U.S.C. 310 or any basic allowance for housing under

37 U.S.C. 403 including housing acquired under the alternative authority under 10 U.S.C. 169 or any related provision of law). Gross income only includes sources of income provided in this definition; it does not include refundable tax credits nor any forms of public assistance.

* * * * *

Major renovation means any individual or collective group of renovation activities related to the same facility that has a cost equal to or exceeding \$350,000 in Head Start funds. Renovation activities that are intended to occur concurrently or consecutively, or altogether address a specific part or feature of a facility, are considered a collective group of renovation activities. Unless included in a purchase application, minor renovations and repairs are excluded from major renovations. To maintain alignment with the National Defense Authorization Act (NDAA), the major renovation threshold will increase to account for any increases made to the simplified acquisition threshold beyond \$350,000. Tribes that jointly apply to use both Tribal Child Care and Development Fund (CCDF) and Head Start funds toward major renovations may comply with the CCDF threshold for major renovation if it is higher.

Migrant family means, for purposes of Head Start eligibility, a family with children under the age of compulsory school attendance who changed their residence by moving from one geographic location to another, either intrastate or interstate, within the preceding two years for the purpose of engaging in agricultural work.

* * * * *

Participant means a pregnant woman or child who is enrolled in and receives services from a Head Start Preschool, an Early Head Start, a Migrant or Seasonal Head Start, or an American Indian and Alaska Native Head Start program.

* * * * *

Poverty line is set by the poverty guidelines updated periodically in the **Federal Register** by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2). Poverty guidelines for the contiguous-states-and-DC apply to Puerto Rico and U.S. Territories.

Program means any funded Head Start Preschool, Early Head Start,

Migrant or Seasonal Head Start, Tribal, or other program authorized under the Act and carried out by an agency, or delegate agency, to provide ongoing comprehensive child development services.

* * * * *

Purchase means to buy an existing facility, including outright purchase, down payment or through payments made in satisfaction of a mortgage or other loan agreement, whether principal, interest or an allocated portion principal and/or interest. The use of grant funds to make a payment under a finance lease agreement, as defined in the cost principles, is a purchase subject to these provisions. Purchase also refers to an approved use of Head Start funds to continue paying the cost of purchasing facilities or refinance an existing loan or mortgage beginning in 1987.

* * * * *

Suspension means the temporary removal of a child from the learning setting due to a child's behavior including requiring the child to cease attendance for a specified period of time, reducing the number of days or amount of time that a child may attend, removing the child from the regular group setting for an extended period of time, or requiring the parent or the parent's designee to pick up a child for reasons other than illness or injury.

* * * * *

Transportation services means the planned transporting of children to and from sites where an agency provides services funded under the Head Start Act. Transportation services can involve the pick-up and discharge of children at regularly scheduled times and pre-arranged sites, including trips between children's homes and program settings. The term includes services provided directly by the Head Start grant recipient or delegate agency and services which such agencies arrange to be provided by another organization or an individual. Incidental trips, such as transporting a sick child home before the end of the day, or such as might be required to transport small groups of children to and from necessary services, are not included under the term.

* * * * *

[FR Doc. 2024-18279 Filed 8-16-24; 11:15 am]

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