



FEDERAL REGISTER

Vol. 89

Friday,

No. 188

September 27, 2024

Pages 79125–79368

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.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see www.federalregister.gov.

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at www.govinfo.gov, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, gpocusthelp.com.

The annual subscription price for the **Federal Register** paper edition is \$860 plus postage, or \$929, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see bookstore.gpo.gov.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 89 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202-512-1800
Assistance with public subscriptions	202-512-1806

General online information 202-512-1530; 1-888-293-6498

Single copies/back copies:

Paper or fiche	202-512-1800
Assistance with public single copies	1-866-512-1800 (Toll-Free)

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	FRSubscriptions@nara.gov
Phone	202-741-6000

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: <https://www.gpo.gov/frsubs>.



Contents

Federal Register

Vol. 89, No. 188

Friday, September 27, 2024

Agency for International Development

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Anti-Harassment Intake Summary Sheet, 79226

Agricultural Marketing Service

PROPOSED RULES

Increased Assessment Rate:
Irish Potatoes Grown in Certain Designated Counties in Idaho and Malheur County, OR, 79175–79178

Agriculture Department

See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Food and Nutrition Service
See Forest Service
See Rural Housing Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 79226

Animal and Plant Health Inspection Service

NOTICES

Imports:
Fresh Table Beet Root for Consumption from the United Kingdom, 79227

Centers for Medicare & Medicaid Services

RULES

Medicare Program:
Mitigating the Impact of Significant, Anomalous, and Highly Suspect Billing Activity on Medicare Shared Savings Program Financial Calculations in Calendar Year 2023, 79152–79172

NOTICES

Medicare Program:
Medicare Appeals; Adjustment to the Amount in Controversy Threshold Amounts for Calendar Year 2025, 79294–79296

Children and Families Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Diaper Distribution Demonstration and Research Pilot Beneficiary Survey, 79296

Coast Guard

RULES

Safety Zone:
Corpus Christi Ship Channel, Corpus Christi, TX, 79144–79146
Security Zone:
Monongahela River Mile Markers 0–43.5, Allegheny River Mile Markers 0–14.5, and Ohio River Mile Markers 0–28.5 and 89–93, Pittsburgh, PA, 79142–79144

Commerce Department

See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled

NOTICES

Procurement List; Additions and Deletions, 79259–79260

Comptroller of the Currency

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Supervisory Guidance on Stress Testing for Banking Organizations with Total Consolidated Assets of more than 10 Billion Dollars, 79364–79365

Defense Acquisition Regulations System

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Defense Federal Acquisition Regulation Supplement; DoD Acquisition Process (Various Miscellaneous Requirements), 79261
Defense Federal Acquisition Regulation Supplement; U.S. International Atomic Energy Agency Additional Protocol, 79260–79261

Defense Department

See Defense Acquisition Regulations System

NOTICES

Arms Sales, 79262–79271, 79278–79281
Funding Availability:
Covered Technology Categories-Equipment Financing, 79271–79278

Drug Enforcement Administration

NOTICES

Decision and Order:
Adam L. Larson, MD, 79312–79313
Charles Sangmoah, PA, 79314–79315
Lawrence Rudolph, DMD, 79310–79312
Michael Fletcher, MD, 79313–79314
Theodore S. Wright Jr., MD, 79308–79309
Wagner Gervais, PA, 79309–79310

Education Department

RULES

General Administrative Regulations and Related Regulatory Provisions; Correction, 79146–79147

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Higher Education Emergency Relief Fund I, II and III Data Collection Form, 79281

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Hearings, Meetings, Proceedings, etc.:
Environmental Management Site-Specific Advisory Board, Idaho Cleanup Project, 79283
Importation or Exportation of Liquified Natural Gas or Electric Energy; Applications, Authorizations, etc.:
Energia Sierra Juarez U.S., LLC, 79283–79284

Request for Information:

Release of a Solicitation for Certification and Allocation of Credits Under the Civil Nuclear Credit Program, 79281–79283

Environmental Protection Agency**RULES**

Air Quality State Implementation Plans; Approvals and Promulgations:

Florida; Surface Coating of Miscellaneous Metal Parts and Products Amendments, 79147–79150

Chemical Data Reporting; Extension of the 2024 Submission Period, 79150–79152

PROPOSED RULES

Air Quality State Implementation Plans; Approvals and Promulgations:

Connecticut; New Haven and Fairfield Counties Second 10-Year Limited Maintenance Plan for the 2006 24-Hour Particulate Matter 2.5 Standard, 79189–79195

Connecticut; State Implementation Plan Revisions Required by the 2015 Ozone National Ambient Air Quality Standard, 79186–79189

Washington; Designation of Areas for Air Quality Planning Purposes; Redesignation Request and Associated Maintenance Plan for Whatcom County 2010 SO₂ Nonattainment Area, 79195–79203

Significant New Use Rules on Certain Chemical Substances, 79203–79220

NOTICES

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

Formaldehyde Emissions Standards for Composite Wood Products Act, 79291–79292

Environmental Impact Statements; Availability, etc., 79292–79293

Hearings, Meetings, Proceedings, etc.:

Environmental Financial Advisory Board, 79291

Farm Credit Administration**NOTICES**

Meetings; Sunshine Act, 79293

Federal Deposit Insurance Corporation**RULES**

Statement of Policy on Bank Merger Transactions, 79125–79140

NOTICES

Hearings, Meetings, Proceedings, etc.:

Advisory Committee on Community Banking, 79293–79294

Termination of Receivership, 79293

Federal Energy Regulatory Commission**PROPOSED RULES**

Critical Infrastructure Protection Reliability Standard:

Cyber Security—Internal Network Security Monitoring, 79178–79183

NOTICES

Application:

White Pine Waterpower, LLC, 79288–79290

Combined Filings, 79284–79285, 79287–79288

Environmental Assessments; Availability, etc.:

Isabella Partners, 79290–79291

Northern States Power Co., 79285

Institution of Section 206 Proceeding and Refund Effective Date:

Willowbrook Solar I, LLC, 79285–79286

Request under Blanket Authorization:

Panhandle Eastern Pipe Line Co., LP, 79286–79287

Federal Highway Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 79333–79334

Federal Railroad Administration**NOTICES**

Final Federal Agency Action:

Proposed Railroad Project in California on Behalf of the California High-Speed Rail Authority, 79334

Federal Reserve System**NOTICES**

Change in Bank Control:

Acquisitions of Shares of a Bank or Bank Holding Company, 79294

Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 79294

Federal Transit Administration**NOTICES**

Final Circular:

Award Management Requirements, 79336–79345

Enhanced Mobility of Seniors and Individuals with

Disabilities: Grant Program Guidance, 79334–79336

Rural Areas Formula Grant Programs Guidance, 79345–79350

Urbanized Areas Formula Grant Programs Guidance, 79350–79357

Financial Crimes Enforcement Network**PROPOSED RULES**

Special Measure Against ABLV Bank, AS as a Financial Institution of Primary Money Laundering Concern; Withdrawal, 79184–79186

Food and Nutrition Service**PROPOSED RULES**

Supplemental Nutrition Assistance Program:

Disaster Supplemental Nutrition Assistance Program; Withdrawal, 79174–79175

Forest Service**NOTICES**

Adoption of Categorical Exclusions under the National Environmental Policy Act, 79228–79229

Environmental Impact Statements; Availability, etc.:

Dakota Prairie Grasslands, ND; Dakota Prairie Grasslands

Land and Resource Plan Amendment and Site-

Specific Projects for the Elkhorn Ranchlands;

Withdrawal, 79227–79228

General Services Administration**RULES**

Acquisition Regulation:

Technical Amendments, 79172

Health and Human Services Department

See Centers for Medicare & Medicaid Services

See Children and Families Administration

See Health Resources and Services Administration

See National Institutes of Health

See Substance Abuse and Mental Health Services Administration

Health Resources and Services Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 State Maternal Health Innovation Maternal Health Annual Report, 79296–79297
 The Maternal, Infant, and Early Childhood Home Visiting Program Statewide Needs Assessment Update, 79297–79299

Homeland Security Department

See Coast Guard

See Transportation Security Administration

Interior Department

See Land Management Bureau

International Trade Administration**NOTICES**

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
 Brass Rod from Israel, 79243–79245
 Ceramic Tile from India, 79245–79248
 Certain Pasta from Italy and the Republic of Türkiye, 79255–79256
 Prestressed Concrete Steel Wire Strand from Mexico, 79252–79255
 Raw Flexible Magnets from the People's Republic of China and Taiwan, 79242–79243
 Sales at Less Than Fair Value; Determinations, Investigations, etc.:
 Aluminum Lithographic Printing Plates from Japan, 79250–79252
 Aluminum Lithographic Printing Plates from the People's Republic of China, 79248–79250, 79256–79259

International Trade Commission**NOTICES**

Investigations; Determinations, Modifications, and Rulings, etc.:
 Certain Exercise Equipment and Subassemblies Thereof, 79306–79307
 Certain Smart Televisions, 79307–79308

Justice Department

See Drug Enforcement Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 2024 Law Enforcement Management and Administrative Statistics Survey, 79315–79316

Land Management Bureau**NOTICES**

Environmental Assessments; Availability, etc.:
 McGregor Range, NM, Application for Withdrawal Extension, 79305–79306

National Aeronautics and Space Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Special Events, 79317
 Hearings, Meetings, Proceedings, etc.:
 Heliophysics Advisory Committee, 79316–79317

National Highway Traffic Safety Administration**NOTICES**

Petition for Decision of Inconsequential Noncompliance:
 Tesla, Inc., 79358–79360

National Institutes of Health**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Federally Funded Research Development Center Contract Administration System Vendor Portal National Cancer Institute, 79301–79302
 Inclusion Enrollment Form, 79300–79301
 Hearings, Meetings, Proceedings, etc.:
 Center for Scientific Review, 79300, 79302–79303
 National Heart, Lung, and Blood Institute, 79299
 National Institute of Allergy and Infectious Diseases, 79299–79300, 79302
 National Institute on Drug Abuse, 79300

National Oceanic and Atmospheric Administration**RULES**

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
 2024 Commercial Closure for Snowy Grouper in the South Atlantic, 79172–79173
 Fisheries of the Northeastern United States:
 Atlantic Bluefish Fishery; Quota Transfer from New Jersey to North Carolina, 79173

PROPOSED RULES

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
 Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Amendment 3, 79220–79225

NOTICES

Hearings, Meetings, Proceedings, etc.:
 South Atlantic Fishery Management Council, 79259

Nuclear Regulatory Commission**RULES**

List of Approved Spent Fuel Storage Casks:
 Holtec International HISTORM 100 Cask System, Certificate of Compliance No. 1014, Renewed Amendment No. 18, 79125

NOTICES

Guidance:
 Radiological Survey and Dose Modeling of the Subsurface to Support License Termination, 79317–79318
 Meetings; Sunshine Act, 79318–79319

Pipeline and Hazardous Materials Safety Administration**NOTICES**

Project-Specific Waiver of Build America, Buy America Act Requirements for Certain Products:
 Pipeline Safety; City Utilities of Springfield, MO, 79362–79364
 Pipeline Safety; Philadelphia Gas Works, 79360–79362

Postal Regulatory Commission**NOTICES**

New Postal Products, 79319–79320

Rural Housing Service**NOTICES**

Funding Opportunity:

Multifamily Housing Preservation and Revitalization
Demonstration Program and for Subsequent Loans for
Preservation Activities for Fiscal Year 2024, 79229–
79242

Securities and Exchange Commission**NOTICES**

Self-Regulatory Organizations; Proposed Rule Changes:

he Depository Trust Co., 79320–79322
MIAX PEARL, LLC, 79322–79324
National Securities Clearing Corp., 79324–79327

Small Business Administration**NOTICES**

Disaster Declaration:

Louisiana, 79327
Louisiana; Public Assistance Only, 79328

Interest Rates, 79327–79328

Social Security Administration**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 79328–79330

State Department**RULES**

International Traffic in Arms Regulations:

Prohibited Exports, Imports, and Sales to or from Certain
Countries—Cyprus, 79140–79142

**Substance Abuse and Mental Health Services
Administration****NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 79303–79304

Surface Transportation Board**NOTICES**

Acquisition of Control:

Van Pool Transportation, LLC, Transaction Corporate
Shuttles, Inc., 79330–79331

Exemption:

Change of Operator; Oklahoma and Kansas Railroad, LLC,
Oklahoma Department of Transportation and
Blackwell Industrial Authority, 79331–79332
Continuance in Control; Chicago Rock Island and Pacific
Railroad LLC, Oklahoma and Kansas Railroad, LLC,
79332–79333

Trade Representative, Office of United States**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Russia's Implementation of its World Trade Organization
Commitments; Cancellation, 79333

Transportation Department

See Federal Highway Administration

See Federal Railroad Administration

See Federal Transit Administration

See National Highway Traffic Safety Administration

See Pipeline and Hazardous Materials Safety
Administration

Transportation Security Administration**NOTICES**

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

Federal Flight Deck Officer Program, 79304–79305

Treasury Department

See Comptroller of the Currency

See Financial Crimes Enforcement Network

Veterans Affairs Department**NOTICES**

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

Application for Individualized Tutorial Assistance,
79366–79367

Enhanced-Use Lease:

Real Property for the Development of Permanent
Supportive Housing at the Palo Alto Health Care
System, Menlo Park Division, Menlo Park, CA
Campus, 79365–79366

Hearings, Meetings, Proceedings, etc.:

Special Medical Advisory Group, 79366

Reader Aids

Consult the Reader Aids section at the end of this issue for
phone numbers, online resources, finding aids, and notice
of recently enacted public laws.

To subscribe to the Federal Register Table of Contents
electronic mailing list, go to [https://public.govdelivery.com/
accounts/USGPOOFR/subscriber/new](https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new), enter your e-mail
address, then follow the instructions to join, leave, or
manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR**Proposed Rules:**

272.....	79174
274.....	79174
280.....	79174
945.....	79175

10 CFR

72.....	79125
---------	-------

12 CFR

303.....	79125
----------	-------

18 CFR**Proposed Rules:**

40.....	79178
---------	-------

22 CFR

126.....	79140
----------	-------

31 CFR**Proposed Rules:**

1010.....	79184
-----------	-------

33 CFR

165 (2 documents)	79142, 79144
-------------------------	-----------------

34 CFR

75.....	79146
76.....	79146
79.....	79146

40 CFR

52.....	79147
711.....	79150

Proposed Rules:

52 (3 documents)	79186, 79189, 79195
721.....	79203

42 CFR

425.....	79152
----------	-------

48 CFR

552.....	79172
----------	-------

50 CFR

622.....	79172
648.....	79173

Proposed Rules:

622.....	79220
----------	-------

Rules and Regulations

Federal Register

Vol. 89, No. 188

Friday, September 27, 2024

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

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AL18

List of Approved Spent Fuel Storage Casks: Holtec International HISTORM 100 Cask System, Certificate of Compliance No. 1014, Renewed Amendment No. 18

Correction

In rule document 2024-19801 appearing on pages 72304 through 723095, in the issue of Thursday, September 5, 2024, make the following correction:

On page 72305, in the first column, on the 41st line, change “September 26, 2024,” to “October 7, 2024,”

[FR Doc. C1-2024-19801 Filed 9-26-24; 8:45 am]

BILLING CODE 0099-10-D

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR 303

RIN 3064-ZA31

Final Statement of Policy on Bank Merger Transactions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final statement of policy.

SUMMARY: The FDIC is issuing this final Statement of Policy on Bank Merger Transactions (Final Statement) to provide transparency on how the FDIC administers its responsibilities under the Bank Merger Act (BMA). The Final Statement takes into consideration comments received in response to the FDIC’s request for comment on a proposed Statement of Policy on Bank Merger Transactions (Proposed Statement), and this Final Statement reflects certain changes made in response to comments received. The Final Statement focuses on the scope of transactions subject to FDIC approval,

the FDIC’s process for evaluating merger applications, and the principles that guide the FDIC’s consideration of the applicable statutory factors as set forth in the BMA.

DATES: The Final Statement supersedes the prior FDIC Statement of Policy on Bank Merger Transactions on October 28, 2024.

FOR FURTHER INFORMATION CONTACT:

George Small, Senior Examination Specialist, (347) 267-2453, gsmall@fdic.gov, Division of Risk Management Supervision; Annmarie Boyd, Senior Counsel, (202) 898-3714, aboyd@fdic.gov, Benjamin Klein, Supervisory Counsel, (202) 898-7027, bklein@fdic.gov, Legal Division; Jessica Thurman, Chief, (202) 898-3579, jthurman@fdic.gov, Division of Depositor and Consumer Protection; Mark Haley, Chief, (917) 320-2911, mahaley@fdic.gov, Division of Complex Institution Supervision and Regulation; and Ryan Singer, Chief, (202) 898-7532, rsinger@fdic.gov, Division of Insurance and Research.

SUPPLEMENTARY INFORMATION:

I. Background

The Final Statement supersedes the prior FDIC Statement of Policy on Bank Merger Transactions (Superseded Statement), which was last amended in 2008. Since the Superseded Statement was last revised, the BMA has been amended and significant changes have occurred in the banking industry and financial system, which has prompted the FDIC to develop this Final Statement. Following the FDIC’s 2022 request for information and comment¹ on rules, regulations, guidance, and statements of policy regarding bank merger transactions, the FDIC published a request for comment on its Proposed Statement in the **Federal Register** on April 19, 2024.²

The FDIC received 23 letters from the public in response to the Proposed Statement, including representatives of the financial services industry, trade associations, consumer groups, university professors, and members of Congress.³ After reviewing the public comments received in response to the Proposed Statement, the FDIC has made revisions to address certain of the

comments and is adopting this Final Statement. A summary and discussion of the comments and changes incorporated in the Final Statement are described in section III of this Supplementary Information.

II. Overview of the Final Statement

The Final Statement updates, strengthens, and clarifies the FDIC’s policies related to the evaluation of bank merger applications. As compared to the Superseded Statement, the Final Statement includes new content; is more principles-based; addresses jurisdiction and scope; describes the FDIC’s approach to each statutory factor separately; and highlights other matters and considerations such as interstate mergers and the unique aspects of applications from non-banks, operating non-insured entities, and banks that are not traditional community banks. The Final Statement highlights the FDIC’s expectations relative to each statutory factor and incorporates analytical considerations for these areas.

Introduction

The introduction to the Final Statement retains the Proposed Statement’s content by providing a roadmap of the Final Statement’s structure, which follows the BMA’s core statutory provisions, and highlights the principles that guide the FDIC’s evaluation of the statutory factors for a merger application.

Jurisdiction and Scope

The Final Statement generally retains with minor modifications the Proposed Statement’s discussion regarding the FDIC’s jurisdiction under the BMA and the scope of transactions subject to regulatory approval. Specifically, the Final Statement provides transparency and clarity on the types of transactions that are subject to the BMA, including mergers in substance and assumptions of deposits or other similar liabilities. This section highlights the overarching principle that the FDIC emphasizes a transaction’s substance over its form when determining whether it constitutes a merger transaction subject to FDIC approval under the BMA.

Process and Adjudication

The Final Statement retains the Proposed Statement’s discussion of the FDIC’s processing and adjudication of

¹ 87 FR 18740 (March 31, 2022).

² 89 FR 29222 (April 19, 2024).

³ Request for Comment on Proposed Statement of Policy on Bank Merger Transactions. See 89 FR 29222.

merger applications. With respect to processing, the Final Statement emphasizes the importance of pre-filing meetings, substantially complete applications, and public feedback. With respect to adjudication, the Final Statement retains the FDIC's longstanding tenet of the FDIC's applications processing policy and procedures⁴ to not use conditions as a means to favorably resolve statutory factors, but adopts slightly modified language to more clearly articulate this point. The Final Statement indicates imposition of conditions will be taken into account as part of the FDIC's consideration of the merger application, but will not necessarily lead to the favorable resolution of any statutory factor where the facts and circumstances are otherwise unfavorable. As with the Proposed Statement, this section of the Final Statement emphasizes that the FDIC Board of Directors (FDIC Board) reserves the authority to deny any merger transaction or to act on any merger transaction for which one or more statutory factors are not favorably resolved. In addition, the FDIC Board notably reserves authority to act on any application for which the Attorney General has not notified the FDIC in writing that the proposed transaction would not have a significantly adverse effect on competition.

The Final Statement retains the Proposed Statement's non-exhaustive list of circumstances that could lead to an unfavorable finding on one or more statutory factors. Further, it asserts the FDIC Board's prerogative to release a statement regarding withdrawn transactions if such a statement is considered to be in the public interest for creating transparency for the public and future applicants. The FDIC emphasizes that such statements are not to be expected in every instance, but only when warranted by the circumstances, and would be in conformance with the FDIC's obligation to protect confidential information.

Statutory Factors

Consistent with the Proposed Statement, the Final Statement is organized around a discussion of the BMA's statutory factors. The BMA prohibits approval of monopolistic merger transactions, restricts otherwise

anticompetitive transactions, and requires consideration of statutory factors related to financial and managerial resources and future prospects, convenience and needs of the community to be served, combatting money laundering, and financial stability.

As emphasized in the Final Statement and throughout this Supplementary Information, the FDIC Board reserves authority to act on any merger application for which FDIC staff has not found favorably on one or more statutory factors. Such action may be either an approval or a denial. The Final Statement describes the FDIC's approach to evaluating each statutory factor. The Final Statement is intended to provide greater clarity regarding what features of merger transactions may be consistent with a favorable finding on each respective statutory factor. When a merger transaction includes these features, and the facts and circumstances of such transaction clearly weigh in favor of favorable resolution of the statutory factors, the FDIC expects such applications to be approved expeditiously under delegated authority. When the facts and circumstances do not so clearly weigh in favor of favorable resolution of the statutory factors, it is appropriate that the judgment of the FDIC Board be brought to bear on the application. In addition, it is important to note that on June 18, 2024, the FDIC Board adopted a resolution requiring full FDIC Board briefings on merger, and certain other, applications that have been outstanding for more than 270 days since the application's filing (Board Briefings Resolution).⁵ The Board Briefings Resolution ensures that the FDIC Board has the opportunity to be informed of, and provide direction on, merger, and certain other, applications for which obstacles to favorable resolution of the statutory factors may be materializing.

Certain aspects of the Final Statement, such as the expectation that mergers resulting in IDIs with \$50 billion or more in total assets should be the subject of public meetings and the expectation that mergers resulting in IDIs with \$100 billion or more in total assets be the subject of a heightened financial stability analysis are intended to position the FDIC to conduct an informed evaluation of the statutory factors for highly consequential merger proposals.

⁵ FDIC Board Resolution Seal No. 088980 (June 20, 2024). This resolution also applies to outstanding deposit insurance applications.

Monopolistic or Anticompetitive Effects

The Final Statement retains and builds upon the Proposed Statement's discussion of how the FDIC evaluates the competitive effects of a merger transaction. The Final Statement describes the FDIC's approach to considering concentrations in relevant geographic and product markets, which begins with measuring concentrations based on local deposit shares, but as necessary will take into account any appropriate data sources and analytical approaches relevant to fully assessing the competitive effects of the transaction.

The Final Statement builds upon the Proposed Statement by highlighting practices that may be particularly relevant to rural institutions. Specifically, the Final Statement acknowledges that, as circumstances warrant, the FDIC will take into account certain non-bank competitors, expressly identifying credit unions, thrifts, and Farm Credit System institutions. While the FDIC will consider such competitors when relevant, the FDIC expects that the presence of such competitors may be especially salient for mergers involving rural markets. In addition, the Final Statement recognizes that mergers in rural areas involving local community banks may result in concentrated markets and emphasizes that the FDIC will carefully balance the competitive effects of such a merger with the public interest served by the capacity of the resulting IDI to meet the convenience and needs of the community. Finally, a footnote was added to clarify that competitors in the market include, but are not limited to, credit unions, thrifts, and Farm Credit System institutions.

The FDIC continues to recognize the July 9, 2021, Executive order (E.O.) addressing competition in the American economy.⁶ The FDIC continues to coordinate with the Department of Justice (DOJ) and the other Federal banking agencies in modernizing bank merger oversight, and the Final Statement emphasizes that the analytical methods the FDIC employs in conducting its independent analysis will continue to be informed by the DOJ's approach to evaluating competitive effects. As previously stated, the FDIC Board reserves authority to act on any application in which the merging institutions operate in the same relevant geographic markets(s) and for which the Attorney General has not notified the FDIC that the proposed transaction would not have a significantly adverse effect on

⁶ E.O. 14036 "Promoting Competition in the American Economy" (July 9, 2021).

⁴ Applications Procedures Manual, Applications Overview, 1.1, <https://www.fdic.gov/system/files/2024-07/section-01-01-overview.pdf>; APM, Standard and Nonstandard Conditions, 1.11, <https://www.fdic.gov/system/files/2024-07/section-01-11-newconditions.pdf>; and Deposit Insurance Applications Procedures Manual Supplement—Applications from Non-Bank and Non-Community Bank Applicants, <https://www.fdic.gov/sites/default/files/2024-03/procmanual-supplement.pdf>.

competition, or for which the Attorney General has notified the FDIC that the application would have a significantly adverse effect on competition. In such cases, applicants would need to demonstrate that the anticompetitive effects of the merger transaction would be outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

The Final Statement discusses divestitures as a means to mitigate competitive concerns before allowing the merger to be consummated. To promote the effectiveness of the divestiture(s) in mitigating anticompetitive concerns, the FDIC generally expects that the selling IDI will neither enter into non-compete agreements with any employee of the divested entity nor enforce any existing non-compete agreements with any of those entities. In addition, the Final Statement communicates the FDIC's expectation that in situations where an IDI is divesting or otherwise closing a branch in connection with the transaction, the FDIC also expects the IDI to waive any terms or conditions (e.g., exclusive use clauses) that preclude the ability of other IDIs to lease or purchase the property.

Financial Resources

The Final Statement generally retains the Proposed Statement's emphasis on the resulting IDI reflecting sound financial performance and condition and meeting applicable capital standards. However, the Final Statement does not incorporate the Proposed Statement's assertion that the FDIC will not find favorably on the financial resources factor if the merger would result in a weaker IDI from a financial perspective. This statement was removed to avoid the suggestion that an IDI that reflects a very strong financial condition would be precluded from absorbing a weaker target. It was replaced with language affirming that a favorable finding on the financial resources factor would only be appropriate in cases where the merger results in a combined IDI that presents less financial risk than the financial risk posed by the institutions on a standalone basis. The revised comment affirms that the FDIC's analysis balances the impact of the proposed merger on financial resources particularly when the resulting IDI may initially be weaker immediately following consummation.

This language is consistent with the FDIC's historical approach to the analysis of this factor. While a resultant IDI may be weaker post-acquisition, the FDIC broadly considers the long-term

financial impacts over the near-term implications of a merger. For example, when a proposed merger transaction involves an IDI in less than satisfactory condition (or experiencing potentially significant financial or managerial concerns), emphasis is placed on the capacity of the acquiring IDI to absorb the weaker IDI and address the problems or concerns identified. Furthermore, purchase accounting rules generally require an acquiring IDI to recognize the target's assets and liabilities at fair value, which often causes the resulting IDI to look weaker financially on day one, post-merger.

Managerial Resources

The Final Statement retains without change the Proposed Statement's discussion of the managerial resources factor. This discussion reflects and elaborates on the FDIC's expectation that the management of the resulting IDI possess the capabilities to administer the resulting IDI's affairs in a safe and sound manner, and to effectively implement post-merger integration plans and strategies.

Future Prospects

The Final Statement retains without change the Proposed Statement's discussion of the future prospects statutory factor. The discussion reflects and elaborates upon the FDIC's expectation that the resulting IDI will operate in a safe and sound manner on a sustained basis following consummation of the merger.

Convenience and Needs of the Community To Be Served

The Final Statement retains with slight modifications the Proposed Statement's discussion of the statutory factor related to the convenience and needs of the community to be served. Notably, the Final Statement communicates and elaborates upon the FDIC's expectation that a merger between IDIs⁷ will enable the resulting IDI to better meet the convenience and needs of the community to be served than would occur absent the merger in order for FDIC staff to find favorably on this factor. As noted above, the FDIC

⁷ The Final Statement emphasizes the importance of a merger enabling a resulting IDI to better meet the convenience and needs of the community in the context of mergers involving two IDIs. The FDIC has jurisdiction to act on any merger transaction involving an IDI and a noninsured institution. For transactions that have a negligible impact on consumers, such as where an IDI merges with a non-customer facing subsidiary, the FDIC will consider the IDI's record in meeting the convenience and needs of the community to be served as the primary means for resolving this factor.

Board retains authority to evaluate any merger transaction for which one or more of the statutory factors are not favorably resolved. Further, the FDIC Board expects a favorable resolution of the convenience and needs factor to be clearly supported by a demonstration of how the merger transaction would position the resulting IDI to better meet the needs of the communities it serves. A favorable finding on the convenience and needs of the community to be served factor may not be sufficient to support approval of the application when anticompetitive effects are identified. In situations where anticompetitive effects are identified, the FDIC will evaluate whether the applicant has demonstrated that the benefits to the convenience and needs of the community will clearly outweigh the anticompetitive effects.

Absent such a demonstration, the FDIC Board reserves the authority to evaluate and act upon the merger by taking into account all of the facts and circumstances of the transaction in the context of the statutory factors.

In addition, the Final Statement communicates the FDIC's expectation to hold public hearings for mergers resulting in IDIs that have \$50 billion or more in total consolidated assets. Public input is an essential part of the FDIC's consideration of every merger transaction. The primary means of receiving public input is through the statutorily mandated public comment process, but the Final Statement reflects the FDIC's policy that an additional forum for public input for the most consequential merger transactions would be appropriate.

Risk to the Stability of the United States Banking or Financial System

The Final Statement retains without change the Proposed Statement's discussion of the financial stability factor. The discussion explains that the FDIC evaluates the financial stability factor with respect to the size of the entities involved in the transaction, the availability of substitute providers for any critical products or services to be offered by the resulting IDI, the resulting IDI's degree of interconnectedness with the U.S. banking or financial system, the extent to which the resulting IDI contributes to the U.S. banking or financial system's complexity, and the extent of the resulting IDI's cross-border activities.

The Final Statement emphasizes that size alone is not dispositive for determining the risk to the U.S. banking or financial system's stability, but nonetheless recognizes that transactions that result in a large IDI are more likely

to present potential stability concerns. The Final Statement communicates the FDIC's expectation that additional scrutiny will be applied to the evaluation of such mergers. For the purposes of clarifying expectations, the Final Statement reflects that this additional scrutiny will apply to transactions resulting in IDIs with \$100 billion or more in total consolidated assets. The FDIC further emphasizes that such bank merger applications are typically accompanied by companion applications at the holding company level, which are subject to approval by the Board of Governors of the Federal Reserve System (Federal Reserve Board). The expectation related to a resulting IDI with total assets over \$100 billion as identified in the Final Statement aligns with the Federal Reserve Board's delegations of authority.⁸

Effectiveness in Combatting Money Laundering Activities

The Final Statement retains without change the Proposed Statement's discussion regarding the statutory factor related to the effectiveness in combatting money laundering. The Final Statement communicates and elaborates upon the FDIC's expectation that approved merger transactions will result in IDIs with effective programs to combat money laundering and counter the financing of terrorism.

Other Matters and Consideration

The Final Statement retains the Proposed Statement's discussion of other matters and considerations, which alerts the public to the added requirements that apply to interstate transactions, as well as the FDIC's approach to applications involving non-banks or banks that are not traditional community banks, and applications involving operating non-insured entities.

III. Summary and Discussion of Comments

Many commenters recommended some type of revision or alteration with respect to the discussion of how the FDIC analyzes the statutory factors, with particular emphasis on competitive effects, convenience and needs of the community, and risk to the stability of the U.S. banking or financial system. Additionally, many commenters provided feedback or recommendations for process changes that are outside the scope of what was initially proposed. For example, multiple commenters discussed a need to increase the scrutiny applied to acquisitions of banks

by nonbanks such as credit unions.

Other items suggested include:

- adopting a separate review framework for mergers involving community banks and nonbank acquirers;
- ending expedited reviews/processing of bank merger applications;
- adopting metrics and benchmarks for a streamlined application and an expedited review for transactions between small IDIs that do not raise significant supervisory or financial stability concerns and where no adverse public comments have been filed;
- disallowing banks with over 10 percent of U.S. deposits from buying failing banks unless there are no other buyers;
- developing an interagency statement of policy; and
- consulting the Consumer Financial Protection Bureau on all merger applications.

Some commenters that were largely supportive of aspects of the Proposed Statement recommended further refinements or additional elements for consideration. For example, one such commenter suggested that a merger must enhance the resulting IDI's ability to serve the public for it to warrant approval. However, the same commenter also suggested including a statement that the FDIC would add a condition to approval orders restricting the ability of IDIs to close branches beyond those identified for closing in the application. Some commenters were broadly opposed to certain aspects of the Proposed Statement. These commenters argued that the FDIC's current framework for reviewing proposed merger transactions was sound and warned of negative consequences from the proposed revisions.

Jurisdiction and Scope

Some commenters suggested that the Proposed Statement's jurisdiction and scope section exceeds the FDIC's statutory authority, contending that statements regarding the FDIC's jurisdiction are overly broad as they suggest that applications are necessary for various types of transactions that are not true mergers. The BMA expressly subjects a wide range of transactions to regulatory approval, and the Final Statement generally retains the Proposed Statement's approach to jurisdiction and scope, which reflects statutory requirements and the FDIC's longstanding practice. With respect to asset acquisitions that do not involve deposits or similar liabilities, the Final Statement maintains that the FDIC considers transactions to be mergers in

substance when a target would no longer compete in the market, regardless of whether the target plans to liquidate immediately after consummating the transaction. Similar to the Proposed Statement, the Final Statement offers as an example of a substantive merger a transaction in which "an IDI absorbs all (or substantially all) of a target entity's assets and the target entity dissolves (or otherwise ceases to engage in the acquired lines of business such that the target is no longer a viable competitor)."⁹ The Final Statement adopts the language related to the target no longer being a viable competitor in order to reflect the BMA's emphasis on competitive considerations.

In response to the Proposed Statement, it was suggested that the FDIC should assert that asset acquisitions that would not qualify as *de facto* mergers under State common law would not be subject to a filing requirement under the BMA. The Final Statement makes no such reference to State common law, as the scope of transactions subject to the BMA for the purposes embodied by its statutory factors is not perfectly coextensive with the scope of transactions that qualify as *de facto* mergers under divergent State law doctrines for the purpose of establishing successor liability. In addition, the Final Statement retains the Proposed Statement's explanation that an IDI's assumption of any deposit or other similar liabilities is subject to the BMA, and the FDIC emphasizes that any transaction that consists of an assumption of deposits or other similar liabilities is subject to the BMA regardless of whether the transaction as a whole represents a substantive merger.

Although the scope of transactions subject to the BMA is broad and there is no *de minimis* exception to the BMA, the Final Statement acknowledges that the FDIC will evaluate the applicable statutory factors in a manner that is appropriate to each transaction.¹⁰

⁹ This is generally consistent with interpretations of the OCC regarding section 18(c)(2) of the Bank Merger Act. See Office of the Comptroller of the Currency, Comptroller's Licensing Manual: Business Combinations ("The OCC interprets 'acquire the assets' for BMA filing purposes to include the acquisition of assets such that the target is no longer a viable competitor, regardless of whether the target plans to liquidate immediately after consummating the transaction.").

¹⁰ For example, the BMA would apply to a transaction in which an IDI merges with a non-customer-facing operating subsidiary. Even in cases where the IDI is over \$50 billion in assets, it may not be necessary for the evaluation of the convenience and needs factor to hold public hearings given the nature of the transaction.

⁸ 12 CFR 265.20(c)(12)(vii).

Process and Adjudication

Multiple commenters requested the adoption of specific approval metrics and benchmarks and the removal of general terms. One commenter requested that the Final Statement include benchmarks for a streamlined application and expedited review for transactions between small IDIs that do not raise significant supervisory concerns and where no adverse public comments have been filed. Several commenters requested a *de minimis* exception for a merger in which the resulting IDI would have less than \$10 billion in total assets. Some commenters requested that the FDIC terminate expedited processing of applications. However, other commenters stated an opposing view.

No specific bright lines or performance thresholds were included in the Final Statement to retain flexibility to evaluate the facts and circumstances of each individual application, and no *de minimis* thresholds were adopted. Section 303.64 of the FDIC Rules and Regulations codifies the requirements for expedited processing of merger applications. The regulation has not been changed. Applications that qualify will receive expedited processing when appropriate, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2) of the FDIC Rules and Regulations. It is important to note that if the FDIC does not act within the expedited processing period, it does not constitute an automatic or default approval.

Multiple commenters noted that the Final Statement should expressly authorize conditions to be used to find favorably on a statutory factor. The Final Statement does not state that conditions can be used to find favorably on a statutory factor that otherwise presents material concerns. However, the FDIC may impose targeted conditions to mitigate specific risks. Conditions are not a substitute for the resolution of, and do not in and of themselves favorably resolve, an applicable statutory factor. As noted in the Final Statement, the imposition of conditions will be taken into account as part of the FDIC's consideration of the merger application, but will not necessarily lead to the favorable resolution of any statutory factor where the facts and circumstances are otherwise unfavorable. This is

consistent with the FDIC's long-standing applications processing policy.¹¹

Commenters suggested that the process for the FDIC Board to post a statement about a withdrawn application be eliminated. Further, commenters indicated that the FDIC should confirm that detailed nonpublic information provided in merger applications would remain confidential. The Final Statement retains the FDIC Board's discretion to release a statement regarding the concerns with a withdrawn application if such a statement is considered to be in the public interest for purposes of creating transparency for the public and future applicants. Publishing such a statement provides the industry with insights and understanding of what features of a proposal may be inconsistent with approval. If such a statement is not published, the industry and consumers would not understand the rationale for the withdrawal and the issues/concerns identified during the review process. The publication of such a statement is not expected for most transactions and the FDIC intends that any such statement would be fully consistent with the confidentiality requirements of applicable laws and regulations and would not disclose confidential business information of applicants.

Statutory Factors

Monopolistic or Anticompetitive Effects

Commenters stated that pre-consummation divestitures would add significant delay and complexity to an already lengthy and costly merger process. The Final Statement retains the language as presented. Any potential divestitures would follow regulatory approval. Divestitures, when required, may be included as a condition that must be addressed prior to consummation of the merger. Such actions would not delay the merger application submission, review, and approval processes; as such, the length of time for regulatory review and adjudication is not expected to change.

Multiple commenters suggested revisions to the competitive effects analysis. Several commenters raised concerns with credit union acquisitions of IDIs and requested a special analysis of the competitive impacts of such transactions. It was also suggested that credit union competition should be given a multiplier when used as part of the competitive analysis. No changes were made to the Final Statement to address the competitive effects analysis of credit union acquisitions of IDIs; as

such, transactions are subject to the same statutory factors. When assessing the competitive effects, the FDIC considers all relevant market participants; however, no multiplier is used to increase the credit union impact on the Herfindahl–Hirschman Index (HHI),¹² which could inaccurately reflect the influence of credit unions in the relevant geographic market. This is consistent with historical practice and remains unchanged in the Final Statement.

Other commenters noted that the Final Statement should include specific metrics for transactions to be considered anti-competitive, including specific HHI thresholds that would be consistent with approval. Other commenters requested to preserve the current thresholds since it provides a level of certainty by which mergers are presumed not to raise competitive concerns. Commenters also suggested that the Final Statement should use a higher HHI threshold in rural markets and that use of the Federal Reserve Board's banking markets should be revisited. The Final Statement does not include specific HHI metrics or benchmarks at this time. With respect to the Federal Reserve Board's banking markets, the FDIC will employ a geographic market definition that is appropriate to the facts and circumstances of the application. The evaluative considerations for competitive effects analysis are described in the Final Statement, and HHI calculations are described in the Applications Procedures Manual, section 4, Mergers. Section 4 is currently being revised to reflect the Final Statement.

With respect to the evaluation of competition in rural markets, the Final Statement emphasizes the FDIC's statutory obligation to weigh any potential anticompetitive effects of a merger against the convenience and needs of the community to be served, and that it is possible for consideration of convenience and needs to outweigh a concern with potential anticompetitive effects. The FDIC recognizes that in rural communities, typical concentration measures such as HHI based purely on IDI deposit concentrations might be incomplete,

¹² The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2,600$). The HHI calculation can also be applied to other relevant Consolidated Reports of Condition categories or other appropriate sources of data, aside from deposits. For example, the HHI analysis may also include data relative to commercial and industrial loans.

¹¹ FDIC Applications Procedures Manual, section 1.11, Standard and Nonstandard Conditions.

particularly to the extent that residents receive banking services from credit unions, Farm Credit System institutions, or other nonbanks or banks that are not traditional community banks. While the FDIC does not introduce a tailored approach to the evaluation of competitive effects in rural markets, in cases where the relevant geographic market is rural, the FDIC considers all relevant measures of concentration, including the potential public interest benefits of a merger of two local entities in the local market.

A few commenters indicated that the competitive effects analysis should be conducted on a county-level and capture county-level demographics such as median income levels or percentage of people of color or low-to-moderate income people. These comments suggested that such analysis should consider additional divestitures or mandate commitments to increase lending and banking services. It was also suggested that concentrations should be measured nationally. As stated in the Final Statement, the FDIC generally employs a framework for evaluating competitive effects involving a transaction between IDIs with traditional community banking operations within their local geographic markets. However, the FDIC will tailor its evaluation to consider the size and competitive effects of the resulting IDI. Further, the Final Statement notes that the FDIC identifies all relevant geographic markets (local, regional, and national) based on the geographic areas in which the merging entities operate and in which customers may practically turn to competitors for alternative products and services. If the relevant geographic market is shown to be at the county level, the county will be the focus of the analysis; if the relevant market is wider, the assessment will reflect that area. With respect to divestitures and commitments to increase services, such determinations are made depending on the facts and circumstances of the application.

A couple of commenters urged the FDIC to de-emphasize local deposit concentration as a key criterion for deciding mergers. Other commenters disagreed saying evaluating the competitive effects of mergers based on product or consumer sector concentrations introduces unpredictability with unclear benefits. It was suggested that evidence from traffic patterns could also be evaluated as a means to assess customer use of services in wider areas. As noted in the Final Statement, deposit concentration is an initial proxy for commercial banking products and services. The FDIC will

consider concentrations beyond those based on deposits. As appropriate, the FDIC may consider concentrations in any specific products or customer segments, such as, for example, the volume of small business or residential loan originations or activities requiring specialized expertise. Additionally, the Final Statement confirms that, when relevant, the analysis may incorporate other products offered by the merging entities with consideration given to whether consumers retain meaningful choices.

Some commenters indicated that the FDIC should not disfavor non-compete agreements, and others indicated that non-compete clauses for workers should be eliminated in all mergers. Consistent with current practice, the Final Statement retains the language as proposed, which states that the FDIC will generally not view favorably situations where the selling institution enters into non-compete agreements with any employee of the divested entity or seeks to enforce any existing non-compete agreements with any of those entities.

Two commenters noted that a *de minimis* exception is warranted for transactions involving highly concentrated rural markets. As previously stated, no specific metrics or thresholds are included as predicates to an evaluation of the competitive effects factor.

Financial and Managerial Resources and Future Prospects

Many commenters requested that the following statement in the proposed Statement be removed: “[t]he FDIC will not find favorably on the financial resources factor if the merger would result in a weaker IDI from an overall financial perspective.” Commenters contended that the statement appears to preclude the acquisition of weaker institutions during periods of economic distress. Commenters noted that the FDIC should clarify or revise its position regarding how it will evaluate a merger resulting in a weaker IDI from an overall financial perspective. It was also suggested that the FDIC could dispel concerns regarding how it will evaluate such mergers by noting it will balance the risks posed by the resulting IDI in light of the risks of denying a merger.

The statement that “[t]he FDIC will not find favorably on the financial resources factor if the merger would result in a weaker IDI from an overall financial perspective” has been removed from the Final Statement. Inclusion of such language created confusion regarding the acquisition of a weaker target by a stronger acquirer

with adequate resources to absorb and integrate the target. On balance, the FDIC determined that retention of the statement could be viewed as an indication that certain transactions would be precluded from receiving approval. The language was replaced with a statement that a favorable finding on the financial resources factor would be appropriate only in cases where the merger results in a combined IDI that presents less financial risk than the financial risk posed by the institutions on a standalone basis.

With respect to the evaluation of the financial and managerial resources, commenters noted that outstanding or pending matters that can be resolved in the normal supervisory course should not bar an institution from pursuing merger transactions. The Final Statement affirms that the assessment of managerial resources includes the responsiveness to issues or supervisory recommendations raised by regulators or auditors as well as any existing or pending enforcement actions. Additionally, the Final Statement discusses the FDIC’s expectation that a resulting IDI will have the managerial and operational capacity, and devote adequate resources, to ensure full and timely compliance with any outstanding corrective programs or supervisory recommendations. The FDIC does not view the existence of outstanding or pending enforcement actions as a bar to the pursuit of a merger.

Some commenters noted that the Final Statement should ensure that IDIs have more equity capital funding as a prerequisite for mergers (a 10 percent tier 1 leverage ratio was suggested). The Final Statement does not identify a specific capital threshold that would facilitate merger approvals; however, it does state that a critical component of the analysis of financial resources is the resultant IDI’s ability to meet applicable capital standards (including maintenance of appropriate allowances for loan or credit losses). The Final Statement affirms that, depending on the anticipated risk profile of the resulting IDI, the FDIC may impose, as a non-standard condition, capital requirements that are higher than applicable capital standards. However, no specific threshold is included to retain flexibility to assess the facts and circumstances of a particular transaction.

Commenters noted that management should demonstrate the prioritization of diversity, equity, and inclusion in their practices, products, and services. They recommended that the FDIC take into consideration data from Equal Employment Opportunity reports and

evaluate the applicant's efforts to promote gender, racial, and ethnic diversity in their boards, senior management, and branch personnel. The Final Statement was not amended to address these items.

A commenter suggested that IDIs with poor records of compliance with climate-related goals should not be allowed to merge. Discussion of climate-related goals has not been added to the Final Statement. However, if the management, compliance rating, and/or risk profile of the merging parties were adversely impacted by climate change challenges, the ability of the resulting IDI's management team to ameliorate and address the climate-related risks may be considered in the context of the applicable statutory factors.

Convenience and Needs of the Community To Be Served

Multiple commenters recommended revisions to the discussion of the FDIC's analysis of the convenience and needs of the community to be served. Multiple commenters asserted that there is no statutory requirement that the resulting IDI should better meet the convenience and needs of the community. These commenters stated that such an expectation is unnecessary and leaves the matter of determining whether it does so primarily at the discretion of the FDIC. Other commenters expressed support for this expectation, indicating that increased public benefit is of paramount importance. The Final Statement generally retains the approach as proposed, consistent with congressional intent¹³ and the FDIC's longstanding policy. Since October 1998, the FDIC's existing Statement of Policy has indicated the FDIC would consider the extent to which the proposed merger would likely benefit the general public and referenced examples of better banking services as factors for consideration of the convenience and needs of the community to be served.¹⁴

The Final Statement includes examples as to how the FDIC anticipates

the resulting IDI could meet this expectation. For example, an applicant may demonstrate how the transaction will benefit the public through higher lending limits, greater access to existing products and services, introduction of new or expanded products or services, reduced prices and fees, increased convenience in utilizing the credit and banking services and facilities of the resulting IDI, or other means. While not explicitly stated, the evaluation also considers the implications if the transaction was not approved and how that decision affects the convenience and needs of the community. The expectation for a favorable finding on this factor is for the community to gain from the transaction post-consummation. Applications that project reduced or diminished banking services will generally result in unfavorable findings on this factor. This approach is consistent with current policy and is intended to clarify the FDIC's approach to the evaluation of this statutory factor.

Commenters requested that the Final Statement clarify that only public comments that meet a level of significance would lead to additional FDIC review. One commenter suggested that the FDIC should implement a vetting procedure and criteria for submitting a comment and not automatically consider all comments as warranting the same consideration. Commenters also stated that Community Reinvestment Act (CRA) protests that are unsubstantiated from factual or legal perspectives (including, for example, form protests) should not be considered in determining whether a public hearing will be held.

As noted in § 303.2 of the FDIC Rules and Regulations, adverse comment(s) shall not include any other comment that is determined to be frivolous (for example, a non-substantive comment submitted primarily as a means of delaying action on the filing). While the Final Statement affirms that the FDIC will review and evaluate any public comments received in accordance with § 303.9 of the FDIC Rules and Regulations, consideration is not given to frivolous letters or statements. The FDIC will consider substantive public comments received regarding the ability of the applicant to meet the convenience and needs of the community to be served and will provide the applicant an opportunity to respond to any comment that is determined to be a CRA protest.

Commenters were mixed on the need for hearings. Some commenters agreed that hearings should be conducted when there are a significant number of CRA protests or the resulting IDI has over \$50

billion in total assets; others disagreed with using \$50 billion in total assets as a level for which hearings will be conducted. One letter suggested that any merger protest should trigger a public hearing or meeting. Finally, clarification was sought regarding the process for requesting a public hearing, the appropriate channels, and specific contacts in the process.

The Final Statement retains the expectation that mergers resulting in an IDI with over \$50 billion in total assets will be the subject of hearings; however, the FDIC historically has, and will continue to, conduct hearings for transactions under this level when deemed appropriate. Such a determination will depend on the facts and circumstances of the proposed merger. In making such a determination, the FDIC would consider the risk profile of the resultant IDI, the volume and nature of protest letters, and the likely prospective impact to the convenience and needs of the community to be served. With regard to the process for conducting public hearings, such guidelines are enumerated in § 303.10 of the FDIC Rules and Regulations. When the application is filed, the publication document indicates the appropriate channel to provide comments by listing the address of the appropriate FDIC office where comments may be sent. Such information provides the public with initial contacts to discuss concerns with the filing that may precipitate public hearings.

A few commenters stated that the FDIC should clarify what is meant by a "significant number" of CRA protests. The Final Statement does not state a specific number of CRA protests to be considered "significant"; rather, the FDIC considers all adverse comments from the public related to a pending filing when determining if the comment is deemed to rise to the level of a protest. Frivolous letters are not included. Additionally, the receipt of only one or two CRA protest letters may not be considered significant enough to lead to a public hearing; however, the FDIC retains the ability to hold a hearing in these instances. The decision to hold such hearings depends on issues raised during the comment period and the significance of the merger transaction to the public interest, banking industry, and communities affected.

One commenter stated that the FDIC should use the most recent CRA exam, with the qualification that if the applicant has had a less than Satisfactory rating in any of the last three exams, the merger should not be approved until remediation plans are in

¹³ See, e.g., Statement by Senator A. Willis Robertson, Chairman of the Senate Committee on Banking and Currency, 112 Cong. Rec. 2542 (1966) ("The banking agency may approve the merger if it thinks the merger will be *beneficial* from these points of view . . .") [emphasis added].

¹⁴ See FDIC Statement of Policy on Bank Merger Transactions, 63 FR 44761, 44764 (Aug. 20, 1998) ("In assessing the convenience and needs of the community to be served, the FDIC will consider such elements as the extent to which the proposed merger transaction is likely to benefit the general public [. . .]"); see also, FDIC Statement of Policy on Bank Merger Transactions, 54 FR 39042, 39047 (Sep. 22, 1989) ("The FDIC will also consider the extent to which the proposed merger is likely to improve service to the general public [. . .]").

place. No changes were made to the Final Statement to adopt such a practice; however, as stated in the Final Statement, a less than Satisfactory historical rating or significant deterioration in CRA performance will generally result in unfavorable findings. The FDIC's consideration of the convenience and needs statutory factor is not limited solely to the CRA record of the IDIs. The consideration will encompass a broad review, which includes, but is not limited to, existing products and services, record of consumer compliance, and whether the products and services proposed by the applicants will meet the convenience and needs of the community to be served.

A commenter requested that the FDIC extend comment periods for community members to participate in the process from 30 days to 60 days and stated that clarity is needed around comment letter deadlines, particularly if comment letters received after the deadline are used to inform bank merger decisions. The comment period and deadlines for submitting comment letters are codified in § 303.65 of the FDIC Rules and Regulations and have not been changed.

Some commenters requested that clear points of contact should be listed on regulatory and applicant websites, along with email addresses and phone numbers, to facilitate requests for the public file and/or to engage bank applicants and the regulator. The FDIC's current website includes detailed instructions for the public to both file a Freedom of Information Act (FOIA) request, as well as to request the public portion of applications subject to the CRA.¹⁵

A couple of commenters stated that approval orders should address comments submitted by the public, the FDIC should summarize communications with the applicant for the public record, and there should be an administrative appeals process for community groups to challenge approvals that are inconsistent with an agency's own procedures. The regulations governing the processes for filing comment letters and conducting public hearings have not changed and the Final Statement affirms the FDIC's approach to these matters.

One commenter suggested that the FDIC should require public statements, public plans, or community benefit agreements (CBAs), and regulators should examine for compliance with

commitments during future examinations. Other commenters disagreed with requiring and enforcing CBAs, stating that if the FDIC required CBAs, then the FDIC must enforce the requirements of the agreements, which is inconsistent with current practice. Further, there is no statutory basis for requiring and enforcing CBAs. The Final Statement does not address CBAs, which are private agreements between merger parties and community groups. The FDIC does not require CBAs or enforce their requirements. The Final Statement retains language that claims and commitments made to the FDIC may be included in the order and enforced post-merger through its ongoing supervision.

Commenters were mixed on having applicants provide a three-year plan regarding branch actions. Commenters who concurred with this approach noted that applicants should be required to describe the impact branch closures will have on the job, credit, and reinvestment needs of local communities. Commenters who disagreed with this approach indicated that the FDIC should not force IDIs to hardwire plans with respect to branch actions, thus limiting their flexibility to address changing circumstances. Another commenter requested that closings should be prohibited during the ensuing three years. One commenter noted that a focus on proposed branch closures fails to consider the numerous innovations in customer service channels in recent decades.

The Final Statement affirms the expectation for applicants to provide three years of information regarding projected branch actions consistent with current practice. Retaining this guidance clarifies the expectations for branch retention, expansion, closing, or consolidation and provides transparency on the timeframes that the FDIC will evaluate, consistent with its current practices. It also provides transparency to the industry on how the FDIC considers proposed changes to the physical locations of branches.

Other commenters indicated that the evaluation of convenience and needs of the community should not consider job losses. The FDIC agrees with commenters that the provision about the impact of future branch closings on the loss of job employment opportunities in the local market area may depend on factors not readily predictable at the time of a merger transaction. However, the impact of any proposed merger on employment opportunities is relevant to understanding how the transaction will serve the convenience and needs of the community. Accordingly, the Final

Statement will request that applicants quantify or provide information regarding job losses to the extent those are known or knowable.

Risk to the Stability of the United States Banking or Financial System

Commenters provided differing views with respect to language indicating that a transaction that would result in an IDI with \$100 billion or more in assets would be subject to additional scrutiny in connection with evaluating its impact on U.S. financial stability. One commenter indicated this level is too low, as a merger resulting in an IDI having \$100 billion of assets, would involve only 0.4 percent of industry assets, and its effects on industry concentration would be minor. This commenter pointed out that identifying \$100 billion in total assets as the basis for additional scrutiny protects the very largest institutions from regional banks gaining scale and competing with them more directly. Conversely, another commenter stated the \$100 billion benchmark for potential financial stability concerns is appropriate and should be retained; however, the commenter argued that the focus should be on domestic financial stability and not whether the resulting IDI would be a globally systemically important bank. Yet another commenter indicated that an asset size below \$100 billion should be identified as the benchmark above which additional scrutiny should be applied to transactions. Commenters also requested that the FDIC clarify that mergers resulting in an IDI over \$100 billion in total assets will not result in a presumptive denial, as well as what kind of "additional scrutiny" the FDIC may apply to a transaction that would result in an IDI with \$100 billion or more in total assets. One commenter suggested that the FDIC should consult with the DOJ when a transaction results in an IDI with more than \$100 billion in assets to determine whether the benefits of the merger outweigh the risk that the IDI will pose systemic risk or be "too big to fail." Additionally, it was suggested that concerns about mergers creating larger banks that might fail should be counterbalanced by the recognition that larger banks can better diversify across regions than smaller banks. Finally, it was noted that the financial stability considerations relate primarily to how a merger may increase risk to financial stability. It was recommended that the Final Statement address ways in which a merger could decrease risk to financial stability by fostering competition with the largest banks or improving the financial condition of a weaker bank.

¹⁵ Information on public applications can be located here: <https://cra.fdic.gov/>. Information on FOIA requests can be located here: <https://www.fdic.gov/foia/>.

The Final Statement retains the expectation that transactions resulting in an IDI with \$100 billion in total assets or more would be subject to additional scrutiny. This is not a threshold for a presumptive denial. Identifying thresholds for transactions that do not present concern is inconsistent with the FDIC's practice of evaluating all filings based on their specific facts and circumstances.

The term "additional scrutiny" signals to the industry and consumers that a proposed transaction that results in an IDI with over \$100 billion in assets will likely engender additional information requests, more frequent discussions and correspondence with application parties, and supplementary meetings and discussions with regulators and community groups. Such heightened analysis also provides the FDIC with additional information/data to evaluate. While the filing is still subject to the same statutory factors as all merger applications, and there are no additional elements to achieve regulatory approval, the timeline for a review of these filings may be extended compared to other types of filings.

Commenters were mixed on the consideration of the prudential regulatory framework when assessing financial stability. One commenter stated the framework is inadequate to prevent financial instability, as evidenced by the IDI failures that occurred in 2023. Another commenter suggested that the FDIC should leverage the quarterly systemic risk data that firms with greater than \$100 billion in assets file on Form FR Y-15 to analyze the resulting firm's operations. One commenter suggested that the FDIC articulate how the existing framework does not address financial stability concerns. Another commenter advised that it is not appropriate to impose resolution-planning requirements via the Final Statement, which should be subject to notice and comment rulemaking. A commenter stated that the FDIC must assess and consider the resolvability of the resulting IDI when reviewing a merger transaction. This commenter also noted that the Final Statement should make it clear that the FDIC will consider the resulting the regulatory framework when assessing financial stability risk.

The Final Statement states that the FDIC will evaluate any additional elements that may affect the risk to the U.S. banking or financial system's stability. This may include the resulting IDI's regulatory framework; however, the framework alone would not result in a favorable finding on this factor when other financial stability concerns exist.

The framework is merely one aspect in the evaluation of this statutory factor, and the FDIC recognizes the limitations in relying exclusively on the regulatory framework as a mechanism to limit financial stability risks.

Some commenters requested the inclusion of specific metrics to identify what transactions would not present financial stability concerns. Commenters also suggested that the Final Statement include a presumption that *de minimis* acquisitions (*i.e.*, \$10 billion or less) do not raise new financial stability risks or affect the acquirer's financial stability profile. No specific metrics or thresholds have been included in the Final Statement to identify transactions that do not present financial stability risks. The Final Statement has been revised to clarify that the evaluation considers the implications for the industry if the transaction is not approved or does not consummate.

Effectiveness in Combatting Money Laundering Activities

Only one comment letter addressed the effectiveness of each IDI involved in the proposed merger transaction in combating money-laundering activities. This commenter stated that the Financial Crimes Enforcement Network (FinCEN) should be consulted regarding the effectiveness of efforts to combat money laundering, terrorist financing, and other illicit activity. Further, the commenter suggested that FDIC should require banks to submit a pro-forma anti-money laundering risk assessment with the merger application and require institutions to conduct a comprehensive risk assessment within a reasonable time after a merger is completed. No changes were made to the Final Statement with respect to these items. The FDIC works collaboratively with FinCEN, but has sufficient information available to independently assess the effectiveness of efforts to combat money laundering and counter terrorist financing. For applicants that have less than satisfactory anti-money laundering programs, the FDIC may request a risk assessment to be conducted after consummation as a non-standard condition.

Other Matters and Considerations

Commenters also provided suggestions and recommendations outside of the Final Statement. Several commenters requested that the FDIC review, to the extent possible, the effects of past mergers to evaluate the appropriateness of any revised merger guidelines. Another commenter requested that the FDIC clarify that it is

unlikely to approve a merger when the applicant has (1) recently switched its charter in anticipation of filing a merger application, or (2) has restructured the transaction after it (or its merger partner) previously submitted a merger application to a different banking agency. A commenter suggested that the FDIC should not approve mergers by IDIs that switched regulators in the last five years before the merger.

A couple of commenters requested that the FDIC increase the scrutiny applied to acquisitions of IDIs by nonbanks such as credit unions. Such transactions may have a negative impact on State and local government budgets and communities, which could necessitate an increase in taxes. One commenter stated that it is entirely inappropriate for Federal bank regulators, in absence of a specific statutory grant of authority, to arrogate legislative power to consider, let alone approve such transactions. The Final Statement does not address the evaluation of credit union acquisitions of IDIs specifically; however, it does indicate that a credit union may need to provide additional information to enable the FDIC to evaluate the convenience and needs statutory factor, as credit unions are not subject to the CRA.

One commenter stated that the FDIC should adopt a separate review framework for mergers involving community banks and nonbank acquirers to ensure the maintenance of existing community development lending and investments. One commenter stated that it would be illustrative for the FDIC to publish information regarding the number of rounds of staff review of an application, the dynamic between regional and Washington office staffs, the number of subsequent questions, or any estimated time under which action is taken on an application. The letter urges the FDIC to provide more detailed and accurate timing guidance in the FDIC's Applications Procedures Manual. Finally, one commenter requested that the FDIC explain the weight given to each statutory factor; however, the FDIC does not assign specific weights to the statutory factors.

Section 4 of the FDIC's Applications Procedures Manual will be revised and issued subsequent to the publication of the Final Statement. The revised section 4 addresses the review process and the dynamic between regional and Washington office staffs, and the prospective timeframes for processing.

IV. Administrative Law Matters

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA),¹⁶ the agencies 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 Final Statement does not create any new or revise any existing collections of information under the PRA. Therefore, no information collection request will be submitted to the OMB for review.

V. Final Statement of Policy

The text of the Final Statement follows:

FDIC Statement of Policy on Bank Merger Transactions

I. Introduction

This statement of policy (SOP) communicates the Federal Deposit Insurance Corporation's (FDIC) expectations and views regarding applications filed pursuant to section 18(c) of the Federal Deposit Insurance Act (FDI Act), which is referred to herein as the Bank Merger Act (BMA). The SOP reflects the FDIC's interpretations of the BMA and its implementing regulations. The structure of the SOP follows the BMA's core statutory provisions, and its content highlights the principles that guide the FDIC's evaluation of the statutory factors for a merger application.

The BMA prohibits an insured depository institution (IDI) from engaging in a merger transaction without regulatory approval. It identifies the types of undertakings that constitute "merger transactions" and outlines which of the three Federal banking agencies is the "responsible agency" for acting on a given merger application.¹⁷ In addition, the BMA sets forth advance public notice requirements¹⁸ and generally requires the responsible agency to request a report on the competitive factors for a merger transaction from the Attorney General.¹⁹

The BMA generally prohibits the responsible agency from approving a monopolistic or otherwise anticompetitive merger transaction.²⁰ In addition to competitive considerations, the BMA requires the relevant agency to evaluate a merger transaction in light of the financial and managerial resources

and future prospects of the existing and proposed institutions, the convenience and needs of the community to be served, the risk to the stability of the United States (U.S.) banking or financial system,²¹ and the effectiveness of the IDIs involved in the merger transaction in combatting money laundering.²²

II. Jurisdiction and Scope

The FDIC is one of three Federal banking agencies with responsibility for evaluating transactions subject to the BMA. The FDIC has jurisdiction to act on merger applications that involve an IDI and any non-insured entity,²³ and those that solely involve IDIs in which the acquiring, assuming, or resulting institution is an FDIC-supervised IDI.²⁴ The BMA requires regulatory approval for any merger transaction involving an IDI.²⁵ The applicability of the BMA will depend on the facts and circumstances of the proposed transaction. In addition to transactions that combine institutions into a single legal entity through merger or consolidation, the scope of merger transactions subject to approval under the BMA encompasses transactions that take other forms, including purchase and assumption transactions or other transactions that are mergers in substance, and assumptions of deposits or other similar liabilities.²⁶

For BMA purposes, the FDIC considers transactions to be mergers in substance when a target would no longer compete in the market, regardless of whether the target plans to liquidate immediately after consummating the transaction. An example of a transaction that is a merger in substance, and therefore subject to the BMA, is when an IDI absorbs all (or substantially all) of a target entity's assets and the target entity dissolves (or otherwise ceases to engage in the acquired lines of business

such that the target is no longer a viable competitor).

An FDIC-supervised IDI's assumption of a deposit from another IDI, or any IDI's assumption of a deposit from a non-insured entity, is likewise subject to FDIC approval even in the absence of an express agreement for a direct assumption. Similarly, a transfer of deposits from any IDI to a non-insured entity is subject to FDIC approval.²⁷ The definition of "deposit" per section 3(l) of the FDI Act extends beyond traditional demand deposits to include trust funds and escrow funds, among other items.

Merger and other corporate transactions may be conducted through a single transaction or through a series of related transactions that each require an application, such as transactions effected through interim institutions. In all cases, the FDIC will evaluate the substance of all of the facts and circumstances of the transaction and any related transactions, identify which aspects of the transaction(s) are subject to FDIC approval, and fully evaluate the applicable statutory factors in a manner that is appropriate to each transaction.

III. Application Process and Adjudication

Overview of the Application Process

The FDIC encourages prospective applicants to engage in a pre-filing process to discuss regulatory expectations. It is particularly important for the application to be substantially complete when initially filed.²⁸ The quality and comprehensiveness of a filing are critical to the FDIC's evaluation of the application under the statutory factors and other regulatory requirements.²⁹ The FDIC expects all submitted materials, including the financial projections and any related analyses, to be well supported and sufficiently detailed. The narrative describing the analysis and evaluation of the transaction should be supported by studies, surveys, analyses and reports, including those prepared by or for officers, directors, or deal team leads. Incomplete filings or non-responsiveness to additional information requests impede the FDIC's

²¹ *Ibid.*

²² 12 U.S.C. 1828(c)(11).

²³ 12 U.S.C. 1828(c)(1). *A non-insured entity refers to any entity that is not FDIC-insured.*

²⁴ The Office of the Comptroller of the Currency has jurisdiction for any merger transaction between IDIs in which the acquiring, assuming, or resulting institution is a national bank or a Federal savings association. The Board of Governors of the Federal Reserve System (FRB) has jurisdiction for any merger transaction between IDIs in which the acquiring, assuming, or resulting institution is a State-chartered bank that is a member of the Federal Reserve System. The FRB also has approval authority under the Bank Holding Company Act for mergers involving *bank holding companies* and the Home Owners' Loan Act for mergers involving savings and loan holding companies. Merger transactions that are subject to the FDIC's review may also be subject to the review of State authorities.

²⁵ 12 U.S.C. 1828(c).

²⁶ A merger that includes the establishment or relocation of branches is also subject to approval under 12 U.S.C. 1828(d).

²⁷ 12 U.S.C. 1828(c)(1)(C).

²⁸ As noted in section 1.1 of the Applications Procedures Manual, a filing that is not substantially complete lacks the substance necessary for the FDIC to evaluate the statutory factors.

²⁹ Regulatory requirements for merger applications are provided in 12 CFR part 303 of the FDIC Rules and Regulations (including subparts A and D) and any other Federal or State regulations, statutes, or laws applicable to the filing.

¹⁶ 44 U.S.C. 3501–3521.

¹⁷ 12 U.S.C. 1828(c)(1) and (2).

¹⁸ 12 U.S.C. 1828(c)(3).

¹⁹ 12 U.S.C. 1828(c)(4).

²⁰ 12 U.S.C. 1828(c)(5).

ability to fully evaluate and resolve the statutory factors.

Public feedback is an important component of the FDIC's review of a merger application. Section 18(c)(3) of the FDI Act requires that public notice of the proposed merger transaction be published in an approved form and at appropriate intervals in a newspaper or newspapers of general circulation. A list of pending merger applications subject to the Community Reinvestment Act (CRA) is available on the FDIC's website using the Applications in Process Subject to the CRA Report Selection Options.³⁰ In all cases, the FDIC will review and evaluate any public comments received regarding the merger application, and will provide the applicant an opportunity to respond to any comment that is determined to be a CRA protest.³¹ The FDIC will also consider the views of each relevant Federal and State agency. Generally, the FDIC will not approve a merger application if adverse CRA comments have not been resolved.³² In certain cases, the FDIC may hold hearings or other proceedings in connection with evaluating a merger application.³³

Section 18(c)(4) of the FDI Act requires the FDIC to request a competitive factors report from the Attorney General of the United States for any merger transaction between an IDI and a non-affiliated entity, unless the FDIC finds that it must act immediately in order to prevent the probable failure of an IDI involved in the transaction.³⁴ As circumstances warrant, the Department of Justice (DOJ) and the FDIC will coordinate the review when there are concerns or questions regarding the competitive effects of the transaction. As described below, the FDIC undertakes an independent review consistent with the statutory factors of the BMA.

Merger Application Adjudication

Generally, if all statutory factors are favorably resolved, and all other

regulatory requirements are satisfied, the FDIC will approve the merger application. Approvals will be subject to the standard conditions detailed in § 303.2(bb) of the FDIC Rules and Regulations and any non-standard conditions deemed appropriate by the FDIC. Generally, the imposition of conditions will be taken into account as part of the FDIC's consideration of the merger application, but will not necessarily lead to the favorable resolution of any statutory factor where the facts and circumstances are otherwise unfavorable. The Order and Basis (Order) will be posted to the FDIC's public web page. The Order will address all statutory factors, as well as summarize information regarding any CRA protests. The FDIC will summarize the related analysis and conclusions, and in the cases of approval, will include any conditions imposed in conjunction with the approval.

The FDIC's publicly available Delegations of Authority set forth criteria that must be satisfied in order for staff in the FDIC Regional Offices or Washington Office to approve a merger application.³⁵ Notably, the FDIC Board of Directors (FDIC Board) reserves the authority to deny any merger application or act on certain types of proposed transactions, including any transaction for which one or more statutory factors are not favorably resolved.³⁶ Therefore, applications that do not warrant a favorable finding on one or more statutory factors are required to be elevated to the FDIC Board for additional review and final disposition. In addition, the FDIC Board notably reserves authority to act on any application in which the merging institutions operate in the same relevant geographic market(s) and for which the Attorney General has not notified the FDIC in writing that the proposed transaction would not have a significantly adverse effect on competition.

Generally, applications which include one or more of the following circumstances will present significant concerns and will likely result in

unfavorable findings with regard to one or more statutory factors:

- Non-compliance with applicable Federal or State statutes, rules, or regulations (this includes, for example, transactions that would exceed the 10 percent nationwide deposit limit, as well as both issued and pending enforcement actions);
- Unsafe or unsound condition relating to the existing merger parties or the resulting IDI;
- Less than satisfactory examination ratings, including for any specialty areas (*i.e.*, information technology or trust examinations);
- Significant concerns regarding financial performance or condition, risk profile, or future prospects;
- Inadequate management, including significant turnover, weak or poor corporate governance, or lax oversight and administration; or
- Incomplete, unsustainable, unrealistic or unsupported projections, analyses, and/or assumptions.

Additionally, the FDIC may not be able to find favorably on any given statutory factor (and the application as a whole) if there are unresolved deficiencies, issues, or concerns (including with respect to any public comments). A lack of sustained performance under corrective programs would also be inconsistent with a favorable finding on one or more statutory factors, particularly when the transaction implicates the areas that are the subject of the corrective program. Further, the inability or unwillingness of the applicant to agree to proposed conditions or execute written agreements, if deemed necessary, would result in unfavorable findings and would require action by the FDIC Board on the application.

If FDIC staff finds unfavorably on one or more statutory factors based on the application review, staff generally will recommend denial of the application. At the FDIC's discretion, applicants may be offered the opportunity to withdraw the filing. If an applicant withdraws their filing, the FDIC Board may release a statement regarding the concerns with the transaction if such a statement is considered to be in the public interest for purposes of creating transparency for the public and future applicants.

IV. Statutory Factors

Merger applications are evaluated under the framework of statutory factors as described in the BMA. Generally, the BMA prohibits approval of monopolistic or otherwise anticompetitive transactions; and requires the responsible agency to consider specific statutory factors related to financial and

³⁰ Applications In Process Subject to the CRA Report Selection Options, <https://cra.fdic.gov/>.

³¹ 12 CFR 303.2(l) defines the term "CRA protest" to mean any adverse comment from the public related to a pending filing that raises a negative issue relative to the CRA, whether or not it is labeled a protest and whether or not a hearing is requested. An "adverse comment" is defined under § 303.2(c) of the FDIC Rules and Regulations, as any objection, protest, or other adverse written statement submitted by an interested party relating to a filing.

³² See 12 CFR 303.2(c) and (l).

³³ See 12 CFR 303.10.

³⁴ 12 U.S.C. 1828(c)(4). In addition to acting to prevent the probable failure of an IDI, section 18(c)(4)(C) of the FDI Act includes exceptions for merger transactions involving solely an IDI and one or more of its affiliates.

³⁵ FDIC Delegations of Authority for Supervisory Filings, Enforcement Matters, Capital Determinations, and Information Sharing Agreements, Seal No. 086825 (October 20, 2020); available at <https://www.fdic.gov/bank-examinations/delegations-authority>.

³⁶ *Id.* at (K)(4)(i)(ii) (Reserving to the FDIC Board the authority to approve merger applications where "[o]ne or more of the statutory factors enumerated in section 18(c)(5) and (11) of the FDI Act (12 U.S.C. 1828(c)(5) and (11)) is not favorably resolved").

managerial resources and future prospects, convenience and needs of the community to be served, combatting money laundering, and financial stability. The BMA also prohibits interstate mergers in which the resulting IDI would control more than 10 percent of the deposits of IDIs in the United States.³⁷ Evaluations of each statutory factor consider the respective entities' supervisory records, potential risks and compensating controls, and any other available information deemed appropriate.

Monopolistic or Anticompetitive Effects

The FDIC strives to ensure that resulting IDIs continue as participants in a competitive environment. Section 18(c)(5) of the BMA prohibits the FDIC from approving a merger transaction that would result in a monopoly or would be in furtherance of an attempt to monopolize the business of banking in any part of the U.S. The BMA also prohibits the FDIC from approving a merger transaction that may substantially lessen competition in any section of the country, unless the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.³⁸ For example, such a circumstance may exist where a transaction is necessary to prevent the probable failure of an IDI. In addition, the FDIC recognizes that mergers in rural markets involving local community IDIs may result in concentrated markets, and the FDIC will carefully balance the competitive effects of such a merger with the public interest served by the ability of the resulting IDI to serve the convenience and needs of the community.

The FDIC will evaluate the competitive effects of a proposed merger in a manner that is most relevant to each transaction. Consistent with the majority of merger transactions typically presented to the FDIC, the FDIC generally employs a framework for evaluating competitive effects involving a transaction between IDIs with traditional community banking operations within their local geographic markets. However, the FDIC will tailor its evaluation to consider the size and competitive effects of the resulting IDI. Additionally, the FDIC will consider all relevant market participants. For example, the FDIC may include any other financial service providers that the

FDIC views as competitive with the merging entities, including providers located outside the geographic market when it is evident that such providers materially influence the market.³⁹ Further, in cases involving merging entities with specialty lines of business or non-traditional products, services, or delivery methods, the FDIC will take into account any additional data sources or appropriate analytical approaches to fully assess the competitive effects of the transaction.

In assessing competitive effects, the FDIC considers concentrations with respect to both geographic and product markets. The FDIC identifies all relevant geographic markets (local, regional, and national) based on the areas in which the merging entities operate and in which customers may practically turn to competitors for alternative products and services.⁴⁰ The FDIC uses deposits as an initial proxy for commercial banking products and services. The FDIC will initially measure the respective shares of total deposits held by the merging entities and the various other participants with offices in the geographic market. The FDIC evaluates the market concentration and change in market concentration in each geographic and product market.⁴¹

In addition, the FDIC will consider concentrations beyond those based on deposits. As appropriate, the FDIC may consider concentrations in any specific products or customer segments, such as, for example, the volume of small business or residential loan originations or activities requiring specialized expertise. Additionally, when relevant, the analysis may incorporate other products offered by the merging entities, and will consider whether consumers retain meaningful choices. In its analysis, the FDIC will evaluate a market with a scope that is appropriate to the products or services offered or planned. Moreover, the FDIC will consider the emergence of new competitors for products or services in relevant markets; and the expansion of products and services offered by the merging entities and other market participants. Finally, as necessary or appropriate, the FDIC will consider other products or services and additional methods of assessing the competitive nature of markets. In particular, the FDIC may consider

information on the pricing of products and services to assess the competitive effects of a proposed merger when practicable and relevant.

The FDIC will continue to undertake an independent analysis of the competitive factors associated with a given merger transaction. The FDIC's analysis is guided by the principles outlined above, but is also informed by the Department of Justice's approach to evaluating competitive effects. As noted above, the FDIC Board reserves authority to act on any application for which the Attorney General has not notified the FDIC that the proposed transaction would not have a significantly adverse effect on competition. In such cases, applicants would need to demonstrate that the anticompetitive effects of the merger transaction would be outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

The FDIC may require divestitures of business lines, branches, or portions thereof as a means to mitigate competitive concerns before allowing the merger to be consummated. In such cases, the FDIC generally expects that the selling IDI will neither enter into non-compete agreements with any employee of the divested entity nor enforce any existing non-compete agreements with any of those entities. Additionally, the FDIC may request an IDI divesting or otherwise closing a branch in connection with the transaction to waive any terms or conditions that preclude the ability of other IDIs to lease or purchase the property.

Nationwide Deposit Cap

The BMA prohibits approval of an interstate merger that results in an IDI (and its affiliates) controlling more than 10 percent of the total deposits of IDIs in the U.S.⁴² This prohibition does not apply to transactions that involve one or more IDIs in default or in danger of default.⁴³ Consistent with the competitive effects review, the FDIC will use the most current Summary of Deposits data to confirm the nationwide deposit share of the resulting IDI following the proposed transaction.

Financial Resources

The BMA requires the responsible agency to consider the financial resources of the existing and proposed entities involved in a merger

³⁷ 12 U.S.C. 1828(c)(5), 1828(c)(11), and 1828(c)(13).

³⁸ 12 U.S.C. 1828(c)(5).

³⁹ Such competitors may include, but are not limited to, credit unions, thrifts, and Farm Credit System institutions.

⁴⁰ See *United States v. Philadelphia National Bank*, 374 U.S. 321 (1963).

⁴¹ Indicators of market concentration and change in concentration include calculations using the Herfindahl-Hirschman Index (HHI).

⁴² 12 U.S.C. 1828(c)(13).

⁴³ 12 U.S.C. 1828(c)(13)(B).

transaction.⁴⁴ The FDIC expects that the resulting IDI will reflect sound financial performance and condition.⁴⁵ Generally, a favorable finding on the financial resources factor would be appropriate only in cases where the merger results in a combined IDI that presents less financial risk than the financial risk posed by the institutions on a standalone basis.⁴⁶

A critical component of the analysis of financial resources is the resultant IDI's ability to meet applicable capital standards (including maintenance of appropriate allowances for loan or credit losses). Depending on the anticipated risk profile of the resulting IDI, the FDIC may impose, as a non-standard condition, capital requirements that are higher than applicable capital standards.⁴⁷ Further, as appropriate, the FDIC may impose a non-standard condition that requires the resulting IDI and other relevant parties (such as certain affiliates or investors) to enter into one or more written agreements that address, as applicable, capital maintenance requirements, liquidity or funding support, affiliate transactions, and other relevant provisions. The FDIC also expects the resulting IDI to maintain sufficient liquidity and appropriate funding strategies given its size, complexity, and risk profile.

The FDIC will also consider the current and projected financial impact of any related entities on the IDI, including the parent organization and any key affiliates. For each relevant entity, the FDIC will consider, among other items, the size and scope of operations, capital position, quality of assets, overall financial performance and condition, compliance and regulatory history, primary revenue and expense sources, and funding strategies.

Managerial Resources

The BMA requires the responsible agency to consider the managerial resources of the existing and proposed entities involved in a merger transaction.⁴⁸ The FDIC expects that the directors, officers, and as appropriate,

principal shareholders (collectively, management) possess the capabilities to administer the resultant IDI's affairs in a safe and sound manner, and effectively implement post-merger integration plans and strategies.

The capability of management to identify, measure, monitor, and control risks and ensure a safe and sound operation in compliance with applicable laws and regulations is included in the evaluation of managerial resources. The FDIC will consider the background and experience of each member of management relative to the size, complexity, and risk profile of the resulting IDI, including the managerial performance and supervisory record of affiliates and subsidiaries.

The FDIC will review supervisory assessments of management made by the relevant regulatory authorities, as well as the nature and extent of organizational relationships. The FDIC will also evaluate the effect of such relationships on the IDI, as well as the operating history, risk management, and control environment of the parent organization. Inherent in these considerations are the condition, performance, risk profile, and prospects of the organization as a whole, as well as the consistency of the proposed merger with the resulting IDI's strategic (or business) plan.

The FDIC will assess each IDI's record of compliance with respect to consumer protection, fair lending, and other relevant consumer laws and regulations. The FDIC will analyze the compliance management system of each of the IDIs, as well as the compliance management system for the resulting IDI to ensure that appropriate controls will be implemented to identify, monitor, and address consumer compliance risks. Consideration will also be given to the consumer compliance rating pursuant to the Uniform Interagency Consumer Compliance Rating System and the CRA rating.⁴⁹

Additional managerial resource considerations include:

- The supervisory history of each entity involved in the proposed merger, including the management rating⁵⁰ for any IDI involved in the transaction;
- The breadth and depth of management, and adequacy of succession planning;
- Management's responsiveness to issues or supervisory recommendations raised by regulators or auditors;
- Any existing or pending enforcement actions;

• Any issues or concerns with regard to specialty areas including information technology, trust, consumer compliance, CRA, or Anti-Money Laundering (AML)/countering the financing of terrorist activities (CFT);⁵¹

- The reasonableness of fees, expenses, and other payments made to insiders; and
- Recent rapid growth and the record of management in overseeing and controlling risks associated with such growth.

The FDIC expects management to develop and implement effective plans and strategies, and the resulting IDI to have the managerial and operational capacity to integrate the acquired entity. Effective integration includes, but is not limited to, human capital; products and services; operating systems, policies, and procedures; internal controls and audit coverage; physical locations; information technology; and risk management programs. In conjunction with the integration, the FDIC expects a resulting IDI to have the managerial and operational capacity, and to devote adequate resources, to ensure full and timely compliance with any outstanding corrective programs or supervisory recommendations.

Future Prospects

The BMA requires the responsible agency to consider the future prospects of the existing and proposed entities involved in a merger transaction.⁵² The FDIC expects that the resulting IDI will operate in a safe and sound manner on a sustained basis following consummation of the merger. Among other items, the FDIC will consider the economic environment, the competitive landscape, the acquiring IDI's history in integrating merger targets and managing growth, the anticipated scope of the resulting IDI's operations, the quality of its supporting infrastructure, and other pertinent factors. Any significant planned changes to the resulting IDI's strategies, operations, products or services, activities, income or expense levels, or other key elements of its business will be closely assessed. The FDIC will review the pro forma financial

⁴⁴ 12 U.S.C. 1828(c)(5).

⁴⁵ This evaluation encompasses capital, asset quality, earnings, liquidity, and sensitivity to market risk, as described in the Uniform Financial Institution Rating System (UFIRS); see 61 FR 67021 (December 19, 1996).

⁴⁶ See generally note 41.

⁴⁷ Refer to the applicable capital regulations for the relevant parties. The minimum capital ratios for FDIC-supervised IDIs are set forth at 12 CFR 324.10, and the capital measures and capital category definitions for the purposes of Prompt Corrective Action are set forth at 12 CFR 324.403 for FDIC-supervised IDIs.

⁴⁸ 12 U.S.C. 1828(c)(5).

⁴⁹ 81 FR 79473 (Nov. 14, 2016).

⁵⁰ The management rating is defined in the UFIRS. See footnote 28.

⁵¹ The Anti-Money Laundering Act of 2020 (the AML Act) amended subchapter II of chapter 53 of title 31 United States Code (the legislative framework commonly referred to as the Bank Secrecy Act or BSA). The AML Act requires the Financial Crimes Enforcement Network (FinCEN), in consultation with Federal functional regulators, to promulgate AML/CFT regulations. Due to the addition of the CFT, and for consistency with FinCEN, the FDIC will use the term AML/CFT (which includes BSA) when referring to, issuing, or amending regulations to address the requirements of the AML Act of 2020.

⁵² 12 U.S.C. 1828(c)(5).

projections, the underlying assumptions, and any accompanying valuations (such as those related to the target entity, goodwill, or other assets) for both the existing and proposed entities to ensure they demonstrate and support that the resulting IDI will maintain an acceptable risk profile.

Convenience and Needs of the Community To Be Served

The BMA requires the responsible agency to consider the convenience and needs of the community to be served when evaluating a merger transaction.⁵³ The FDIC expects that a merger between IDIs will enable the resulting IDI to better meet the convenience and the needs of the community to be served than would occur absent the merger in order to find favorably on this factor.⁵⁴ Applicants are expected to demonstrate how the transaction will benefit the public through higher lending limits, greater access to existing products and services, introduction of new or expanded products or services, reduced prices and fees, increased convenience in utilizing the credit and banking services and facilities of the resulting IDI, or other means.

The FDIC expects applicants to provide specific and forward-looking information to enable the FDIC to evaluate the expected benefits of the merger on the convenience and needs of the community to be served. As appropriate, claims and commitments made to the FDIC to support the evaluation of the expected benefits of the merger may be included in the Order, and through ongoing supervisory efforts, the FDIC will evaluate the IDI's adherence with any such claims and commitments. The FDIC will evaluate the community to be served broadly, which will include the proposed assessment area(s), retail delivery systems, populations in affected communities, and identified needs for banking services.

As part of its evaluation, the FDIC will review the CRA record of the IDIs. The CRA requires the FDIC to take into account each IDI's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution.⁵⁵ As such, the FDIC will consider each IDI's CRA performance evaluation record of helping to meet the credit needs of its assessment areas, including low- and moderate-income neighborhoods, and record of

community development activity, as applicable.⁵⁶ A less than Satisfactory historical rating or significant deterioration in CRA performance will generally result in unfavorable findings.⁵⁷ The FDIC's review is not limited to the CRA record of the IDIs and will encompass a broad review of the institutions' existing products and services and whether the products and services proposed by the applicants will meet the convenience and needs of the community to be served.

In addition, the FDIC will consider the record of each IDI in complying with consumer protection requirements and maintaining a sound and effective compliance management system. This review will include consideration of any existing or pending orders, ongoing enforcement actions, and pending reviews or investigations of violations of consumer protection laws and regulations. A less than Satisfactory consumer compliance rating⁵⁸ may present significant concerns in resolving this factor.

The CRA assessment area(s) and branch locations resulting from the merger are evaluated as part of this factor. The assessment area(s) should be delineated in accordance with 12 CFR part 345 of the FDIC Rules and Regulations (or other appropriate regulations), and should not reflect illegal discrimination. The FDIC will evaluate all projected or anticipated branch expansion, closings, or consolidations for the first three years following consummation of the merger.⁵⁹ Branch closings are subject to both section 42 of the FDI Act and the Interagency Policy Statement Concerning Branch Closing Notices and Policies.⁶⁰ Information regarding any proposed or expected closures, including the timing of each closure, the effect on the availability of products and services, particularly to low- or moderate-income individuals or designated areas, any job losses or lost job opportunities from branching

changes, and the broader effects on the convenience and needs of the community to be served will be closely evaluated. Applications that project material reductions in service, especially to low- and moderate-income communities or consumers, will generally result in unfavorable findings.⁶¹

The FDIC will consider all substantive public comments received in accordance with § 303.9 of the FDIC Rules and Regulations,⁶² as well as the views of relevant State and Federal regulators regarding the ability of the applicant to meet the convenience and needs of the community to be served. Non-standard conditions may be imposed, as appropriate, in response to CRA weaknesses, relevant regulator input, bank commitments, or public comments. The FDIC will consider whether it is in the public interest to hold a hearing for merger applications, and generally expects to hold a hearing for any application resulting in an IDI with greater than \$50 billion in assets or for which significant CRA protests are received. The FDIC may also hold public or private meetings to receive input on the transaction. The decision to hold such meetings depend on issues raised during the comment period and the significance of the merger transaction to the public interest, to the banking industry, and communities affected.

As noted above, the BMA prohibits the FDIC from approving a merger transaction that may substantially lessen competition in any section of the country, unless the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.⁶³ A favorable finding on the convenience and needs of the community to be served factor may not be sufficient to support approval of the application when anticompetitive effects are identified. In situations where anticompetitive effects are identified, and as described above, the FDIC will evaluate whether the applicant has demonstrated that the benefits to the convenience and needs of the community will clearly outweigh the anticompetitive effects.

Risk to the Stability of the United States Banking or Financial System

Section 604 of the Dodd-Frank Wall Street Reform and Consumer Protection

⁵⁶ Transactions involving a credit union may require additional information to evaluate the convenience and needs statutory factor, as credit unions are not subject to CRA.

⁵⁷ See generally note 41.

⁵⁸ Uniform Interagency Consumer Compliance Rating System, 81 FR 79473 (Nov. 14, 2016).

⁵⁹ Generally, the FDIC considers a substantially complete merger application to include, among other items, at least three years of information regarding projected branch expansions, closings, or consolidations. Short-distance consolidations that may not be subject to section 42 outside of a merger context should be included in this information. In certain cases, the FDIC may impose non-standard conditions requiring prior approval or additional notice in connection with branch closings or consolidations.

⁶⁰ 64 FR 34845 (June 29, 1999).

⁶¹ See generally note 41.

⁶² 12 CFR 303.9.

⁶³ 12 U.S.C. 1828(c)(5).

⁵³ 12 U.S.C. 2902(3)(E) and 2903(a)(2).

⁵⁴ See generally note 41.

⁵⁵ 12 U.S.C. 2902(3)(E) and 2903(a)(2).

Act (Dodd-Frank Act) amended the BMA to require the FDIC to consider the risk posed by a merger transaction to the stability of the U.S. banking or financial system. The FDIC expects that the resulting IDI (or consolidated company) will not materially increase the risk to the stability of the U.S. banking or financial system.⁶⁴ Consistent with the other Federal banking agencies,⁶⁵ the FDIC evaluates this factor with respect to the following:

- The size of the entities involved in the transaction;
- The availability of substitute providers for any critical products or services to be offered by the resulting IDI;
- The resulting IDI's degree of interconnectedness with the U.S. banking or financial system;
- The extent to which the resulting IDI contributes to the U.S. banking or financial system's complexity; and
- The extent of the resulting IDI's cross-border activities.

Generally, the FDIC will not view the size of the entities involved in a proposed merger transaction as a sole basis for determining the risk to the U.S. banking or financial system's stability. However, transactions that result in a large IDI (e.g., in excess of \$100 billion) are more likely to present potential financial stability concerns with respect to substitute providers, interconnectedness, complexity, and cross border activities, and will be subject to added scrutiny. The FDIC will consider the nature and scope of operations of the target entity, the resulting IDI, and any other elements that may also influence the risk to the U.S. banking or financial system's stability.

With regard to substitute providers, the FDIC will consider whether the resulting IDI provides critical products or services that may be difficult to replace, or conducts activities (including specific business lines) that comprise a relatively large share of system-wide activities. Concerns are heightened, and may preclude favorable resolution of this factor, in situations where there are limited readily available substitutes; as such, services may be disrupted or discontinued if the resulting IDI encounters financial distress or fails.⁶⁶

In assessing the resulting IDI's interconnectedness, the FDIC will

consider the degree to which the merging entities are engaged in transactions or relationships with IDIs, affiliates of banking organizations, or other financial service providers. Consideration will be given to whether any exposures with creditors, counterparties, investors, or other market participants could affect the U.S. banking or financial system. A resulting IDI may present financial stability concerns if key aspects of its business (including any on- or off-balance sheet activities) are highly interconnected with other financial system participants.

The FDIC's evaluation of the resulting IDI's contribution to the U.S. banking or financial system's complexity will consider the full scope of the IDI's operations. This includes the IDI's business lines, products and services, on- and off-balance sheet activities, branch network and delivery channels, number of account holders (including the volume of uninsured deposits), extent of information technology systems, and any material affiliate or other third-party relationships. As part of evaluating the resulting IDI's impact on complexity, the FDIC will also consider its resolvability in a potential failure situation. The FDIC may not be able to find favorably on this factor⁶⁷ when the resultant IDI's organizational and funding structure preclude its ability to (1) continue operations and activities until they can be sold or wound down, (2) sell key business lines or large asset portfolios, and (3) be marketed for sale in a manner that limits the potential for losses to the Deposit Insurance Fund.⁶⁸

The extent of a resulting IDI's cross-border activities may also have implications with regard to a favorable finding on this factor.⁶⁹ The FDIC will consider whether cross-border activities comprise a material component of the resulting IDI's operations and present a significant degree of cross-jurisdictional claims or liabilities. Such activities may present challenges from both supervisory and resolution perspectives given the potential exposure to differing legal requirements, geopolitical events, and competing national interests.

Other Stability Considerations

The above list of items is not exhaustive. The FDIC will evaluate any additional elements that may affect the risk to the U.S. banking or financial system's stability. This may include the

resulting IDI's regulatory framework; however, the framework alone would not result in a favorable finding on this factor when other financial stability concerns exist.⁷⁰ As appropriate, consideration may be given to the merging IDIs' records with respect to cybersecurity and stress-testing results. The FDIC may also evaluate the degree to which the resultant IDI's potential financial distress or rapid liquidation could cause other market participants with similar activities or business profiles to experience a loss of market confidence, falling asset values, or decreased funding options.

Proposed transactions that solely involve affiliates that were related at the time a merger application is filed generally will not raise concerns with regard to this factor. However, each proposal will be reviewed to ensure that the resulting IDI would not present any new or unforeseen financial stability risks that may not have existed when the merging entities operated as affiliates or on a standalone basis.

Effectiveness in Combatting Money Laundering Activities

The BMA requires the responsible agency to consider the effectiveness of any IDI involved in a merger transaction in combatting money-laundering activities, including in overseas branches.⁷¹ The FDIC expects that approved merger transactions will result in IDIs with effective programs to combat AML/CFT. A favorable finding on this factor⁷² will be based on a comprehensive evaluation of each entity's AML/CFT program that includes overseas branches; policies, procedures, and processes; risk management programs; the supervisory record of each participating entity, the entity's compliance with the BSA and its implementing regulations; and remediation efforts pursuant to an outstanding corrective program.⁷³ In all cases, the FDIC will consider whether the resulting IDI has developed an appropriate plan for the integration of the combined operations into a single, comprehensive, and effective program to combat money laundering and terrorist financing. Additionally, the FDIC expects the applicant to demonstrate how the resulting IDI will comply with the BSA and its

⁶⁴ 12 U.S.C. 1828(c)(5).

⁶⁵ The FDIC will consider data collected by the Federal Reserve System to monitor the systemic risk profile of the IDIs, which are subject to enhanced prudential standards under section 165 of the Dodd-Frank Act.

⁶⁶ See generally note 41.

⁶⁷ See generally note 41.

⁶⁸ In addition to considering the FDIC's potential role as receiver of the resulting IDI under section 11 of the FDI Act, it will also take into account possible alternative resolution scenarios.

⁶⁹ See generally note 41.

⁷⁰ See generally note 41.

⁷¹ 12 U.S.C. 1828(c)(11).

⁷² See generally note 41.

⁷³ An IDI under an outstanding formal enforcement action should make substantial progress to correct problem(s) addressed in the action. Progress should be sufficient to determine that the AML/CFT program is now adequate.

implementing regulations following consummation of the merger.

Significant unresolved AML/CFT concerns or uncorrected problems, or an outstanding or proposed formal or informal enforcement action that includes provisions related to AML/CFT, will generally result in unfavorable findings on this factor.⁷⁴ In limited cases, sufficient mitigating factors may support a favorable finding, such as when an acquirer with a strong AML/CFT program replaces a target entity's less than satisfactory program and presents an appropriate plan to address the target entity's deficiencies.

V. Other Matters and Considerations

Interstate Merger Transactions

In cases where section 44 of the FDI Act applies to an interstate merger transaction, the FDIC will ensure that the additional requirements and restrictions of section 44 are satisfied.⁷⁵

Applications Involving Non-Banks or Banks That Are Not Traditional Community Banks

Historically, most merger transactions considered by the FDIC have involved traditional community banks. In general, traditional community banks focus on providing the banking services, including loans and core deposits, typically relied on by individuals and businesses in their local communities. However, merger applications may also involve non-banks⁷⁶ or banks that are not traditional community banks, which may involve more complexity than a traditional community bank in terms of its business model, products, services, activities, market segments, funding, delivery channels, geographic footprint, operations, or intercompany or other third-party relationships. Merger applications where the resulting IDI will be a non-bank or not a traditional community bank are subject to the same statutory factors as any other merger application. However, the FDIC will appropriately tailor its review to the nature, complexity, and scale of the entities involved in the transaction and the underlying business model. The FDIC's Washington Office or FDIC Board reserve authority to act on certain merger applications that do not involve traditional community banks.

⁷⁴ See generally note 41.

⁷⁵ See 12 U.S.C. 1831u.

⁷⁶ A "non-bank" refers to an IDI that is a bank for purposes of the FDI Act, but that is not a bank for purposes of the Bank Holding Company Act (BHCA). Non-banks may be owned by parent companies that are not subject to the BHCA, and therefore may not be regulated or supervised by the FRB.

Applications Involving Operating Non-Insured Entities

Applications may involve an existing IDI merging with an operating entity that is not FDIC-insured. Operating non-insured entities may vary widely in the type of business and activities conducted (e.g., credit unions, which typically offer products and services consistent with a traditional community bank, mortgage companies, financing companies, payment services firms, or other types of entities whose business model may have elements more consistent with that of a non-community bank). Merger applications that involve an operating non-insured entity are subject to the same statutory factors as any other merger application. However, in reviewing such applications, the FDIC will also consider the nature and complexity of the non-insured entity, its scale relative to the existing IDI, its current condition and historical performance, and any other relevant information regarding the entity's operations or risk profile.

The FDIC will review audited financial statements (covering at least three years, unless the entity's operating history is shorter) and assess any deferred tax assets or liabilities, intangible assets, contingent liabilities, and any recent or pending legal or regulatory actions. Further, independent appraisals or valuations may be necessary to support the projected value of any business (or assets) expected to be transferred from the operating non-insured entity to the resultant IDI through the merger transaction.

VI. Resources

FDIC Bank Application Resource page, <https://www.fdic.gov/regulations/applications/resources/>
 FDIC Regional Offices, <https://www.fdic.gov/about/contact/directory/region.html>
 FDIC Law, Regulations, Related Acts, <https://www.fdic.gov/regulations/laws/rules/>
 Section 18(c) of the FDI Act, 12 U.S.C. 1828(c)
 Section 42 of the FDI Act, 12 U.S.C. 1831r-1
 Section 44 of the FDI Act, 12 U.S.C. 1831u
 12 CFR part 303, subparts A and D
 Interagency Policy Statement Concerning Branch Closing Notices and Policies, 64 FR 34845 (June 29, 1999)
 Applications Procedures Manual (APM), <https://www.fdic.gov/bank-examinations/applications-procedures-manual>
 Section 1 of the FDIC APM, <https://www.fdic.gov/system/files/2024-07/section-01-01-overview.pdf>
 Section 4 of the FDIC Application Procedures Manual, <https://www.fdic.gov/system/files/2024-07/section-04-mergers.pdf>

FDIC Delegations of Authority—Filings, <https://www.fdic.gov/regulations/laws/matrix/index.html>

Interagency Bank Merger Act Form, <https://www.fdic.gov/formsdocuments/f6220-01.pdf>

Deposit Market Share Reports—Summary of Deposits, <https://www2.fdic.gov/sod>
 Federal Reserve Bank of St. Louis, Competitive Analysis and Structure Source Instrument for Depository Institutions, <https://cassidi.stlouisfed.org/index>

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on September 17, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024–22189 Filed 9–26–24; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice: 12515]

RIN 1400–AF87

Amendment to the International Traffic in Arms Regulations: Prohibited Exports, Imports, and Sales to or From Certain Countries—Cyprus

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations to reflect current defense trade policy toward Cyprus.

DATES: This rule is effective on October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Hershel Tamboli, Foreign Affairs Officer, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (771) 204–0008; email DDTCCustomerService@state.gov. ATTN: Regulatory Change, ITAR Section 126.1 Cyprus Country Policy Update.

SUPPLEMENTARY INFORMATION: The Department of State (the Department) amends section 126.1 of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130) to specify that the Republic of Cyprus' status as a proscribed destination is suspended from October 1, 2024, through September 30, 2025. This action continues the Department's current policy, which originally lifted the arms embargo to the Republic of Cyprus, under section 126.1 of the ITAR, on October 1, 2022.

Specifically, section 1250A(d) of the National Defense Authorization Act for

Fiscal Year 2020 (Pub. L. 116–92) (2020 NDAA) and section 205(d) of the Eastern Mediterranean Security and Energy Partnership Act of 2019 (Pub. L. 116–94, Div. J.) (EMSEPA) provide that the policy of denial for exports, reexports, and transfers of defense articles on the United States Munitions List to the Republic of Cyprus shall remain in place unless the President determines and certifies to the appropriate congressional committees not less than annually that: (A) the Government of the Republic of Cyprus is continuing to cooperate with the United States Government in efforts to implement reforms on anti-money laundering regulations and financial regulatory oversight; and (B) the Government of the Republic of Cyprus has made and is continuing to take the steps necessary to deny Russian military vessels access to ports for refueling and servicing.

On April 14, 2020, the President delegated to the Secretary of State the functions and authorities vested by the 2020 NDAA and the EMSEPA (85 FR 35797, June 12, 2020). On August 19, 2024, utilizing these authorities, the Secretary of State certified to the appropriate congressional committees that the Republic of Cyprus meets the statutory requirements to remove the policy of denial for exports, reexports, and transfers of defense articles to the Republic of Cyprus for fiscal year 2025. The Secretary of State further approved the suspension of the policy of denial for exports, reexports, and transfers of defense articles and defense services to the Republic of Cyprus for fiscal year 2025. In conjunction with this action, the Secretary of State also suspended the policy of denial for retransfers and temporary imports destined for or originating in the Republic of Cyprus and brokering activities involving the Republic of Cyprus for fiscal year 2025.

As a result of this certification, certain exemptions to licensing requirements continue to be available for exports, reexports, retransfers, and temporary imports destined for or originating in the Republic of Cyprus and brokering activities involving the Republic of Cyprus, provided the conditions for use of those exemptions are met. Applications for licenses and other authorizations submitted to the Directorate of Defense Trade Controls involving the Republic of Cyprus and nationals of the Republic of Cyprus are subject to case-by-case review.

Regulatory Analysis and Notices

Administrative Procedure Act

This rulemaking involves a military or foreign affairs function of the United States under 5 U.S.C. 553(a). As the provisions of section 553 do not apply to this rulemaking, the Department is publishing this rule with a specified effective date and without a request for public comment.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will 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

It is the view of the Office of Information and Regulatory Affairs that this rulemaking is not a major rule under the criteria of 5 U.S.C. 804. This rule will not increase costs or prices and should have no adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets. The Department does not expect this rule to have an annual effect on the economy of \$100 million or more.

Executive Orders 12372 and 13132

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866, 13563, and 14094

Executive Orders 12866 (as amended by Executive Order 14094) 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, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Because the scope of this rule implements a governmental policy expanding defense trade with a country, and does not impose additional regulatory requirements or obligations, the Department believes costs associated with this rule will be minimal. This rule has been designated as a significant regulatory action by the Office of Information and Regulatory Affairs under Executive Order 12866, as amended.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

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

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 126 is amended as follows:

PART 126—GENERAL POLICIES AND PROVISIONS

■ 1. The authority citation for part 126 continues to read as follows:

Authority: 22 U.S.C. 287c, 2651a, 2752, 2753, 2776, 2778, 2779, 2779a, 2780, 2791, 2797; Sec. 1225, Pub. L. 108–375, 118 Stat. 2091; Sec. 7045, Pub. L. 112–74, 125 Stat. 1232; Sec. 1250A, Pub. L. 116–92, 133 Stat. 1665; Sec. 205, Pub. L. 116–94, 133 Stat.

3052; E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223.

■ 2. Amend § 126.1 by revising paragraph (r)(2) to read as follows:

§ 126.1 Prohibited exports, imports, and sales to or from certain countries.

* * * * *

(r) * * *

(2) From October 1, 2024, through September 30, 2025, the policy of denial and the status of Cyprus as a proscribed destination is suspended.

* * * * *

Bonnie D. Jenkins,

Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2024–21849 Filed 9–26–24; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0868]

RIN 1625–AA87

Security Zone; Monongahela River Mile Markers 0–43.5, Allegheny River Mile Markers 0–14.5, and Ohio River Mile Markers 0–28.5 and 89–93, Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing four security zones for certain navigable waters on the Allegheny, Monongahela, and Ohio Rivers to prevent waterside threats for persons under the protection of the United States Secret Service (USSS). These security zones will be enforced intermittently and when persons under USSS protection are in the area. This rule prohibits vessels and people from entering or remaining in the zones unless specifically exempt under the provisions of this rule or granted specific permission from the Captain of the Port Pittsburgh. The regulation will enhance the safety and security of persons and property, while minimizing, to the extent possible, the impact on commerce and legitimate waterway use.

DATES: This rule is effective without actual notice from September 27, 2024 through November 30, 2024. For the purpose of enforcement, actual notice will be used from September 23, 2024, until September 27, 2024. This rule will be enforced when persons under USSS

protection are in the vicinity of one of the security zone areas.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2024–0868 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Marine Science Technician First Class Brett Lanzel, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 206–815–6624, email brett.j.lanzel@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On seven separate occasions since February 2024, the COTP has established temporary security zones encompassing certain U.S. navigable waters on the Allegheny, Monongahela and Ohio River. These security zones were established and enforced at the request of the U.S. Secret Service (USSS) to support security measures required during visits by high-ranking United States government officials.

There is a high likelihood that between September 23, 2024, and November 30, 2024, there will be several visits to the Pittsburgh, PA area by persons under USSS protection. Most of these visits will occur with less than two weeks’ notice. Therefore, the Coast Guard is establishing these security zones to notify the public that when these visits occur, the Coast Guard may enforce one or more security zones to ensure the safety of the protected persons, vessels, bridges, and the public while the protected persons transit bridges or are at waterfront facilities. The security zones will be enforced only when protected persons are in the area. The Coast Guard will provide local notice for each instance the security zones will be enforced.

The Coast Guard is issuing this temporary rule under the authority in 5 U.S.C. 553(b)(B). This statutory provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those

procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest to delay the effective date of this rule due to the short time period between event planners notifying the Coast Guard and the effective date needed for the security zones.

It is impracticable because this security zone must be established by September 23, 2024, to provide for the security of life on the navigable waters during anticipated dignitary visits, and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. And publishing an NPRM is contrary to the public interest because waiting for the NPRM process would delay the establishment of the security zone until after the date of anticipated dignitary visits.

Additionally, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. As previously mentioned above, delaying the effective date of this rule would be impracticable and contrary to the public interest because action is needed by September 23, 2024, to ensure the security of the of life on the navigable waters during a dignitary visit.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70051 and 70124. The Captain of the Port Pittsburgh (COTP) has determined that four security zone are needed to protect various visiting dignitaries, persons, and property during multiple anticipated visits between September 23, 2024, until November 30, 2024. This rule is necessary to provide waterside security and protection when persons under USSS protection are in these areas. These security zones will protect both the persons under USSS protection, vessels and certain shoreside facilities, and the public from potential hazards and threats.

IV. Discussion of the Rule

This rule establishes four security zones that will be enforced at one (1) mile segments for up to six (6) hours each during various dignitary bridge crossings or waterside events from September 23, 2024, through November 30, 2024. The Coast Guard will provide local notice for each instance of enforcement. This rule is necessary to

expedite the establishment and enforcement of these security zones when short notice is provided to the COTP for USSS protectees who may be present in the area.

Security Zone One will cover all navigable waters on the Monongahela River Mile Markers 0–43.5. Security Zone Two will cover all navigable waters on the Allegheny River Mile Markers 0–14.5. Security Zone Three will cover all navigable waters on the Ohio River Mile Markers 0–28.5. Security Zone Four will cover all navigable waters on the Ohio River Mile Marker 89–93. The duration of each instance of enforcement of the security zone is intended to protect a visiting dignitary and the other persons and property in the zone. These security zones may be activated individually or simultaneously with respect to the presence of USSS protectees.

No vessel or person is permitted to enter or remain in the security zone without obtaining permission from the COTP or a designated representative of the COTP. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the COTP. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through Marine Safety Unit Pittsburgh at 206–815–6624. Persons and vessels permitted to enter the security zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the security zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866, as amended by

Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, and duration of the temporary security zones. These security zones will impact one (1) mile stretches for up to six (6) hours at a time on the Monongahela River, Allegheny River and the Ohio River starting September 23, 2024, and ending November 30, 2024. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the enforcement of these zones and this rule allows vessels to seek permission from the COTP to transit the zone.

B. Impact on Small Entities

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

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The

Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

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

mile segments for up to six (6) hours on each instance of enforcement, from September 23, 2024, through November 30, 2024, on the Monongahela River, Allegheny River, or Ohio River, during an important dignitary visit. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08-0868 to read as follows:

§ 165.T08-0868 Security Zone; Monongahela River, Allegheny River, and Ohio River, Pittsburgh, PA.

(a) *Location.* The following areas are security zones:

(1) *Security Zone One* will cover all navigable waters on the Monongahela River Mile Markers 0-43.5.

(2) *Security Zone Two* will cover all navigable waters on the Allegheny River Mile Markers 0-14.5.

(3) *Security Zone Three* will cover all navigable waters on the Ohio River Mile Markers 0-28.5.

(4) *Security Zone Four* will cover all navigable waters on the Ohio River Mile Marker 89-93.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard commissioned, warrant, or petty officer who has been

authorized by the COTP to enforce this security zone described in paragraph (a) of this section.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on Channel 16. The COTP's representative may be contacted at 206-815-6624. Those in the security zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) The U.S. Coast Guard may secure the entirety of all or each security zones if deemed necessary to address security threats or concerns.

(d) *Enforcement period.* (1) The Coast Guard activates the security zones when requested by the U.S. Secret Service for the protection of individuals who qualify for their protection. The COTP will provide the public with notice of enforcement of security zone by Broadcast Notice to Mariners (BNM). This section will be enforced in one (1) mile segments for up to six (6) hours in each instance of enforcement from September 23, 2024, through November 30, 2024. The Coast Guard will provide local notice of each instance of enforcement of the temporary security zone.

(2) These security zones may be enforced individually or simultaneously.

Dated: September 23, 2024

Justin R. Jolley,

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

[FR Doc. 2024-22106 Filed 9-26-24; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0872]

RIN 1625-AA00

Safety Zone; Corpus Christi Ship Channel, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Corpus Christi Ship Channel. The safety zone is

needed to protect personnel, vessels, and the marine environment from potential hazards created by the removal of pipeline from the floor of the Corpus Christi Ship Channel near gated pair lights 31 and 32. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Corpus Christi, or a designated representative.

DATES: This rule is effective without actual notice from September 27, 2024, through October 31, 2024. For the purposes of enforcement, actual notice will be used from September 23, 2024, until September 27, 2024. It will be subject to enforcement each day it is in effect, between the hours of 9 p.m. to 3 a.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0872 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Timothy Cardenas, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361-939-5130, email Timothy.J.Cardenas@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to 5 U.S.C. 553(b). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. This rule is intended to protect personnel, vessels, and the marine environment from potential hazards associated with removal of the pipeline, include the deployment of heavy equipment which will obstruct vessel traffic, continuous diving

operations, and various other activities which create underwater hazards while people are working. There is insufficient time to publish an NPRM because the safety zone must be established by September 23, 2024.

In addition, the Coast Guard finds that good cause exists under 5 U.S.C. 553(d)(3) for making this rule effective less than 30 days after publication in the **Federal Register** because the safety zone must be in effect by September 23, 2024, when pipeline removal operations begin.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port, Sector Corpus Christi (COTP) has determined that hazards inherent in underwater pipeline removal activities necessitate provisions to protect personnel, vessels, and the marine environment while those activities are taking place. The activities giving rise to these hazards include the deployment of heavy equipment which will obstruct vessel traffic, continuous diving operations, and various other activities which create underwater hazards while people are working.

IV. Discussion of the Rule

This rule establishes a safety zone from September 23, 2024, through October 31, 2024. The rule is subject to enforcement from 9 p.m. to 3 a.m. each day it is in effect. The safety zone will cover all navigable waters in the Corpus Christi Ship Channel near gated pair lights 31 and 32, near pipeline removal operations. No vessel or person will be permitted to enter the temporary safety zones during the period in which the rule is subject to enforcement without obtaining permission from the COTP or a designated representative, who may be contacted on Channel 16 VHF-FM (156.8 MHz) or by telephone at 1-800-874-2143. The Coast Guard will issue Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is

necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. The safety zone covers less than 0.5 square mile area of the Corpus Christi Ship Channel in Texas. The temporary safety zone will be subject to enforcement for a period of six consecutive hours each day of the period, from September 23, 2024, to October 31, 2024.

B. Impact on Small Entities

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

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The

Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

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

zone for navigable waters in the Corpus Christi Bay lasting 6 hours per day for 36 days. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by pipeline removal activities that may include deployment of heavy equipment which will obstruct vessel traffic, continuous diver's operations, and various other activities which create underwater hazards while people are working. It is categorically excluded from further review under paragraph L60(a), in Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T08-0872 to read as follows:

§ 165.T08-0872 Safety Zone; Corpus Christi Ship Channel, Corpus Christi, TX.

(a) *Location.* The safety zone will be within the following area: All navigable waters of the Corpus Christi Ship Channel, from the surface to bottom, encompassed by a line connecting the following points beginning at Point 1: 27°49'18.48" N, 97°11'15.87" W, thence to Point 2: 27°49'6.33" N, 97°11'13.00" W, thence to Point 3: 27°49'19.49" N, 97°11'10.42" W, thence to Point 4: 27°49'7.35" N, 97°11'7.55" W. These coordinates are based on World Geodetic System (WGS) 84.

(b) *Definitions.* As used in this section, designated representative means a Coast Guard Patrol officer, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port, Port Arthur, TX (COTP), in the enforcement of the safety zone.

(c) *Enforcement period.* This section will be subject to enforcement from 9 p.m. to 3 a.m. each day in the period, from September 23, 2024, through October 31, 2024.

(d) *Regulations.* (1) In accordance with the general safety zone regulations in subpart C of this part, entry into the temporary safety zones described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. They may be contacted on Channel 16 VHF-FM (156.8 MHz) or by telephone at 1-800-874-2143.

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

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

Dated: September 23, 2024

T.H. Bertheau,

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

[FR Doc. 2024-22121 Filed 9-26-24; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF EDUCATION

34 CFR Parts 75, 76, and 79

[Docket ID ED-2023-OPEPD-0110]

RIN 1875-AA14

Education Department General Administrative Regulations and Related Regulatory Provisions; Correction

AGENCY: Office of Planning, Evaluation and Policy Development, Department of Education.

ACTION: Final regulations; correction.

SUMMARY: On August 29, 2024, the Department of Education (Department) published in the **Federal Register** final regulations amending the Education Department General Administrative Regulations and related regulatory provisions. This document corrects

technical errors in the amendatory instructions and regulatory text. This document does not contain any substantive changes to the regulations.

DATES: Effective September 30, 2024.

FOR FURTHER INFORMATION CONTACT:

Kelly Terpak, U.S. Department of Education, 400 Maryland Avenue SW, Room 4C212, Washington, DC 20202. Telephone: (202) 245-6776. Email: EDGAR@ed.gov.

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

SUPPLEMENTARY INFORMATION: On August 29, 2024, the Department published in the **Federal Register** final regulations amending the Education Department General Administrative Regulations and related regulatory provisions (89 FR 70300). Those final regulations contain technical errors, which we are correcting. This document does not contain any substantive changes to the regulations.

Specifically, we are correcting:

- The wording of the regulatory text being replaced in § 75.50;
- Section 75.210 by restoring a selection criterion factor from the current regulation which was inadvertently omitted from the revisions to that section;
- One paragraph designation in § 75.225;
- Punctuation in the section heading for § 75.591 to maintain the format of the current heading;
- The wording of the regulatory text being replaced in the amendatory instruction for § 76.100;
- The section number in the amendatory instruction for § 76.564;
- A reference to Catalog of Federal Domestic Assistance, or "CFDA number," in § 76.711, and making a related conforming edit to replace that term with Assistance Listing Number, or "ALN";
- The instruction for § 76.783, to remove only one instance of the word "or"; and
- A typo in the instruction for § 79.4.

Waiver of Proposed Rulemaking and Delayed Effective Date

In accordance with the Administrative Procedure Act (APA), 5 U.S.C. 553, the Department generally offers interested parties the opportunity to comment on proposed regulations. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary

to the public interest (5 U.S.C. 553(b)(3)(B)). There is good cause to waive rulemaking here as unnecessary.

Rulemaking is “unnecessary” in those situations in which “the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.” *Utility Solid Waste Activities Group v. EPA*, 236 F.3d 749, 755 (D.C. Cir. 2001), quoting U.S. Department of Justice, *Attorney General’s Manual on the Administrative Procedure Act* 31 (1947) and *South Carolina v. Block*, 558 F. Supp. 1004, 1016 (D.S.C. 1983). The regulatory changes in this document are necessary to correct technical errors and do not establish any new substantive rules and do not make substantive changes to these regulations. Therefore, the Department has determined that publication of a proposed rule is unnecessary under 5 U.S.C. 553(b)(3)(B).

The APA generally requires that regulations be published at least 30 days before their effective date, unless the agency has good cause to implement its regulations sooner (5 U.S.C. 553(d)(3)). As previously stated, because the regulatory changes correct errors, there is good cause to waive the delayed effective date in the APA and make the corrections effective September 30, 2024.

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

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Corrections

In FR Doc. 2024–17239, published in the **Federal Register** on August 29, 2024 (89 FR 70300), we make the following technical corrections:

■ 1. On page 70320, in the second column, correct instruction 4 for § 75.50 to read as follows:

§ 75.50 [Corrected]

■ 4. Amend § 75.50 by removing the words “authorizing statute and implementing regulations” and adding in their place the words “applicable statutes and regulations”.

■ 2. On page 70324, in the first column, correct instruction 28 for § 75.210 by adding paragraph (c)(2)(xxx) to read as follows:

§ 75.210 [Corrected]

* * * * *

(c) * * *

(2) * * *

(xxx) The extent to which the proposed project is supported by promising evidence.

* * * * *

§ 75.225 [Corrected]

■ 3. On page 70327, in the second column, in instruction 36 for § 75.225, redesignate paragraph (e) as paragraph (d).

§ 75.591 [Corrected]

■ 4. On page 70331, in the second column, in instruction 60 for § 75.591, correct the section heading from “Federal evaluation; cooperation by a grantee” to “Federal evaluation—cooperation by a grantee”.

■ 5. On page 70335, at the end of the first column and beginning of the second column, correct instruction 101 for § 76.100 to read as follows:

§ 76.100 [Corrected]

■ 101. Amend § 76.100 by removing the words “the authorizing statute and the implementing regulations” and adding in their place the words “applicable statutes and regulations”.

§ 76.564 [Corrected]

■ 6. On page 70338, in the second column, correct instruction 127 from “Revise § 76.554 to read as follows:” to “Revise § 76.564 to read as follows:”.

■ 7. On page 70339, in the second column, correct instruction 147 for § 76.711 by revising instruction b. and adding instruction c. to read as follows:

§ 76.711 [Corrected]

■ 147. Amend § 76.711 by:

* * * * *

■ b. Removing the phrase “Catalog of Federal Domestic Assistance (CFDA)”

and adding in its place the words “Assistance Listings and assigned an Assistance Listing Number (ALN)”.

■ c. Removing the text “CFDA number” and adding in its place the abbreviation “ALN”.

* * * * *

§ 76.783 [Corrected]

■ 8. On page 70340, in the second column, correct instruction 154.a. for § 76.783 to read as follows:

■ 154. Amend § 76.783 by:

■ a. In paragraph (a)(1), removing the word “or” at the end of the paragraph;

* * * * *

■ 9. On page 70343, in the third column, correct instruction 170 for § 79.4 to read as follows:

§ 79.4 [Corrected]

■ 170. Amend § 79.4 in paragraph (b)(3) by removing the word “official’s” and adding in its place the word “officials”.

Roberto Rodriguez,

Assistant Secretary for Planning, Evaluation and Policy Development.

[FR Doc. 2024–22195 Filed 9–26–24; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2023–0273; FRL–12121–02–R4]

Air Plan Approval; FL; Surface Coating of Miscellaneous Metal Parts and Products Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Florida Department of Environmental Protection (FDEP) on October 12, 2022. EPA is approving changes allowing the option for aerospace parts and products coating operations in Florida to comply with Federal National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements in lieu of the volatile organic compound (VOC) standards in Florida’s Surface Coating of Miscellaneous Metal Parts and Products (MMPP) rule (hereinafter referred to as FL MMPP Rule) in the Florida SIP. EPA has determined that the changes included in Florida’s October 12, 2022, submission are consistent with the applicable provisions of the Clean Air

Act (CAA or Act) and its implementing regulations.

DATES: This rule is effective October 28, 2024.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2023-0273. All documents in the docket are listed on the *regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Simone Jarvis, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8393. Ms. Jarvis can also be reached via electronic mail at *Jarvis.Simone@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is approving changes to the Florida SIP submitted by the State on October 12, 2022. The changes address the FL MMPP Rule—Rule 62–296.513, *Surface Coating of Miscellaneous Metal Parts and Products*, which provides specific reasonably available control technology (RACT) requirements for sources in Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach, or Pinellas Counties that apply surface coatings to any number of metal parts and products, to limit their VOC emission rates, including surface coating at aerospace manufacturing operations.¹ However, sources are exempt from this rule if they emit no more than 15 pounds in any one day

and no more than three pounds in any one hour. The FL MMPP Rule was incorporated into the Florida SIP to address the RACT requirements for areas that were designated nonattainment for the 1979 1-hour ozone standard.² EPA redesignated these areas to attainment in 1995.³

Through a notice of proposed rulemaking (NPRM) published on July 30, 2024 (89 FR 61055), EPA proposed to approve changes to the State's MMPP Rule, which revises the SIP to provide that aerospace parts and products coating operations classified as area sources of hazardous air pollutants (HAPs) may, in lieu of complying with the VOC requirements of the FL MMPP Rule, instead comply with specified elements of EPA's NESHAP for Aerospace Manufacturing and Rework Facilities at 40 CFR part 63, subpart GG (Aerospace NESHAP). Major sources of HAPs, which are required to comply with the Aerospace NESHAP, would also be exempt from the FL MMPP Rule. In this rulemaking, EPA is finalizing its approval of Florida's October 12, 2022, request to incorporate the changes to the FL MMPP Rule into the Florida SIP. EPA's rationale for approving the changes is described in the July 30, 2024, NPRM. Comments on the July 30, 2024, NPRM were due on or before August 29, 2024. EPA received three sets of comments on the NPRM. EPA received two sets of substantively identical comments from the same commenter. These comments are addressed below and are available in the docket for this action. The third set of comments is not relevant to this action and is excluded from the docket.

II. Response to Comments

EPA received two substantively identical sets of comments on the July 30, 2024, NPRM from Clean Future (Commenter). EPA has summarized and responded to the comments below:

² On November 6, 1991, EPA designated and classified the Miami-Fort Lauderdale-W. Palm Beach Area (*i.e.*, Broward, Dade, and Palm Beach Counties) as moderate nonattainment for the 1979 1-hour ozone NAAQS; the Jacksonville Area (*i.e.*, Duval County) as transitional nonattainment; the Tampa-St. Petersburg-Clearwater Area (*i.e.*, Hillsborough and Pinellas Counties) as marginal nonattainment; and Orange County as attainment. See 56 FR 56694. Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to amend the SIPs for areas to satisfy the requirements of section 183 of the CAA.

³ See 60 FR 41 for the Jacksonville, FL (Duval County) redesignation. See 60 FR 10325 for the Miami-Fort Lauderdale-W. Palm Beach, FL (Miami-Dade, Broward, and Palm Beach Counties) redesignation. See 60 FR 62748 for the Tampa-St. Petersburg-Clearwater, FL (Hillsborough and Pinellas Counties) redesignation.

Comments: The Commenter supports EPA's action and suggests that “the EPA offer a thorough analysis of the anticipated decreases in VOC emissions as a consequence of these adjustments.” The Commenter goes on to “urge the EPA to make certain that the revised SIP offers sufficient assistance to impacted industries and contains explicit guidelines for compliance.” Lastly, the Commenter “recommend[s] that the EPA establish a mechanism for periodic review and adjustment of the regulations to incorporate new developments and address any unforeseen challenges.”

Response: EPA appreciates the Commenter's support for this action. Due to the general nature of the Commenter's requests and suggestions, EPA is only able to provide general responses.

The scope of EPA's review in evaluating SIP revisions is limited to the process in CAA section 110 and EPA's implementing regulations codified at 40 CFR part 51. Under CAA section 110, States have broad discretion to choose the mix of emission limitations and other control measures, means, or techniques that they will implement (or update) through a SIP to provide for attainment and maintenance of national ambient air quality standards (NAAQS). EPA's role, with respect to a SIP revision, is focused on reviewing the submission to determine whether it meets the minimum criteria of the CAA. These minimum criteria include CAA section 110(l) which prohibits EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. Where a SIP revision meets the minimum CAA criteria, EPA must approve the submission. When approving a SIP revision, the Agency is not establishing its own requirements for the State to implement. If, at any time, EPA finds that a SIP is inadequate to attain or maintain the relevant NAAQS or otherwise does not comply with the CAA, EPA has the authority under CAA section 110(k)(5) to require the State to revise its SIP to correct such inadequacies.

Regarding the suggestion that EPA provide a thorough analysis of anticipated decreases in VOC emission associated with this SIP revision, EPA discussed the potential changes in VOC emissions in the NPRM, and the Commenter has not pointed to any specific concerns with EPA's analysis of VOC emissions. In the NPRM, EPA noted that the SIP revision would allow

¹ See Rule 62–296.500(3)(a).

some sources to apply coatings with a higher VOC content, which has the potential to increase VOC emissions. However, EPA also noted that with all counties in Florida attaining the 1997, 2008, and 2015 ozone, as well as the 2006 and 2012 PM_{2.5} NAAQS, and anticipated to attain the 2024 PM_{2.5} NAAQS based on 2021–2023 monitoring data,⁴ it is unlikely that any de minimis increase in the potential to emit VOCs from aerospace coating operations facilities would impact any NAAQS.⁵ Thus, EPA has concluded that this SIP revision is consistent with the CAA and its implementing regulations and would not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.

EPA initially incorporated the FL MMPP Rule into the SIP as part of Florida's measures to attain and maintain the NAAQS.⁶ The SIP revision does not impose new requirements on the covered coating operations, but rather adds an exemption from an existing SIP requirement for sources that comply with the established standards of the Aerospace NESHAP. Given the limited nature of this SIP revision and EPA's role in reviewing SIP revisions discussed above, the Commenter's suggestion that the revised SIP provide industry assistance and contain explicit guidelines for compliance, as well as the Commenter's recommendation the EPA establish a mechanism for periodic review and adjustment of regulations to incorporate new developments and unforeseen challenges are beyond the scope of EPA's review. Regarding the Commenter's recommendation to establish a mechanism for periodic review and adjustment of regulations to incorporate new developments and

challenges, EPA reiterates that it has the authority to issue a SIP call under CAA section 110(k)(5) if, at any time, it finds the SIP to be inadequate to attain or maintain the relevant NAAQS or otherwise does not comply with the CAA.

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in Sections I and II of this preamble, EPA is finalizing the incorporation by reference of Florida Rule 62–296.513, F.A.C., *Surface Coating of Miscellaneous Metal Parts and Products*, State effective on June 16, 2022. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁷

IV. Final Action

EPA is approving the October 12, 2022, Florida SIP revision consisting of amendments to Rule 62–296.513, F.A.C., *Surface Coating of Miscellaneous Metal Parts and Products*, in the Florida SIP. EPA has evaluated Florida's October 12, 2022, SIP revision, and determined that the changes will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA.

V. Statutory and Executive Order Reviews

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

those imposed by State law. For that reason, this action:

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

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

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

⁴ See <https://www.epa.gov/air-trends/air-quality-design-values>.

⁵ There are six NAAQS established to protect human health and the environment. These NAAQS are carbon monoxide (CO), lead, nitrogen dioxide (NO₂), ozone, particulate matter (PM)—including PM_{2.5} and PM₁₀, and sulfur dioxide (SO₂). EPA does not believe that there would be any changes in emissions of CO, lead, NO₂, or SO₂ from this change to the FL SIP.

⁶ On November 6, 1991, EPA designated and classified the Miami-Fort Lauderdale-W. Palm Beach Area (*i.e.*, Broward, Dade, and Palm Beach Counties) as moderate nonattainment for the 1979 1-hour ozone NAAQS; the Jacksonville Area (*i.e.*, Duval County) as transitional nonattainment; the Tampa-St. Petersburg-Clearwater Area (*i.e.*, Hillsborough and Pinellas Counties) as marginal nonattainment; and Orange County as attainment. See 56 FR 56694. Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to amend the SIPs for areas to satisfy the requirements of section 183 of the CAA.

⁷ See 62 FR 27968 (May 22, 1997).

disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The FDEP did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for communities with EJ concerns.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action

is not a “major rule” as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds. Dated: September 20, 2024. Jeaneanne Gettle, Acting Regional Administrator, Region 4. For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows: Authority: 42 U.S.C. 7401 et seq.

Subpart K—Florida

2. In § 52.520 paragraph (c), amend the table by revising the entry for “62–296.513” to read as follows:

§ 52.520 Identification of plan. * * * * * (c) * * *

EPA-APPROVED FLORIDA LAWS AND REGULATIONS

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
Chapter 62–296 Stationary Sources—Emission Standards				
62–296.513	Surface Coating of Miscellaneous Metal Parts and Products.	6/16/2022	9/27/2024, [Insert first page of Federal Register citation].	

[FR Doc. 2024–22135 Filed 9–26–24; 8:45 am] BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY 40 CFR Part 711 [EPA–HQ–OPPT–2018–0321; FRL–5982.2–01–OCSPP] RIN 2070–AK33 Chemical Data Reporting; Extension of the 2024 Submission Period AGENCY: Environmental Protection Agency (EPA). ACTION: Final rule. SUMMARY: The Environmental Protection Agency (EPA or Agency) is amending the Toxic Substances Control Act (TSCA) Chemical Data Reporting (CDR) regulations to extend the submission deadline for 2024 reports to November 22, 2024. This extension is for the 2024

submission period only. The TSCA CDR regulations require manufacturers (including importers) of certain chemical substances included on the TSCA Chemical Substance Inventory (TSCA Inventory) to report data on the manufacturing, processing, and use of the chemical substances. DATES: This final rule is effective September 27, 2024. ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0321, is available online at https://www.regulations.gov. Additional information about dockets generally, along with instructions for visiting the docket in-person, is available at https://www.epa.gov/dockets. FOR FURTHER INFORMATION CONTACT: For technical information contact: Susan Sharkey, Data Gathering, Management, and Policy Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW,

Washington, DC 20460–0001; telephone number: (202) 564–8789; email address: sharkey.susan@epa.gov. For general information contact: The TSCA–Hotline, ABVI–Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: TSCA–Hotline@epa.gov. SUPPLEMENTARY INFORMATION: I. Executive Summary A. Does this action apply to me? You may be potentially affected by this action if you manufacture (including import) chemical substances listed on the TSCA Inventory. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include but are not limited to:

- Chemical manufacturers (including importers) (NAICS codes 325 and 324110, *e.g.*, chemical manufacturing and processing and petroleum refineries) and

- Chemical users and processors who may manufacture a byproduct chemical substance (NAICS codes 22, 322, 331, and 3344, *e.g.*, utilities, paper manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing).

B. What action is the Agency taking?

The current 2024 CDR submission period is from June 1 to September 30, 2024. EPA is issuing this amendment to extend the deadline for the submission of 2024 CDR reports until November 22, 2024. This extension is for the 2024 submission period only. Subsequent submission periods (recurring every four years, next in 2028) are not being amended.

EPA is taking this action in response to concerns related to the 2024 CDR data submission tool, primarily associated with the ability of the reporting tool to correctly capture substantiations for chemical identity CBI claims. In the tool, submitters are able to claim as confidential the identity of a chemical substance already listed as confidential on the TSCA Inventory (40 CFR 711.30(c)) by checking the appropriate CBI box in the reporting tool and submitting detailed written answers to substantiation questions. Late in the 2024 reporting period, however, EPA found that when submitters used the reporting tool to copy the substantiation from one chemical to another, some questions and their responses were not copied and were, therefore, not included with the submission. The application erroneously indicated that the information was correctly copied and prevented users from supplying the missing information. Although this issue would only affect the small percentage of the submitters making chemical identity CBI claims, enabling each submitter to substantiate a CBI claim according to the requirements of 40 CFR 711.30 is important.

As noted previously, this issue with the CDR data submission tool was identified very recently. When EPA identified the issue, the Agency took immediate action to fix the issue and extend the reporting period. EPA expects to have the reporting tool working properly before the end of September 2024. Ahead of deploying this correction to the tool, EPA (through the reporting application) has asked that users submitting CBI claims involving chemical identities refrain from copying

data from one chemical to another. The risk that some users may still use this copy functionality without realizing that it does not work properly (and that their CBI claim(s) therefore have not been properly substantiated), however, indicates that more time is needed to ensure reports are accurately filed. To this end, submitters need adequate time to verify and update, if needed, their chemical identity confidentiality claims and supporting substantiations. Further, EPA needs time to ensure that the update to the reporting tool works as intended, and that sites that have submitted CDR forms prior to deployment of this update have adequate time to review their submission and make updates as appropriate, should this error have resulted in their submission having been incorrectly provided to EPA.

C. What is the Agency's authority for taking this action?

The CDR rule was issued pursuant to the authority of TSCA section 8(a), 15 U.S.C. 2607(a).

II. Why is this amendment issued as a final rule?

Section 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule to extend the reporting period final without prior proposal and opportunity for comment, because such notice and opportunity for comment is impracticable for the reasons explained in this section.

As explained in the prior section, the electronic reporting issue has unexpectedly narrowed the time window the Agency had allotted under the regulations to complete and submit 2024 CDR reports. The extent of this electronic reporting issue was unforeseen, given that EPA had conducted a beta test with expected users of the reporting tool prior to the beginning of the submission period, and EPA staff similarly had not discovered this issue until three weeks ahead of the September 30, 2024, reporting deadline. Further, most sites submit CDR data during the final month of the reporting period, having collected and prepared data earlier in the submission period. Given that the current reporting deadline is September 30, 2024, regular notice and comment procedures to

extend that deadline to address these unforeseen circumstances are impracticable, as the rule could not be finalized before the current reporting deadline. Additionally, notice and comment is impracticable because this deadline extension merely enables reports to be submitted as required under the current regulations, absent these unforeseen submission problems, and does not impact the substance of the data collection or other regulatory requirements.

This action does not alter the substantive CDR reporting requirements in any way. The Agency also believes this extension will not result in a significant delay in the processing and availability of CDR information to potential users. This extension will not significantly impact the Agency's ability to carry out actions and activities that rely upon CDR, including work on the TSCA risk evaluations. EPA will consider CDR information as soon as it becomes available and work on risk evaluations remains ongoing. Further, this action is consistent with the public interest because it is designed to facilitate compliance with the CDR rule and to ensure that the 2024 collection includes accurate data on chemical manufacturing, processing, and use in the United States. Finally, any impact on the regulated community is expected to be beneficial given that the extension provides additional time to submit accurate CDR reports to EPA.

APA section 553(d) (5 U.S.C. 553(d)), in turn, allows an agency to make a rule immediately effective "for good cause found and published with the rule." EPA has determined that there is good cause for making this final rule effective immediately because the current deadline for reporting is imminent and the regulated community does not need time to prepare for this change in the reporting deadline; rather, the reporting deadline extension provides the needed time for the regulated community to meet the existing requirements. Such an extension also "relieves a restriction" under APA 553(d)(1), 5 U.S.C. 553(d)(1).

For the reasons discussed in this unit, the Agency finds that good cause exists under APA section 553(d) to make this rule effective immediately upon publication in the **Federal Register**.

III. Do any of the statutory and executive order review requirements apply to this action?

No. This action is a technical amendment to 40 CFR part 711 that is necessary in order to extend the deadline for the 2024 CDR reporting period that appears in 40 CFR 711.20. This action does not otherwise impose

any new requirements or change the substantive requirements. Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

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

This action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023), and was therefore not subject to Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

This action does not contain any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2070–0162 (EPA ICR No. 1884.15). This action does not create any new reporting or recordkeeping obligations, and does not otherwise change the burden estimates that were approved.

C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements under the APA because the Agency has invoked the APA “good cause” exemption (see Unit II.).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million (in 1995 dollars and adjusted annually for inflation) or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action will not have federalism impacts as defined in Executive Order 13132 (64 FR 43255, August 10, 1999) because this action will not have substantial direct effects on States, on the relationship between the Federal Government and States, or on the distribution of power and responsibilities between the Federal Government and States.

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

This action will not have tribal implications as defined in Executive Order 13175 (65 FR 67249, November 9, 2000) because this action will not have substantial direct effects on tribal governments, 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.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it does not address environmental health or safety risks disproportionately affecting children. Since this action does not concern human health, EPA’s 2021 Policy on Children’s Health also does not apply.

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

This action is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have any adverse effect on the supply, distribution or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards under the NTTAA section 12(d), 15 U.S.C. 272.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation’s Commitment to Environmental Justice for All

EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns in accordance with Executive Orders 12898 (59 FR 7629, February 16, 1994) and 14096 (88 FR 25251, April 26, 2023).

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This does not meet the criteria set forth in 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 711

Environmental protection, Chemicals, Confidential Business Information (CBI), Hazardous materials, Importer, Manufacturer, Reporting and recordkeeping requirements.

Dated: September 23, 2024.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, for reasons set forth in the preamble, EPA amends 40 CFR part 711 as follows:

PART 711—[AMENDED]

■ 1. The authority citation for part 711 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

■ 2. Revise and republish § 711.20 to read as follows:

§ 711.20 When to report.

All information reported to EPA in response to the requirements of this part must be submitted during an applicable submission period. The 2024 CDR submission period is from June 1, 2024, to November 22, 2024. Subsequent recurring submission periods are from June 1 to September 30 at 4-year intervals, beginning in 2028. In each submission period, any person described in § 711.8 must report as described in this part.

[FR Doc. 2024–22060 Filed 9–26–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 425

[CMS–1799–F]

RIN 0938–AV20

Medicare Program: Mitigating the Impact of Significant, Anomalous, and Highly Suspect Billing Activity on Medicare Shared Savings Program Financial Calculations in Calendar Year 2023

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule addresses policies for assessing performance year (PY) 2023 financial performance of Medicare Shared Savings Program (Shared Savings Program) Accountable Care Organizations (ACOs); establishing

benchmarks for ACOs starting agreement periods in 2024, 2025, and 2026; and calculating factors used in the application cycle for ACOs applying to enter a new agreement period beginning on January 1, 2025, and the change request cycle for ACOs continuing their participation in the program for PY 2025, as a result of significant, anomalous, and highly suspect billing activity for selected intermittent urinary catheters on Medicare Durable Medical Equipment, Prosthetics, Orthotics & Supplies (DMEPOS) claims. Under the Shared Savings Program, providers of services and suppliers that participate in ACOs continue to receive traditional Medicare fee-for-service (FFS) payments under Medicare Parts A and B, but the ACO may be eligible to receive a shared savings payment if it meets specified quality and savings requirements. ACOs participating in two-sided models may also share in losses. In this final rule, we respond to public comments we received on the proposal to mitigate the impact of significant, anomalous, and highly suspect billing activity on Medicare Shared Savings Program financial calculations in calendar year (CY) 2023.

DATES: These regulations are effective on October 15, 2024.

FOR FURTHER INFORMATION CONTACT:

Richard (Chase) Kendall, (410) 786–1000, or SharedSavingsProgram@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:

CPT (Current Procedural Terminology) Copyright Notice

Throughout this final rule, we use CPT codes and descriptions to refer to a variety of services. We note that CPT codes and descriptions are copyright 2019 American Medical Association. All Rights Reserved. CPT is a registered trademark of the American Medical Association (AMA). Applicable Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations (DFAR) apply.

I. Background

A. Statutory Background on Shared Savings Program Financial Calculations

Section 1899 of the Social Security Act (the Act) (42 U.S.C. 1395jjj), as added by section 3022 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted March 23, 2010), establishes the general requirements for payments to participating Accountable Care Organizations (ACOs) in the Shared Savings Program. Specifically, section 1899(d)(1)(A) of the Act provides that providers of services and suppliers

participating in an ACO will continue to receive payment under the original Medicare fee-for-service program under Parts A and B in the same manner as they would otherwise be made.

However, section 1899(d)(1)(A) of the Act also provides for an ACO to receive payment for shared savings provided that the ACO meets both the quality performance standards established by the Secretary and demonstrates that it has achieved savings against a benchmark of expected average per capita Medicare FFS expenditures. Additionally, section 1899(i) of the Act authorizes the Secretary to use other payment models in place of the one-sided model described in section 1899(d) of the Act. This provision authorizes the Secretary to select a partial capitation model or any other payment model that the Secretary determines will improve the quality and efficiency of items and services furnished to Medicare beneficiaries without additional program expenditures. We have used our authority under section 1899(i)(3) of the Act to establish the Shared Savings Program's two-sided payment models (see for example, 80 FR 32771 and 32772, and 83 FR 67834 through 67841) and to mitigate shared losses owed by ACOs affected by extreme and uncontrollable circumstances during performance year (PY) 2017 and subsequent performance years (82 FR 60916 and 60917, 83 FR 59974 through 59977), among other uses of this authority described elsewhere in this final rule.

Section 1899(d)(1)(B)(i) of the Act specifies that, in each year of the agreement period, an ACO is eligible to receive payment for shared savings only if the estimated average per capita Medicare expenditures under the ACO for Medicare FFS beneficiaries for Parts A and B services, adjusted for beneficiary characteristics, is at least the percent specified by the Secretary below the applicable benchmark under section 1899(d)(1)(B)(ii) of the Act. Section 1899(d)(1)(B)(ii) of the Act addresses how ACO benchmarks are to be established and updated under the Shared Savings Program. This provision specifies that the Secretary shall estimate a benchmark for each agreement period for each ACO using the most recent available 3 years of per beneficiary expenditures for Parts A and B services for Medicare FFS beneficiaries assigned to the ACO. This benchmark shall be adjusted for beneficiary characteristics and such other factors as the Secretary determines appropriate and updated by the

projected absolute amount of growth in national per capita expenditures for Parts A and B services under the original Medicare FFS program, as estimated by the Secretary.

In past rulemaking, we have used our authority under sections 1899(d)(1)(B)(ii) and 1899(i)(3) of the Act to establish adjustments to the benchmark and program expenditure calculations, respectively, to exclude certain Medicare Parts A and B payments. In the November 2011 final rule (76 FR 67920 through 67922), we adopted an alternate payment methodology that excluded Indirect Medical Education (IME) and Disproportionate Share Hospital (DSH) payments from ACO benchmark and performance year expenditures due to concerns that the inclusion of these amounts would incentivize ACOs to avoid referring patients to the types of providers that receive these payments. In the Calendar Year (CY) 2023 Physician Fee Schedule final rule (87 FR 69954 through 69956), we excluded new supplemental payments to Indian Health Service/Tribal hospitals and hospitals located in Puerto Rico consistent with our longstanding policy to exclude IME, DSH and uncompensated care payments from ACOs' assigned and assignable beneficiary expenditure calculations. In the interim final rule with comment period entitled "Medicare and Medicaid Programs; Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID–19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program" which was effective on May 8, 2020, and appeared in the May 8, 2020 **Federal Register** (85 FR 27550) (hereinafter referred to as the "May 8, 2020 COVID–19 IFC"), we established a methodology to adjust Shared Savings Program financial calculations to account for the COVID–19 Public Health Emergency (85 FR 27577 through 27582). Specifically, we established a methodology that would exclude all Medicare Parts A and B FFS payment amounts for a beneficiary's episode of care for treatment of COVID–19 to prevent distortion to, among other calculations, an ACO's benchmark and program expenditure calculations.

We published a proposed rule entitled "Significant, Anomalous, and Highly Suspect Billing Activity on Medicare Shared Savings Program Financial Calculations in Calendar Year 2023, which appeared in the July 3, 2024 **Federal Register** (89 FR 55168) (hereinafter referred to as the "SAHS

billing activity proposed rule”). In the SAHS billing activity proposed rule, we proposed to use our authority under sections 1899(d)(1)(B)(ii) and 1899(i)(3) of the Act to make adjustments to the Shared Savings Program’s benchmark and program expenditure calculations, among other calculations, to remove payment amounts for codes displaying significant, anomalous, and highly suspect (SAHS) billing activity in CY 2023. We proposed this rule to mitigate the impact of SAHS billing activity for selected intermittent urinary catheter supplies on Shared Savings Program calculations.

B. Background on Significant, Anomalous, and Highly Suspect Billing Activity in Calendar Year 2023

In the SAHS billing activity proposed rule (89 FR 55169), we explained that recently, ACOs and other interested parties have raised concerns about an increase in billing to Medicare for selected intermittent urinary catheter supplies on Durable Medical Equipment, Prosthetics, Orthotics & Supplies (DMEPOS) claims in CY 2023, alleging that the increase in payments represents fraudulent activity (the “alleged conduct”). Numerous ACOs have alerted the Centers for Medicare & Medicaid Services (CMS) to potential impacts on their PY 2023 expenditures because of the increased catheter billings.

In early 2023, CMS detected a suspicious increase in billing for urinary catheters. Using our authority to suspend payments, CMS quickly stopped payment on almost all of these claims and began investigating the suppliers who were billing.^{1 2} Since then, the top 15 billers of suspicious catheter claims have had their Medicare enrollment revoked.

As explained in the proposed rule, CMS continues to adapt its monitoring, investigative targeting, and data analytics programs to prevent future fraud, waste, and abuse. CMS also continues to work closely with the Department of Health and Human Services Office of Inspector General and

Department of Justice, as well as our Unified Program Integrity Contractors, to investigate health care fraud activities, such as those involving urinary catheter supplies, that exploit the Medicare program.

The observed DMEPOS billing volume for intermittent urinary catheters in CY 2023 represents SAHS billing activity. Generally, this means that a given HCPCS or CPT code exhibits a level of billing that represents a significant claims increase either in volume or dollars (for example, dollar volume significantly above prior year, or claims volume beyond expectations) with national or regional impact (for example, not only impacting one or few ACOs) and represents a deviation from historical utilization trends that is unexpected and is not clearly attributable to reasonably explained changes in policy or the supply or demand for covered items or services. The billing level is significant and represents billing activity that would cause significantly inaccurate and inequitable payments and repayment obligations in the Shared Savings Program if not addressed.

We explained that current Shared Savings Program regulations, codified at 42 CFR part 425, do not provide a basis for CMS to adjust program expenditure or revenue calculations to remove the impact of SAHS billing activity such as that arising from the alleged conduct in advance of issuing an initial determination. CMS may reopen an initial determination or a final agency determination and issue a revised initial determination at any time in the case of fraud or similar fault, and not later than 4 years after the date of the notification to the ACO of the initial determination of savings or losses for the relevant performance year for good cause (§ 425.315). This does not allow for CMS to address SAHS billing activity, which must be addressed prior to conducting financial reconciliation, which is an initial determination, to prevent significant inequity and inaccurate payment determinations.

We explained that we shared (and continue to share) the concerns recently raised by some ACOs and other interested parties that SAHS billing activity for the selected codes for intermittent urinary catheters would impact Shared Savings Program calculations for PY 2023 and we are also concerned about the impact on other program calculations based on CY 2023 data. Specifically, we are concerned that absent mitigation measures, this SAHS billing activity would inflate Medicare Parts A and B payment amounts, including:

- PY 2023 reconciliation calculations, including expenditures for each ACO’s assigned beneficiaries for PY 2023, the national-regional blended update factor used to update the benchmark for all ACOs (refer to § 425.601(b)), and factors based on ACO participant revenue to determine the loss recoupment limits for ACOs participating under two-sided models of the BASIC track (Levels C, D, E) (refer to § 425.605(d)).

- Historical benchmark calculations for establishing the benchmark for ACOs beginning new agreement periods on January 1, 2024, January 1, 2025, or January 1, 2026, for which CY 2023 serves as benchmark year (BY) 3, BY2 and BY1, respectively (refer to § 425.652(a)).

- Factors used in the application cycle for ACOs applying to enter a new agreement period beginning on January 1, 2025, and the change request cycle for ACOs continuing their participation in the program for PY 2025, including data used to determine an ACO’s eligibility for Advance Investment Payments under § 425.630(b), or for the CMS Innovation Center’s new ACO Primary Care Flex Model (ACO PC Flex Model) for the January 1, 2025, start date based on ACO revenue status (high revenue or low revenue), and to determine repayment mechanism amounts for ACOs entering, or continuing in, two-sided models for PY 2025 (refer to § 425.204(f)).

The accuracy of the Shared Savings Program’s determination of an ACO’s financial performance (through a process referred to as financial reconciliation) in terms of the ACO’s eligibility for and amount of a shared savings payment or liability for shared losses, depends on the accuracy of claims data. Absent CMS action, the SAHS billing activity would affect PY 2023 financial reconciliation program-wide rather than being limited to ACOs that have assigned beneficiaries directly impacted by the issue. For instance:

- An ACO with assigned beneficiaries impacted by the SAHS billing activity for intermittent urinary catheters would see an increase in performance year expenditures, reducing the ACO’s shared savings or increasing the amount of shared losses owed by the ACO. The impact on the ACO’s performance may be partially mitigated if the SAHS billing activity also increases the ACO’s regional service area expenditures and the national expenditures used to calculate the two-way national-regional blended benchmark update factor.

- An ACO with assigned beneficiary expenditures and regional service area expenditures with little or no impact from the SAHS billing activity would

¹ In the preamble to the proposed rule, we stated our investigation into the matter was ongoing, and that we had made referrals to law enforcement, recouped payments, and terminated certain suppliers from the Medicare program (89 FR 55169). We clarify in this final rule that, CMS stopped payment to the suppliers for these claims, thus no recoupments were needed.

² As claim suspensions are the “withholding of payment . . . from a provider or supplier of an approved Medicare payment amount before a determination of the amount of the overpayment exists, or until the resolution of an investigation of a credible allegation of fraud,” 42 CFR 405.370, amounts suspended are considered payable under the Shared Savings Program.

receive a relatively higher benchmark update under the national-regional blended update factors used in PY 2023 reconciliation, and therefore, may appear to perform better as a result of the national impact of the intermittent urinary catheters billing increase, resulting in higher earned performance payments or lower or no losses for the ACO.

Unaddressed, the SAHS billing activity would distort the historical benchmarks for an ACO that entered an agreement period beginning on January 1, 2024, or will enter an agreement period beginning on January 1, 2025, or January 1, 2026 (for which CY 2023 will continue to be a benchmark year) and the accuracy of any future financial reconciliation performed against those benchmarks. Similarly, inaccurate revenue and expenditure calculations based on CY 2023 data may affect an ACO's revenue status and the amount of funds an ACO in a two-sided model must secure as a repayment mechanism, one of the program's important safeguards for protecting the Medicare Trust Funds. Given the scope of the SAHS billing activity, there is a high likelihood that, absent CMS action, shared savings and losses calculations for PY 2023, and for future performance years where CY 2023 is a benchmark year, would be significantly impacted for ACOs. Under these circumstances, some ACOs are likely to experience adverse impacts (for example, lower or no shared savings or higher shared losses) while other ACOs would experience windfall gains (for example, higher shared savings or lower or no shared losses).

In the SAHS billing activity proposed rule (89 FR 55170), we explained that failing to address SAHS billing activity that occurred in CY 2023 would jeopardize the integrity of the Shared Savings Program. There are 480 ACOs in the Shared Savings Program with over 608,000 health care providers who care for 10.8 million assigned FFS beneficiaries.³ In PY 2022, the most recent year for which data is available, savings achieved by ACOs relative to benchmarks amounted to \$4.3 billion, of which ACOs received shared savings payments totaling \$2.5 billion, and Medicare retained \$1.8 billion in savings.⁴ ACOs are held accountable for

100 percent of total Medicare Parts A and B expenditures for their assigned beneficiary populations (with limited exceptions). This incentivizes ACOs to generate savings for the Medicare program as they have the opportunity to share in those savings if certain requirements are met. It also discourages the ACO from generating unnecessary expenditures for Medicare as they may be required to repay those amounts to CMS. Accountable care arrangements such as this cannot function if the ACO may be held responsible for all SAHS billing activity that is outside of their control. Holding an ACO accountable for substantial losses due to SAHS billing activity, such as that observed in connection with the increase in billing for intermittent urinary catheters, is not only inequitable but would dramatically increase the level of risk associated with participation, making the Shared Savings Program unattractive.

For these reasons, we determined it was timely and appropriate to undertake notice and comment rulemaking to propose an approach for mitigating the impact of SAHS billing activity in CY 2023 on Shared Savings Program financial calculations. In this Background section of the final rule, we summarize and respond to general comments we received related to CMS undertaking notice and comment rulemaking on this topic. In the following sections of this final rule, we summarize and respond to public comments we received on the specific proposals outlined in the SAHS billing activity proposed rule and discuss our final policies after taking into consideration the public comments.

Comment: Most commenters expressed broad support for the proposed rule or general support for the proposed rule with additional recommendations. Many commenters stated their “strong,” “full,” or “general” support for the proposed rule and urged CMS to finalize the proposals. Many commenters also commended CMS for taking action to address concerns raised by ACOs and other interested parties about the impact of SAHS billing activity for the catheter codes, and many also characterized CMS's attention to the matter as “prompt,” “swift,” “timely,” or “responsive to stakeholder input.” No commenters expressed general opposition to the proposed rule.

Supportive commenters offered a variety of reasons why they believed undertaking rulemaking was appropriate to mitigate SAHS billing activity for selected catheter codes. Many commenters agreed that the

proposals would ensure the accuracy, fairness, or integrity of Shared Savings Program financial calculations. One commenter described the proposal as a “crucial step” and a “necessary and well-supported measure” to ensure or enhance the accuracy, fairness, and integrity of financial calculations in the Shared Savings Program. A couple of commenters agreed with CMS that addressing the SAHS billing activity promptly is essential to preventing inaccurate and inequitable payment and repayment obligations for ACOs, with one also stating that the proposals will help “rectify the financial distortions” caused by the SAHS billing activity for the catheter codes. One commenter stated that the proposed rule highlights CMS's dedication to addressing fraud as well as ensuring that the Shared Savings Program operates effectively while fostering a more transparent and equitable system. Other commenters stated that the proposals would improve sustainability of the Shared Savings Program. For instance, one commenter claimed that an “accurate and fair reconciliation process will ensure that health systems, ACOs and providers continue to participate in value-based care models with CMS in the future,” and a couple of other commenters asserted that the proposals will help keep ACOs in the program. Another commenter said that the proposals are important to “maintain a strong, predictable ACO program,” and another mentioned that not addressing the SAHS billing activity could lead to ACOs leaving the program.

Response: We thank commenters for their support for CMS's actions to undertake notice and comment rulemaking to mitigate the impact of SAHS billing activity on Medicare Shared Savings Program financial calculations in CY 2023. We agree with the commenters who stated that mitigating the impact of SAHS billing activity in CY 2023 is important for promoting continued integrity and fairness and improving the accuracy of Shared Savings Program financial calculations. Additionally, addressing the SAHS billing activity promptly is essential to preventing inaccurate and inequitable payment and repayment obligations for ACOs. We agree with the commenters that this course of action will in turn support the sustainability of the Shared Savings Program.

Comment: Commenters addressed the role that ACOs play in the identification of SAHS billing activity or fraud, waste, and abuse in Medicare. Many commenters representing ACOs stated that their ACO reported SAHS billing activity for catheter codes to regulatory

³ Refer to CMS, Shared Savings Program Fast Facts—As of January 1, 2024, available at <https://www.cms.gov/files/document/2024-shared-savings-program-fast-facts.pdf>.

⁴ Refer to CMS, Shared Savings Program Performance Year Financial and Quality Results, 2022, available at <https://data.cms.gov/medicare-shared-savings-program/performance-year-financial-and-quality-results/data>.

or law enforcement agencies, with one adding that “as an ACO, it is our responsibility to report suspect fraud to authorities,” and another stating that they will be submitting documentation about suspect claims for their ACO beneficiaries to the HHS Office of Inspector General (HHS–OIG). Other commenters credited ACOs for playing a role in identifying the SAHS billing activity for catheter codes in CY 2023. One commenter stated their belief that ACOs are “well positioned to detect anomalous billing” given their ongoing and in-depth analysis of claims and utilization data, and others noted that the HHS–OIG identified ACOs as sources to uncover potential fraud, waste, and abuse by identifying patterns of unusual billing. One commenter stated they will continue to monitor for SAHS billing activity. Some commenters stated there are opportunities to improve how ACOs report fraud or better educate ACOs on the processes CMS and HHS–OIG undertake to investigate fraud.

Response: We agree that ACOs are well positioned to support monitoring efforts that will improve the integrity of the Medicare program. ACOs have tools to detect unusual or suspect billing among their assigned beneficiary population through data reports provided by CMS and through their own data systems. We appreciate ACOs’ efforts to alert CMS to potential impacts on their PY 2023 expenditures because of the increased catheter billings. ACOs are encouraged to report potential fraud or abuse by submitting a complaint to the CMS Center for Program Integrity (CPI), Fraud Investigations Group (FIG), Division of Provider Investigations (DPI) at <https://dpi.intake@cms.hhs.gov>. ACOs can also report potential fraud or abuse by submitting a complaint to the OIG website,⁵ OIG hotline at 1–800–HHS–TIPS (1–800–447–8477), TTY at 1–800–377–4950, by fax at 1–800–223–8164, or by mailing to: Office of Inspector General ATTN: OIG HOTLINE OPERATIONS P.O. Box 23489 Washington, DC 20026. ACOs suspecting healthcare fraud, waste, or abuse are encouraged to visit the CMS CPI website⁶ at <https://www.cms.gov/medicare/medicaid-coordination/center-program-integrity>, for more information.

As described above, CMS continues to investigate the matter and we have taken initial actions in response. We have made referrals to law enforcement

and terminated certain suppliers from the Medicare program. CMS also continues to work closely with the HHS–OIG and Department of Justice, as well as our Unified Program Integrity Contractors, to investigate health care fraud activities, such as those involving urinary catheters, that exploit the Medicare program. We also undertook this notice and comment rulemaking to propose an approach for mitigating the impact of SAHS billing activity in CY 2023 on Shared Savings Program financial calculations.

Comment: A couple of commenters appeared to interpret the proposals as new rules for providers to follow in their billing practices. One commenter, while stating their support for preventing “fraudulent practices that jeopardize the program’s sustainability and unfairly impact the financial calculations for participating providers,” cautioned that CMS should not put in place “compliance requirements that overly burden honest providers” and recommended that CMS provide additional support and resources to help providers understand and comply with the new requirements. The other commenter, while characterizing the proposed rule as ensuring fairness, accuracy in financial calculations, fraud prevention, and cost control, also stated that one potential drawback was that “some providers might feel unfairly targeted or burdened by additional scrutiny and adjustments.”

Response: We clarify that rules or requirements for providers in how they bill or are paid by Medicare are beyond the scope of this proposed rule. The proposed changes do not impose new rules or requirements related to provider billing and payment. The proposed changes are specific to ACOs and Shared Savings Program calculations to mitigate the impact of SAHS billing activity in CY 2023 that would otherwise be included in Shared Savings Program expenditure and revenue calculations under the current regulations governing the Shared Savings Program.

II. Provisions of the Regulations

A. Identifying Codes Displaying Significant, Anomalous, and Highly Suspect Billing Activity in CY 2023

As we explained in the SAHS billing activity proposed rule (89 FR 55170), DMEPOS billing to Medicare for selected intermittent urinary catheter supplies has increased significantly since the first quarter of CY 2023, with a relatively small number of suppliers submitting a large majority of all claims

for these devices. At a program level, spending in these codes remained less than 0.1 percent of total FFS spending in every year from CY 2016 to CY 2022 before increasing to nearly 1 percent in CY 2023. The SAHS billing activity has had a national impact, as evidenced by discussion of the issue in the 2024 Medicare Trustees Report, which noted a significant increase in suspected fraudulent spending on certain intermittent catheters in 2023. The DME projections in the report include the assumption that this suspected fraud would be addressed during 2024.⁷

We explained that based on our evaluation of billing trends for individual catheter codes across CY 2023 and in consultation with the CMS Center for Program Integrity (CPI) and the CMS Office of the Actuary (OACT), we have determined that two specific HCPCS codes displayed SAHS billing activity in CY 2023: A4352 (*Intermittent urinary catheter; Coude (curved) tip, with or without coating (Teflon, silicone, silicone elastomeric, or hydrophilic, etc.), each*) and A4353 (*Intermittent urinary catheter, with insertion supplies*). Both HCPCS codes were billed at significantly higher rates in CY 2023 compared to CY 2022 (claims increasing by 163 percent for A4352 and by over 5,000 percent for A4353), for which CMS was unable to identify a clear justification for the increases (for example, neither represent a newly adopted code for which a natural increase in billing might be expected). The change in claim volume is significant and unexplained, and if not addressed, would cause inaccurate and inequitable payments and repayment obligations in the Shared Savings Program. Furthermore, the growth in claims is not attributable to Medicare providers or suppliers participating in Shared Savings Program ACOs and thus outside of the ACOs’ ability to reasonably control.

Comment: Many commenters agreed with CMS’ determination that HCPCS codes A4352 and A4353 displayed SAHS billing activity in CY 2023. Multiple commenters specifically referred to HCPCS codes A4352 and A4353 when expressing their support for CMS’ proposals, with many others stating their support with less specificity—for instance stating their support for CMS to address billing activity associated with “catheters,”

⁷ The Boards of Trustees, Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, “2024 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds”, available at <https://www.cms.gov/oact/tr/2024>.

⁵ <https://oig.hhs.gov/fraud/report-fraud/>.

⁶ <https://www.cms.gov/medicare/medicaid-coordination/center-program-integrity/reporting-fraud>.

“the HCPCS codes,” or “the catheter codes.”

Some commenters supported their agreement that the two catheter codes displayed SAHS billing activity by including data to highlight how billing activity for the selected catheter codes impacted their ACO expenditures, and other commenters offered data on the impact on national assignable FFS expenditures.

Response: We appreciate the specific feedback from commenters and agree that the observed DMEPOS billing volume for A4352 (*Intermittent urinary catheter; Coude (curved) tip, with or without coating (Teflon, silicone, silicone elastomeric, or hydrophilic, etc.), each*) and A4353 (*Intermittent urinary catheter, with insertion supplies*) in CY 2023 represents SAHS billing activity.

Comment: One commenter stated they identified and reported “anomalous billing activity” for an additional catheter billing procedure code (HCPCS code A4351) and that the proposal to identify HCPCS codes A4352 and A4353 as SAHS billing activity in CY 2023 does not fully address the potential “bias” in financial calculations for their ACO of SAHS billing activity for catheter services.

Response: We defined SAHS billing activity in the proposed rule (89 FR 55169) to mean that a given HCPCS or CPT code exhibits a level of billing that represents a significant claims increase either in volume or dollars (for example, dollar volume significantly above prior year, or claims volume beyond expectations) with national or regional impact (for example, not only impacting one or few ACOs) and represents a deviation from historical utilization trends that is unexpected and is not clearly attributable to reasonably explained changes in policy or the supply or demand for covered items or services. The billing level is significant and represents billing activity that would cause significantly inaccurate and inequitable payments and repayment obligations in the Shared Savings Program if not addressed.

In developing the proposed rule, we assessed the impact of an increase in billing to Medicare for intermittent urinary catheter services on DMEPOS claims in CY 2023. We determined that billing activity for HCPCS codes A4352 and A4353 was SAHS billing activity while A4351 was not. HCPCS codes A4352 and A4353 were billed at significantly higher rates in CY 2023 compared to CY 2022 (claims increasing by 163 percent for A4352 and by over 5,000 percent for A4353), for which CMS was unable to identify a clear

justification for the increases (for example, neither represent a newly adopted code for which a natural increase in billing might be expected). We also determined that the change in claim volume was significant and unexplained, and if not addressed, would cause inaccurate and inequitable payments and repayment obligations in the Shared Savings Program.

Our assessment found that billing activity for HCPCS code A4351, however, was not SAHS billing activity. Compared to catheter codes A4352 and A4353, billing for HCPCS code A4351 exhibited a much smaller increase between CY 2022 and CY 2023, with claims rising by approximately 16 percent. Also, unlike A4352 and A4353, where the unexplained billing increase represented the vast majority of spending on those codes in CY 2023, the billing increase for A4351 represented a small proportion of total billing activity for the code in CY 2023. We determined that this level of billing did not represent a significant claims increase with national or regional impact that unexpectedly deviated from historical utilization trends. We also determined that the increase in utilization of HCPCS code A4351 was not clearly a billing level that was representative of activity that would cause significantly inaccurate and inequitable payments and repayment obligations in the Shared Savings Program if not addressed. This conclusion was based on our finding that the increase in billing for the code was so small relative to overall spending for most ACOs and to overall national or regional spending that it would be unlikely to have significant program-wide impacts on payment and repayment obligations. However, we will continue to monitor the billing activity with this code in partnership with our program integrity colleagues.

Comment: Some commenters stated that, in addition to catheter codes, codes for skin substitutes exhibited SAHS billing activity in CY 2023. Other commenters urged CMS to assess or evaluate whether additional codes warranted adjustment in Shared Savings Program calculations and cited increases in billing for skin substitutes as an example.

Response: We assessed the impact of an increase in billing to Medicare for skin substitutes and determined that the billing activity for these services was not SAHS billing activity.⁸ Specifically, we found that increases in billing activity for skin substitutes were explained by the deviation in Local

⁸ Refer to the definition of SAHS billing activity stated elsewhere in this final rule.

Coverage Determinations (LCDs) across Medicare Administrative Contractors and the variety of innovative products which fall under this area, which made these services more available in CY 2023.⁹ However, we will continue to monitor this area and work with our program integrity partners. Furthermore, as part of our larger strategy to address SAHS billing activity and improper payments on Shared Savings Program financial calculations, CMS has proposals in the CY 2025 PFS proposed rule, including (respectively): to adjust Shared Savings Program calculations to mitigate the impact of SAHS billing activity occurring in CY 2024 and subsequent calendar years, and to establish a calculation methodology to account for the impact of improper payments in recalculating expenditures and payment amounts used in Shared Savings Program financial calculations upon reopening a payment determination.

Comment: Some commenters identified additional codes or services that they believed exhibited SAHS billing activity in CY 2023 or warranted additional evaluation by CMS. Specifically, commenters mentioned: glucose monitoring, laboratory services, telemedicine, ventilators, diabetic supplies, collagen dressings, and other unspecified DMEPOS supplies billed by the same suppliers involved in the anomalous catheter billing. Several commenters suggested that the billing activity associated with some of these codes had regional, rather than national impacts, and there would be a detrimental impact to ACO savings unless accounted for by CMS.

Response: We appreciate commenters notifying us of their concerns over billing activity in CY 2023 for other services; however, only the billing for urinary catheter services met the definition of SAHS billing activity as finalized in this rule with respect to CY 2023. We defined SAHS billing activity in the proposed rule to mean that a given HCPCS or CPT code exhibits a level of billing that represents a significant claims increase either in volume or dollars (for example, dollar volume significantly above prior year, or claims volume beyond expectations) with national or regional impact (for example, not only impacting one or few ACOs) and represents a deviation from

⁹ Medicare Administrative Contractors also released a proposed LCD on April 25, 2024 for skin substitute grafts/cellular and tissue-based products for the treatment of diabetic foot ulcers and venous leg ulcers. See <https://www.cms.gov/newsroom/press-releases/cms-statement-proposed-local-coverage-determination-lcd-skin-substitute-grafts-cellular-and-tissue>.

historical utilization trends that is unexpected and is not clearly attributable to reasonably explained changes in policy or the supply or demand for covered items or services (89 FR 55169). The billing level is significant and represents billing activity that would cause significantly inaccurate and inequitable payments and repayment obligations in the Shared Savings Program if not addressed. Unlike the two urinary catheter codes, some of the other services mentioned by commenters were too broad in nature to be considered SAHS billing activity. While a group of codes may exhibit patterns that could constitute SAHS billing activity, each individual code must still exhibit SAHS billing activity for it to be considered under the definition of SAHS billing activity we relied on in our proposal. Some of the commenters' concerns span entire claim types or hundreds of procedure codes, suggesting that SAHS billing activity existed only in aggregate and not for any individual code. For the other services suggested by commenters that were more specific in nature, the facts necessary to support a determination of SAHS billing activity had not been developed at the time of this rulemaking.

We narrowly crafted the definition of SAHS billing activity in part out of fairness to ACOs. Both under this rule and a related proposal in the CY 2025 Medicare Physician Fee Schedule (PFS) (89 FR 61909 through 61916) to address future instances of SAHS billing activity, we are mindful of equitable concerns that may arise from CMS revising standards for the calculation of an ACO's financial performance after the start of a performance year or, in the case of CY 2023, the completion of the performance year. More specifically, we described that for billing activity to be considered SAHS, the billing activity would need to show a significant claims increase either in volume or dollars and have national or regional impact. These high standards are appropriate because the remedy we are using to correct for SAHS billing activity is the broad exclusion of the relevant CPT or HCPCS code from certain important financial calculations, and this could have mixed impact on Shared Savings Program ACOs. Without these high standards, ACOs are more likely to be held liable for losses that they would not be otherwise be accountable for or have a reduction in or loss of their shared savings.

We remain committed to evaluating other cases when improper payments may have been made and assessing the impact on Shared Savings Program

calculations. For these reasons, we proposed two policies of general applicability in the CY 2025 PFS (89 FR 61596) to address instances of improper billing and payments. The first proposal in the CY 2025 PFS proposed rule would allow CMS to address instances of SAHS billing activity occurring in CY 2024 or subsequent years prior to financially reconciling the performance year in which the activity occurred (89 FR 61909 through 61916). Under the proposal, following the end of each calendar year, we would determine whether any codes exhibited SAHS billing activity (defined as described elsewhere in this final rule) and adjust expenditure and revenue calculations to exclude payment amounts. We would make these adjustments both when the calendar year serves as a benchmark or performance year. Additionally, under the proposed policy, we would adjust historical benchmarks used to reconcile the performance year when the SAHS activity occurred to remove payment amounts for the codes from benchmark year expenditures.

The second proposal would provide relief to ACOs that are affected by instances of fraud or other improper payments that may not meet the definition of SAHS billing activity (89 FR 61892 through 61909) or for which there is not enough information available at the close of the affected calendar year to make a determination of whether SAHS billing activity occurred. Under this proposal, an ACO could request the reopening of its previously completed financial reconciliation results so that they can be reevaluated for inaccuracies as a result of new information being available. In the CY 2025 PFS proposed rule (89 FR 61596) we invited interested parties to comment on these proposals.

Comment: Several commenters also urged CMS to consider HCPCS codes A4352 and A4353 as displaying SAHS billing activity for time periods beyond CY 2023. Multiple commenters urged CMS to remove—or assess whether to remove—the selected catheter codes from CY 2024, with some referencing CMS's proposals in the CY 2025 PFS rule related to mitigating SAHS billing activity occurring in CY 2024 and subsequent years. One of these commenters also urged CMS to assess whether billing for the selected catheter codes in CY 2022 constitutes SAHS billing activity and recommended that CMS and HHS–OIG review potentially fraudulent claims for other DMEPOS provided between 2022 and 2024. One commenter expressed concerns that limiting the scope of the adjustment to the selected catheter claims and to the

CY 2023 time period would not fully address the “bias” affecting its ACO.

Response: With respect to any billing increases of the selected catheter codes in CY 2024, we note that this is outside the scope of this final rule. However, in the CY 2025 PFS proposed rule (89 FR 61909 through 61916), we proposed policies to mitigate the impact of SAHS billing activity occurring in CY 2024 or subsequent calendar years. Specifically, we proposed that CMS may determine at its sole discretion that the billing of specified HCPCS or CPT codes represents SAHS billing activity in CY 2024 or subsequent calendar years that warrants adjustments to Shared Savings Program calculations.

With respect to performance years prior to CY 2023, we note that CMS has already completed financial reconciliation for those years, and therefore the policy approach proposed in the SAHS billing proposed rule and adopted in this final rule would not address any billing increases of catheter codes. As discussed elsewhere in this final rule, the Shared Savings Program reopening policy proposal in the CY 2025 PFS proposed rule (89 FR 61892 through 61909) presents a mechanism by which issues affecting already reconciled performance years may be addressed.

Final Action: After consideration of public comments, we are finalizing our proposal to specify in the Shared Savings Program regulations at § 425.670(b) that CMS has determined that the billing of HCPCS codes A4352 (*Intermittent urinary catheter; Coude (curved) tip, with or without coating (Teflon, silicone, silicone elastomeric, or hydrophilic, etc.), each*) and A4353 (*Intermittent urinary catheter, with insertion supplies*) represents significant, anomalous, and highly suspect billing activity for CY 2023 that would cause significantly inaccurate and inequitable payments and repayment obligations in the Shared Savings Program if not addressed.

B. Removing Payment Amounts for Codes Displaying Significant, Anomalous, and Highly Suspect Billing Activity in Calendar Year 2023 From Shared Savings Program Expenditure and Revenue Calculations

Given our concerns about leaving the SAHS billing activity unaddressed and the limitations with using an approach available under the current regulations (as we describe elsewhere in this rule), we proposed to revise the policies governing Shared Savings Program financial calculations to mitigate the impact of SAHS billing activity for selected catheter codes identified for CY

2023. The provisions would rely on our authority under section 1899(d)(1)(B)(ii) of the Act to adjust benchmark expenditures for beneficiary characteristics and such other factors as the Secretary determines appropriate. Here, we proposed to adjust the benchmark to remove payments for the specified catheter codes from the determination of benchmark expenditures. We proposed to use our authority under section 1899(i)(3) of the Act to apply this adjustment to certain other program calculations, including the determination of performance year expenditures.

We proposed to exclude all Medicare Parts A and B payment amounts for the selected catheter HCPCS codes on DMEPOS claims from expenditure and revenue calculations for CY 2023. We would perform these adjustments for calculations for CY 2023 when it is the performance year, including when CY 2023 is used to calculate the ACO's performance year expenditures and when it is used to calculate the national-regional blended update to the benchmark used in determining financial performance for PY 2023, and also when CY 2023 is a benchmark year for ACOs in agreement periods beginning on January 1, 2024, January 1, 2025, or January 1, 2026. In performing this adjustment, we would remove payment amounts for the selected catheter HCPCS codes on DMEPOS claims submitted by any supplier; that is, we would not limit the exclusion to payment amounts on claims submitted by certain suppliers that may have individually displayed SAHS billing activity so as to protect the integrity of any potential investigations which may be ongoing.

Specifically, we would adjust the following Shared Savings Program calculations, as applicable, to exclude all Medicare Parts A and B payment amounts on DMEPOS claims (claim types 72 and 82)¹⁰ associated with

HCPCS codes A4352 and A4353 in CY 2023:

- Calculation of Medicare Parts A and B FFS expenditures for an ACO's assigned beneficiaries for all purposes including the following: Establishing, adjusting, updating, and resetting the ACO's historical benchmark and determining performance year expenditures.

- Calculation of FFS expenditures for assignable beneficiaries as used in determining county-level FFS expenditures and national Medicare FFS expenditures, including the following calculations:

- ++ Determining average county FFS expenditures based on expenditures for the assignable population of beneficiaries in each county in the ACO's regional service area according to §§ 425.601(c) and 425.654(a) for purposes of calculating the ACO's regional FFS expenditures.

- ++ Determining the 99th percentile of national Medicare FFS expenditures for assignable beneficiaries for purposes of the following:

- Truncating assigned beneficiary expenditures used in calculating benchmark expenditures under § 425.652(a)(4), and performance year expenditures under §§ 425.605(a)(3) and 425.610(a)(4).

- Truncating expenditures for assignable beneficiaries in each county for purposes of determining county FFS expenditures according to §§ 425.601(c)(3) and 425.654(a)(3).

- Truncating expenditures for assignable beneficiaries for purposes of determining truncated national per capita FFS expenditures for purposes of calculating the Accountable Care Prospective Trend (ACPT) according to § 425.660(b)(3).

- ++ Determining truncated national per capita expenditures FFS per capita expenditures for assignable beneficiaries for purposes of calculating the ACPT according to § 425.660(b)(3).

- ++ Determining national per capita expenditures for Parts A and B services under the original Medicare FFS program for assignable beneficiaries for purposes of capping the regional adjustment to the ACO's historical benchmark according to § 425.656(c)(3), and capping the prior savings adjustment according to § 425.658(c)(1)(ii).

- ++ Determining national growth rates that are used as part of the blended growth rates used to trend forward benchmark year (BY) 1 and BY2 expenditures to BY3 according to

claims (see <https://resdac.org/cms-data/variables/nch-claim-type-code>).

§ 425.652(a)(5)(ii) and as part of the blended growth rates used to update the benchmark according to §§ 425.601(b)(2) and 425.652(b)(2)(i).

- Calculation of Medicare Parts A and B FFS revenue of ACO participants for purposes of calculating the ACO's loss recoupment limit under the BASIC track as specified in § 425.605(d).

- Calculation of total Medicare Parts A and B FFS revenue of ACO participants and total Medicare Parts A and B FFS expenditures for the ACO's assigned beneficiaries for purposes of identifying whether an ACO is a high revenue ACO or low revenue ACO, as defined under § 425.20, and determining an ACO's eligibility to receive advance investment payments according to § 425.630.

- Calculation or recalculation of the amount of the ACO's repayment mechanism arrangement according to § 425.204(f)(4).

This approach recognizes that SAHS billing activity has the potential to impact an ACO's savings and loss determination for both PY 2023 (the year when the SAHS billing activity occurred) and future performance years for which CY 2023 is a benchmark year. Making adjustments when the affected period represents a performance year or benchmark year is consistent with our approach for the exclusion of payment amounts for episodes of care for treatment of COVID-19 that we established in the May 8, 2020 COVID-19 IFC (85 FR 27577 through 27581).

The listed calculations reflect the same set of calculations that CMS adjusts for a beneficiary's episode of care for treatment of COVID-19, specified at § 425.611(c), as amended by the CY 2021 PFS final rule (85 FR 85044), the CY 2023 PFS final rule (87 FR 70241), and the CY 2024 PFS final rule (88 FR 79548), with a few exceptions. First, § 425.611(c) includes certain provisions that are not relevant for the proposed policy.¹¹ Second, the proposed policy includes calculations related to truncated national per capita expenditures used in determining the

¹⁰ We note that in some Shared Savings Program documentation (see, for example, Table 2 in the Medicare Shared Savings Program, Shared Savings and Losses, Assignment and Quality Performance Standard Methodology Specifications (version #11, January 2023), available at <https://www.cms.gov/files/document/medicare-shared-savings-program-shared-savings-and-losses-and-assignment-methodology-specifications.pdf-2>), we classify claim type 72 (along with claim type 71) as Carrier (including physician/supplier Part B) and we classify claim type 82 (along with claim type 81) as DME. We will continue to use these classifications, which are based on the type of carrier to which the claim was submitted, for other program operations. As described by the CMS Research Data Assistance Center (ResDAC), claim type 71 refers to local carrier non-DMEPOS claims, 72 to local carrier DMEPOS claims, 81 to durable medical equipment regional carrier (DMERC) non-DMEPOS claims, and 82 to DMERC DMEPOS

¹¹ This includes provisions under §§ 425.600, 425.602, 425.603, 425.604, and 425.606 which are not relevant for the proposed policy because they are not applicable to PY 2023 or for agreement periods where CY 2023 is a benchmark year. It also includes certain provisions under § 425.601 which are not relevant for the proposed policy because the proposed policy does not include adjustments to benchmark year calculations for the benchmarks used to financially reconcile ACOs for PY 2023. These provisions are relevant for the COVID-19 episode exclusion policy under § 425.611 because they are applicable to performance or benchmark years that overlap with the PHE for COVID-19.

ACPT as described in § 425.660(b)(3) that are not included in § 425.611(c).¹²

For agreement periods beginning on January 1, 2024, and in subsequent years, CMS incorporates a fixed projected growth rate determined at the beginning of the ACO's agreement period called the ACPT into the blended update factor described in § 425.652(b) when updating an ACO's benchmark for each performance year of the agreement period.¹³ Specifically, the ACPT is an annual rate of growth in projected expenditures during the ACO's 5-year agreement period relative to BY3 and is calculated using a modified version of the existing FFS United States Per Capita Cost (USPCC) growth trend projections. The USPCCs are calculated by OACT and projects Medicare program spending for various recurring deliverables, including the Medicare Trustees Report and the Advance Notice and Announcement of Medicare Advantage capitation rates and Part C and Part D payment policies. These publications include both historical and projected future Medicare spending amounts expressed on a per capita basis. The Modified USPCC Annualized Growth Rate used for calculating the ACPT in the Shared Savings Program reflects the following: (1) exclusion of IME and DSH payments, and the supplemental payment for Indian Health Service/Tribal hospitals and Puerto Rico hospitals; and (2) inclusion of payments associated with hospice claims (see § 425.660(b)(1), see also 87 FR 69882).

In considering whether to propose adjusting calculations used for the ACPT, we considered whether adjusting Shared Savings Program calculations detailed earlier in this section to exclude all payment amounts for the

selected catheter codes but not adjusting projected growth rates used in the three-way blend would result in a bias. We expected that a bias would be introduced if we adjusted Shared Savings Program calculations to remove SAHS billing activity from expenditures but did not make an adjustment for SAHS billing activity from the corresponding year used in ACPT projections. We thus determined it was necessary to adjust the ACPT to promote continued integrity and fairness and improve the accuracy of Shared Savings Program financial calculations. This ensures that the projected growth rates in future years (for which billing for the selected catheter claims is expected to revert to typical levels) will not be biased.

As noted in the Regulatory Impact Statement (section V. of this final rule), we anticipate that the magnitude and direction of the net impact of these various adjustments may vary from ACO to ACO. For example, excluding the selected catheter payments may reduce an ACO's performance year expenditures, but may also reduce the performance year regional and national expenditures and, in turn, the update factors applied to the ACO's historical benchmark. If the reduction to an ACO's expenditures is larger than the reduction to the national-regional blended update to the benchmark (indicating that the ACO's performance year assigned population was disproportionately impacted by the SAHS billing activity than assignable beneficiaries in the ACO's regional service area or the nation as a whole), the ACO would see an increase in total savings (or a reduction in total losses) relative to the current methodology, which makes no adjustments for SAHS billing activity. Conversely, if the reduction to the ACO's performance year expenditures is smaller than the reduction to the national-regional blended update to the benchmark, the ACO would see a decrease in total savings (or increase in total losses) relative to the current methodology.

In the SAHS billing activity proposed rule (89 FR 55172), we acknowledged that by excluding all payments for the selected HCPCS codes from CY 2023 calculations, we would exclude some payments that would have been made during the period in the absence of SAHS billing activity. This, in turn, would create some degree of inconsistency between performance year expenditure calculations and expenditure calculations for the historical benchmark against which the performance year will be reconciled, as years not directly affected by the SAHS

billing activity include some level of payments for the selected codes. We explained that we considered whether to propose adjusting historical benchmarks that will be used for PY 2023 financial reconciliation to remove all payments for the selected codes from benchmark year expenditures (for example, for an ACO that started an agreement period in 2022, adjusting the benchmark used for PY 2023 financial reconciliation to remove payments for the selected codes from benchmark years 2019, 2020, and 2021). We explained that we opted against this approach for two reasons.

First, historical billing for the selected catheter HCPCS codes has generally been relatively low, including in recent years. As noted in the Regulatory Impact Statement (section V. of this final rule), billing for these codes remained less than 0.1 percent of total FFS billing in every year from 2016 to 2022, the period encompassing all benchmark years for ACOs being financially reconciled for PY 2023. Thus, in a year not impacted by SAHS billing activity, payments for these codes would likely represent only a very small portion of an ACO's total per capita expenditures or total expenditures for an ACO's regional service area or the national assignable population. This conclusion is supported by analysis at the regional level. Tabulating the difference in per capita spending for these codes at the Hospital Referral Region (HRR) from national average per capita spending across 2016 to 2022 (and expressing such difference as a percentage of per capita spending) results in a standard deviation of only 0.03 percentage points. Therefore, we believe that the impact of adjusting the benchmarks to be used for PY 2023 financial reconciliation to exclude the selected catheter payments would be very small.

Second, adjusting benchmarks for over 450 ACOs being reconciled for PY 2023 would require the recalculation of ACO, national, and regional expenditures for seven benchmark calendar years and recalculation of benchmarks under multiple benchmarking methodologies. Performing these adjustments would delay the issuance of initial determinations, and thus the disbursement of earned performance payments, potentially by several months. The SAHS billing activity in CY 2023 was unforeseen and could not have been planned for or integrated into existing operational timelines. It would take time to recompute expenditure calculations for multiple years and benchmark calculations for multiple cohorts of ACOs and review and

¹² When establishing the ACPT in the CY 2023 PFS final rule, we noted that the first ACPT release would be published in 2024 for agreement periods beginning on January 1, 2024, and would provide a projected annualized growth rate (or rates) relative to the 2023 benchmark year (BY3). We noted further that to the extent that Medicare projections made at that time (2024) anticipated lingering effects from the COVID-19 pandemic then they would be reflected in the ACPT (see 87 FR 69894), and we opted not to amend § 425.611 to include adjustments of ACPT-related calculations. However, given the known nation-wide impact of the SAHS billing activity in CY 2023, it is appropriate to propose making adjustments to ACPT-related calculations in this proposed rule.

¹³ For more details on the ACPT and the terminology used to describe it, refer to the CY 2023 PFS final rule (87 FR 69881 through 69898) and Medicare Shared Savings Program, Shared Savings and Losses, Assignment and Quality Performance Standard Methodology, Specifications of the Accountable Care Prospective Trend (ACPT) and Three-Way Blended Benchmark Update Factor (May 2023, Version #1), available at <https://www.cms.gov/files/document/medicare-ssp-acpt-specifications.pdf>.

validate the results. Such a delay would be harmful to ACOs and the beneficiaries they care for, as ACOs rely on earned performance payments for critical investments in care delivery. The negative implications of a prolonged delay to the issuance of initial determinations and earned performance payments for PY 2023 would outweigh the potential benefits gained by adjusting the benchmarks, especially as we anticipate the magnitude of the impact of such adjustments would be small.

Section 1899(d)(1)(B)(ii) of the Act permits the Secretary to adjust the benchmark for beneficiary characteristics and such other factors as the Secretary determines appropriate. This rule relies on this authority to remove payments for the specified catheter codes from the determination of benchmark expenditures where CY 2023 serves as a benchmark year when establishing benchmarks for ACOs in agreement periods beginning in January 2024, 2025, or 2026.

Other changes are authorized by section 1899(i)(3) of the Act. Specifically, we rely on section 1899(i)(3) of the Act to remove payment amounts for HCPCS or CPT codes for which CMS has identified SAHS billing activity from the following calculations: (1) performance year expenditures; (2) updates to the historical benchmark; and (3) ACO participants' Medicare FFS revenue used for multiple purposes across the Shared Savings Program, including determinations of loss sharing limits in the two-sided models of the BASIC track¹⁴ and determinations of eligibility for advance investment payments.¹⁵ Section 1899(i)(3) of the Act requires that we determine that the alternative payment methodology adopted under that provision will improve the quality and efficiency of items and services furnished to Medicare beneficiaries, without resulting in additional program expenditures. The adjustments we proposed, which would remove payment amounts for codes with identified SAHS billing activity from the specified Shared Savings Program calculations specified in a new section of the regulations at § 425.670, would capture and remove from program calculations expenditures that are outside of an ACO's control, but that could significantly affect the ACO's performance under the program. In particular, failing to remove these

payments would create highly variable savings and loss results for individual ACOs that happen to have over-representation or under-representation of SAHS billing activity for the selected codes among their assigned beneficiary populations.

As described in the Regulatory Impact Statement (section V. of this final rule), excluding payment amounts for the selected catheter HCPCS codes from the specified calculations is not expected to result in an increase in spending beyond the expenditures that would otherwise occur under the statutory payment methodology in section 1899(d) of the Act. Further, these adjustments to our calculations to remove payment amounts for these codes will promote continued integrity and fairness and improve the accuracy of Shared Savings Program financial calculations as well as timely completion of PY 2023 financial reconciliation. As a result, we expect these policies will support ACOs continued participation in the Shared Savings Program and the program's goals of lowering growth in Medicare FFS expenditures and improving the quality of care furnished to Medicare beneficiaries.

Based on these considerations, and as specified in the Regulatory Impact Statement (section V. of this final rule), we have determined that adjusting certain Shared Savings Program calculations to remove payment amounts for selected codes identified as having SAHS billing activity in CY 2023 from the calculation of performance year expenditures, updates to the historical benchmark, and ACO participants' Medicare FFS revenue used for multiple purposes across the Shared Savings Program, meets the requirements for use of our authority under section 1899(i)(3) of the Act when incorporated into the existing other payment model we have established pursuant to that section.

This final rule will be applied retroactively, as it affects a performance year that has already been completed (PY 2023) and a performance year that has already started (PY 2024). More specifically, we are retroactively adjusting expenditure calculations used in determining shared savings and losses for PY 2023 and certain other calculations including to establish historical benchmarks for ACOs entering an agreement period beginning on January 1, 2024, that are used to determine ACO financial performance for PY 2024 and subsequent years of an ACO's agreement period. Section 1871(e)(1)(A)(ii) of the Act permits a substantive change in regulations, manual instructions, interpretive rules,

statements of policy, or guidelines of general applicability under Title XVIII of the Act to be applied retroactively to items and services furnished before the effective date of the change if the failure to apply the change retroactively would be contrary to the public interest.

Failing to apply these policies retroactively would be contrary to the public interest because it would unfairly punish Shared Savings Program ACOs by forcing them to unexpectedly assume a substantial magnitude of financial risk for costs that are outside their control and were not previously contemplated in the Shared Savings Program, undermining both the sustainability of the Shared Savings Program and the public's faith in CMS as a fair partner. We did not fully contemplate the potential for SAHS billing activity outside of an ACO's control to negatively impact ACOs financially when the Shared Savings Program was established.¹⁶ For this reason, the Shared Savings Program financial methodology and the procedures we have utilized in the past did not provide a means to adequately account for instances of SAHS billing activity outside of an ACO's control, and thereby the related financial risk is assumed entirely by ACOs. We view this outcome as particularly inequitable to ACOs because they have no direct means of controlling such costs. Unlike Medicare Advantage organizations, ACOs are not responsible for processing claims for their assigned beneficiaries and otherwise have no means of causing the denial of such claims. CMS thus cannot reasonably have expected ACOs to have assumed responsibility for all instances of SAHS billing activity outside of an ACO's control when they joined the Shared Savings Program. Loss of faith in CMS's ability to effectively administer the Shared Savings Program by ACOs, providers, and the public would likely substantially reduce ACO and provider participation in the program. Reduced participation, in turn, would significantly diminish the savings generated to the Medicare Trust Funds and quality of care improvements resulting from the Program and reduce the coordination of care performed for Medicare beneficiaries when obtaining items and services from ACO providers and suppliers.¹⁷ For these reasons, it

¹⁶ See, for example, 76 FR 67948 through 67950. Such approaches were more focused on policies to support monitoring of ACO performance and ensuring program integrity.

¹⁷ See, for example, Medicare CY 2023 PFS final rule, 87 FR 70195 through 70196 (estimating that the addition of new low revenue ACOs would

¹⁴ See § 425.605(d)(1)(iii)(D), 425.605(d)(1)(iv)(D), and 425.605(d)(1)(v)(D) for BASIC track Levels C, D and E, respectively.

¹⁵ See § 425.630(b).

would be contrary to the public interest for CMS to fail to apply a policy mitigating this issue retroactively.

Undertaking notice and comment rulemaking for this issue prior to the start of PY 2023 to avoid retroactive rulemaking was not possible because we could not have foreseen the SAHS billing activity prior to the start of the performance year. More specifically, we were only able to determine that the increase in billing on HCPCS codes A4352 and A4353 in CY 2023 was significant, anomalous, and highly suspect after the calendar year ended. To identify that the billing activity in CY 2023 was significant, anomalous, and highly suspect, CMS reviewed actual billing levels after the calendar year closed and services furnished in CY 2023 had occurred and the billing level could then be compared to billing levels observed in prior calendar years.

We proposed adding and reserving §§ 425.661 through 425.669 in subpart G and adding a new section at § 425.670 to describe adjustments CMS would make to Shared Savings Program calculations to mitigate the impact of SAHS billing activity occurring in CY 2023 (89 FR 55174). We proposed that § 425.670(b) would specify that CMS has determined that the billing of HCPCS codes A4352 (*Intermittent urinary catheter; Coude (curved) tip, with or without coating (Teflon, silicone, silicone elastomeric, or hydrophilic, etc.), each*) and A4353 (*Intermittent urinary catheter, with insertion supplies*) represents significant, anomalous, and highly suspect billing activity for CY 2023 that warrants adjustment. We proposed under § 425.670(c) to specify the Shared Savings Program calculations for which CMS would exclude all Medicare Parts A and B FFS payment amounts on DMEPOS claims (claim types 72 and 82) associated with HCPCS codes A4352 and A4353 and include references to all relevant sections of the regulations in these provisions. In § 425.670(d), on the period of adjustment, we proposed to specify that CMS would adjust Shared Savings Program calculations for SAHS billing activity of HCPCS codes A4352 and A4353 for CY 2023, when CY 2023 is either a performance year or a benchmark year. We proposed to specify under § 425.670(e) that we would make adjustments for payments associated with HCPCS codes A4352 and A4353 for BY3 in projecting per capita growth in Parts A and B FFS expenditures, according to § 425.660(b)(1), for purposes of calculating the ACPT for

agreement periods beginning on January 1, 2024.

The following is a summary of the comments we received on this proposal and our responses.

Comment: Many commenters provided input on the methodology outlined in the proposed rule to mitigate the impact of SAHS billing activity occurring in CY 2023. Most of these commenters stated their support for removing payment amounts for the specified catheter HCPCS codes in CY 2023 from the specified Shared Savings Program expenditure and revenue calculations.

Response: We thank the commenters for their support of the proposed adjustments to Shared Savings Program calculations. We interpret the commenters' general descriptions of our proposed adjustments and broad support for the proposed rule as supportive of all the adjustments to Shared Savings Program calculations we proposed in the proposed rule (89 FR 55171 through 55172) and described elsewhere in this section of the final rule.

Comment: Many supportive commenters specified their support for removing "all" Medicare Part A and B payment amounts related to the selected catheter codes, or for removing Medicare Part A and B payment amounts for the selected catheter codes "by any supplier" or "across all suppliers."

Response: We thank the commenters for their support of our proposal to remove payment amounts for the selected catheter HCPCS codes on DMEPOS claims submitted by any supplier. By removing all catheter HCPCS payments, we ensure that all of the SAHS billing activity in CY 2023 for the selected catheter codes will be removed from any calculations used to financially reconcile ACOs for PY 2023 or in future performance years when CY 2023 serves as a historical benchmark year for an ACO. This approach ensures that ACO expenditures, as well as regional and national expenditures, are not distorted by payment amounts for SAHS billing activity beyond the ACOs' control.

Comment: Many commenters supported the proposal to apply the adjustments when CY 2023 is a benchmark year for ACOs in the agreement periods starting in 2024, 2025, or 2026. A couple of commenters stated their support for removing payment amounts for the specified catheter codes from the determination of "benchmark expenditures" or from "CY 2023 benchmark expenditures" without specifying which agreement periods

these adjusted benchmark expenditures would be used to reconcile.

Response: We thank the commenters for their support of the proposed adjustments to Shared Savings Program calculations when CY 2023 serves as a benchmark year. We explain in this section of the final rule that the adjustments would apply to BY 2023 in calculating the historical benchmark for agreement periods beginning in 2024, 2025 and 2026. In contrast, as we also explain in this section of this final rule, we opted not to propose adjusting historical benchmarks that will be used for PY 2023 financial reconciliation to remove all payment amounts for the selected codes from benchmark year expenditures. That means, for example, that when performing financial reconciliation for PY 2023 for an ACO that started an agreement period in 2023, we will not adjust the ACO's historical benchmark to exclude payment amounts for the selected codes from expenditures for BYs 2020 through 2022.

While some commenters expressed high level support for adjusting benchmark expenditures, we interpret these comments as supportive of all the adjustments to Shared Savings Program calculations we proposed in the proposed rule (89 FR 55171 through 55172) and described elsewhere in this section of the final rule.

Comment: Some commenters specifically supported the proposal to exclude all Medicare Parts A and B payment amounts for the selected catheter codes on DMEPOS claims when CY 2023 is used to calculate the national-regional blended update to the benchmark used in determining financial performance for PY 2023. A couple of these commenters explained that this proposal, alongside the proposals to adjust ACO expenditures when CY 2023 serves as a performance year and a benchmark year, was "a comprehensive approach" and "the most straightforward." One commenter stated that the proposals will promote accuracy and validity of the data used for trending benchmarks.

Response: We thank commenters for their support for the proposal to remove payment amounts when CY 2023 is used to calculate the national-regional blended update to the benchmark. We agree with the comments that removing payment amounts in calculating both ACO expenditures and update factors is a comprehensive approach, as it will ensure that no SAHS billing activity for the selected catheter codes is included in the national-regional blended update factor and promotes symmetry when

comparing an ACO's performance year expenditures to its updated benchmark.

Comment: Some commenters also expressed support specifically for the proposal to exclude all Medicare Parts A and B payment amounts for the selected catheter codes on DMEPOS claims from CY 2023 in revenue calculations, or from calculations to determine revenue status and repayment mechanism amounts in the application and change request cycle for ACOs applying to enter a new agreement period beginning on January 1, 2025 or continue their participation in the program in PY 2025.

Response: We thank commenters for their support of the proposal.

Comment: Two commenters expressed concern that some ACOs may be financially disadvantaged by the proposed adjustments to Shared Savings Program calculations, with one emphasizing that the approach would harm ACOs that have DME services below national and regional benchmark trends and thus would have more dollars removed from their benchmark than from their own expenditures. The commenters encouraged CMS to ensure that ACOs are not adversely impacted financially by the adjustments. They requested that—due to the retroactive nature of the policy—CMS should hold ACOs harmless for the removal of the codes or limit the impact of the policy using a guardrail (for example, 0.02 percent in either direction) for PY 2023 financial calculations. One also expressed concern that ACOs could be disadvantaged if CMS removes the selected catheter codes from BY 2023 but not from future performance years that are reconciled using a historical benchmark that includes BY 2023.

Response: We decline to adopt an approach that would have CMS perform two versions of Shared Savings Program calculations—one that makes adjustments for SAHS billing activity and one that does not—and then issuing initial determinations based on the version of the calculations that would result in a ACO maximizing their shared savings or minimizing their shared losses for PY 2023 or based on calculations that impose a guardrail that limits the impact of the proposed policy. As we explained elsewhere in this final rule, the SAHS billing activity for the selected catheter codes would cause significantly inaccurate and inequitable payments and repayment obligations if not addressed. It would be inequitable for ACOs to be held accountable for SAHS billing activity that occurred among their assigned population in the performance year. It would also be inequitable to allow other

ACO's whose assigned populations were less affected by SAHS billing in CY 2023 to benefit from the inclusion of these expenditures in the PY 2023 benchmark update factors. Such ACOs would receive an inaccurate updated benchmark as a result of SAHS billing activity affecting national or regional expenditures. Allowing either source of inequity or imposing an artificial limit on the impacts of excluding the SAHS billing activity would undermine the integrity, fairness and accuracy of Shared Savings Program calculations.

As part of our final policy, we also decline to remove the selected catheter codes from future performance years that are reconciled using a historical benchmark that includes BY 2023. For example, when performing financial reconciliation for PY 2024 for an ACO with benchmark years 2021 through 2023, we will only exclude payment amounts for the selected catheter codes from BY 2023 expenditures and not from BY 2021, BY 2022, and PY 2024 expenditures. As we explained in the proposed rule (89 FR 55172), historical billing for the selected catheter HCPCS codes has consistently been relatively low, including in recent years. As noted in the Regulatory Impact Statement (section V. of this final rule), billing for these codes remained less than 0.1 percent of total FFS billing in every year from 2016 to 2022, the period encompassing all benchmark years for ACOs being financially reconciled for PY 2023. Thus, in a year not impacted by SAHS billing activity, payments for these codes would likely represent only a very small portion of an ACO's total per capita expenditures or total expenditures for an ACO's regional service area or the national assignable population.

Comment: A couple of commenters suggested CMS should modify its approach to mitigating the impact of SAHS billing activity from the proposal. One commenter expressed concern over any approach that would remove catheter codes from the national component of the update factor used to calculate the benchmark for PY 2023 but not from the regional component of the update factor. The second commenter stated their suspicion that the impacts of SAHS billing activity for the catheter codes varies widely across ACOs and explained their "hope" that the methodology for adjusting historical benchmarks will account for individual and regional variation in this element, so it does not adversely impact benchmarks of some over others.

Response: We proposed to exclude all Medicare Parts A and B payment amounts for the selected catheter

HCPCS codes on DMEPOS claims from expenditure and revenue calculations for CY 2023. We will perform this adjustment when CY 2023 is used to calculate the ACO's performance year expenditures and when it is used to calculate the national-regional blended update to the benchmark used in determining financial performance for PY 2023.¹⁸ That is, payment amounts will be removed from both the national component and the regional component of the national-regional blended update factor. By applying this adjustment to both components of the update factor, the adjustment will account for any individual and regional variation of SAHS billing activity for the catheter codes so that the impact of the exclusion of the catheter codes on an ACO is dependent on the degree to which SAHS billing activity for the catheter codes impacted the ACO's region and the ACO's beneficiaries. Additionally, we will perform this adjustment when CY 2023 serves as a benchmark year.

Comment: Many commenters in support of the proposals expressed differing views on the anticipated impact of the proposed changes on Shared Savings Program ACOs' financial performance. Many supportive commenters suggested the proposed changes would be financially advantageous for ACOs or that they will improve the accuracy of CMS' evaluation of the ACO's financial performance. One commenter stated that not finalizing the proposed changes and including payment amounts for SAHS billing activity for catheter codes would have a "severely inappropriate impact" on Shared Savings Program calculations and might lead to a loss of shared savings for some ACOs. Several commenters characterized the proposals as helping to hold ACO's "harmless" for SAHS billing activity for the catheter codes on ACO expenditures, with one stating their belief that ACOs should not be responsible for costs "that were not associated with the care of their beneficiaries" and another stating that ACOs should not be held responsible for "anomalous Medicare spending" beyond their control. One commenter stated that the proposals are vital to supporting ACOs in maintaining their financial stability, and another stated that the proposals are vital to ensuring that ACOs are not "unfairly penalized for expenses beyond their control." Other commenters stated that SAHS

¹⁸ For PY 2023, the only portion of the financial reconciliation calculations that retain the codes is the calculation of historical benchmarks, excluding the national-regional update factor.

billing activity “weakens the integrity” of the Shared Savings Program and can have a detrimental impact on organizations’ financial reconciliation.

Some supportive commenters from ACOs described the anticipated impact the SAHS billing activity would have on their own ACO’s financial performance absent the adjustments to calculations. One commenter stated their belief that the inclusion of payment amounts for the catheter codes would “damage the integrity” of their ACO’s PY 2023 financial reconciliation. A few commenters stated that without these adjustments their ACOs may not share in savings, shared savings could be negatively impacted, or their ACOs would have a high probability of being liable for shared losses. One commenter stated that if payment amounts for the selected catheter codes were included, their ACO would have a high probability of being liable for shared losses. One commenter expressed their belief that removing payment amounts for the selected catheter codes will lead to a more accurate and true evaluation of their performance, and another stated that the proposals will have a substantial impact on their ACO’s “sustainability.” A couple of commenters asserted their ACO expenditures were significantly impacted by the SAHS billing activity for the catheter codes.

Response: We agree with the commenters who stated the changes we are finalizing in this final rule will improve the accuracy and integrity of Shared Savings Program calculations. SAHS billing activity in CY 2023 for the selected catheter codes had a substantial impact on ACO expenditures as well as national expenditures. Failing to address SAHS billing activity that occurred in CY 2023 would jeopardize the integrity of the Shared Savings Program. Holding an ACO accountable for substantial losses due to the SAHS billing activity is not only inequitable but will dramatically increase the level of risk associated with participation, making the Shared Savings Program unattractive. We also agree with the many commenters who characterized the proposals as promoting continued integrity and fairness and improving the accuracy of Shared Savings Program financial calculations. Alternatively, proceeding with program operations using the current methodology that does not adjust for SAHS billing activity would cause significantly inaccurate and inequitable payments and repayment obligations.

Comment: Some commenters who expressed support for the proposed adjustments to Shared Savings Program

calculations acknowledged the need for the application of the changes retroactively, with one stating that failure to do so would unfairly punish Shared Savings Program ACOs and potentially jeopardize the sustainability of the program.

A couple of commenters shared a concern about the retroactive nature of the changes, with one stating that “unforeseen financially harmful calculations” would be applied after the performance year has been completed with no time for ACOs to make any changes in decisions or operations. Both noted that ACOs used data received during the performance year (which would not have excluded payment amounts associated with the selected codes) to inform ACO activities, including strategies, resourced interventions, and participation decisions.

Response: We appreciate the support from some commenters for the retroactive applicability of this rulemaking, and we acknowledge the concern expressed by others. Any changes to calculations involving PY 2023 financial reconciliation or final historical benchmarks for ACOs starting new agreement periods on January 1, 2024, must have retroactive applicability because PY 2023 is already completed and PY 2024 has already begun. As we explain elsewhere in this section, applying the proposal retroactively is justifiable and consistent with our statutory authority because failing to apply the proposed changes retroactively would be contrary to the public interest. Failure to modify PY 2023 financial reconciliation and final historical benchmarks in the manner we describe in this rule would unfairly punish Shared Savings Program ACOs by forcing them to unexpectedly assume a substantial magnitude of unexpected financial risk for costs outside their control and not previously contemplated in the Shared Savings Program, undermining both the sustainability of the Shared Savings Program and the public’s faith in CMS as a fair partner.

Comment: Several commenters requested that CMS provide ACOs with information about the payment amounts excluded at the regional level or at both the regional and national level. A couple of commenters requested that CMS not remove claims associated with SAHS billing activity from the monthly claim and claim line feeds (CCLFs), requesting instead that CMS flag them.

Response: In order to promote transparency in calculations and address commenter’s concerns, within program reports provided with PY 2023

financial reconciliation results, we will provide ACOs with the per capita amount of the two catheter codes removed from their performance year assigned beneficiary expenditures consistent with other spending categories. Medicare claim payment amounts for the two catheter codes will continue to be included in the monthly Part A, B and D Medicare CCLF files sent to ACOs.

Comment: Some commenters urged CMS to develop or strengthen policies and processes to monitor, report, and address SAHS billing activity should it occur in the future. One commenter, for example, recommended CMS “build algorithms to concurrently identify fraud prior to making payments.” Another commenter urged CMS to work with ACOs to improve the process for reporting suspected fraud, waste, and abuse. Several commenters also urged CMS to finalize policies to mitigate the impact of SAHS billing activity occurring in CY 2024 and subsequent years that were proposed in the CY 2025 PFS proposed rule.

Response: We thank commenters on their suggestions for strengthening policies and processes to monitor for potential fraud, waste, and abuse. We will share these comments with our program integrity colleagues, and we note that we have also provided information to ACOs on ways they can report potential fraud or abuse to CPI or HHS–OIG. We also thank commenters for their support for proposed policies to mitigate the impact of SAHS billing activity occurring in CY 2024 and subsequent years proposed in the CY 2025 PFS proposed rule. We will summarize and respond to comments submitted directly in response to that proposed rule within the CY 2025 PFS final rule.

Comment: Some commenters made recommendations for mitigating the impact of SAHS billing activity on Innovation Center models. Most of these commenters requested that the Center for Medicare and Medicaid Innovation (CMS Innovation Center) perform similar adjustments to mitigate SAHS billing activity for the catheter codes in the ACO Realizing Equity, Access, and Community Health (ACO REACH) Model, although several commenters expressed concerns that the approach being used by the ACO REACH Model would disadvantage ACOs. One commenter requested that the CMS Innovation Center exclude payment amounts for the catheter codes from the Bundled Payments for Care Improvement Advanced Model and the Comprehensive Care for Joint Replacement Model.

Response: The commenters' suggestions are beyond the scope of this rulemaking, which addresses adjustments to Shared Savings Program calculations to mitigate the impact of SAHS billing activity for selected catheter codes in CY 2023. The CMS Innovation Center did an assessment of the effects of SAHS billing in 2023 on each model. Determinations of whether action to address SAHS billing was necessary were made on a model-by-model basis.

Final Action: After consideration of public comments, we are finalizing our proposal to retroactively remove payment amounts for codes displaying SAHS billing activity in CY 2023 from Shared Savings Program expenditure and revenue calculations. Specifically, we are finalizing our proposal to add and reserve §§ 425.661 through 425.669 in subpart G and add a new section at § 425.670 to describe adjustments CMS will make to Shared Savings Program calculations to mitigate the impact of SAHS billing activity occurring in CY 2023. Section 425.670(b) specifies that CMS has determined that the billing of HCPCS codes A4352 (*Intermittent urinary catheter; Coude (curved) tip, with or without coating (Teflon, silicone, silicone elastomeric, or hydrophilic, etc.), each*) and A4353 (*Intermittent urinary catheter, with insertion supplies*) represents significant, anomalous, and highly suspect billing activity for CY 2023 that warrants adjustment. Section 425.670(c) specifies the Shared Savings Program calculations for which CMS will exclude all Medicare Parts A and B FFS payment amounts on DMEPOS claims (claim types 72 and 82) associated with HCPCS codes A4352 and A4353 and includes references to all relevant sections of the regulations in these provisions. In § 425.670(d), on the period of adjustment, we specify that CMS will adjust Shared Savings Program calculations for SAHS billing activity of HCPCS codes A4352 and A4353 for CY 2023, when CY 2023 is either a performance year or a benchmark year. We specify under § 425.670(e) that we will make adjustments for payments associated with HCPCS codes A4352 and A4353 for BY3 in projecting per capita growth in Parts A and B FFS expenditures, according to § 425.660(b)(1), for purposes of calculating the ACPT for agreement periods beginning on January 1, 2024.

III. Reduction of the Comment Period and Reduction of the 30-Day Delay in Effective Date of This Final Rule

A. Reduction of the Comment Period to 30 Days

In the SAHS billing activity proposed rule (89 FR 55174), we explained that there is an urgent need to address the impact of SAHS billing activity on Shared Savings Program calculations based on CY 2023 data used in determining PY 2023 financial performance, in establishing benchmarks for ACOs participating in agreement periods beginning on January 1, 2024, and in calculating factors used in the application cycle for ACOs applying to enter a new agreement period beginning on January 1, 2025, and the change request cycle for ACOs continuing their participation in the program for PY 2025.¹⁹ These program operations depend on the timely use of CY 2023 data. Notice and comment rulemaking to consider the proposed adjustments to Shared Savings Program calculations for SAHS billing activity identified for CY 2023 has necessitated delaying key program operations that depend on CY 2023 data, pending the issuance of this final rule that specifies our final policy as informed by public comment on the SAHS billing activity proposed rule. We described in the proposed rule the impact of delayed use of CY 2023 data in the aforementioned program operations and approaches that would allow us to continue to meet the statutory requirements for notice and comment rulemaking procedures, such as by reducing the comment period, and possibly reducing or eliminating the delay in the effective date of a final rule (if issued).

We explained (89 FR 55174) that significant delays in the issuance of initial determinations for PY 2023 financial performance, and related shared savings payments, would be substantially disruptive to ACOs that exclusively receive revenue from shared savings payments, particularly small, rural, and low revenue ACOs and those serving underserved populations. With few exceptions, the Shared Savings Program historically completes calculations of shared savings and shared losses and issues initial determinations of ACO financial performance approximately 8 months after the conclusion of the performance year, and shortly thereafter issues

¹⁹ Failing to take any action to address this SAHS billing activity would result in CMS using inaccurate data to make eligibility determinations and require ACOs to establish repayment mechanism arrangements for inflated amounts that include the impact of SAHS billing activity.

performance payments to ACOs eligible to share in savings.²⁰ CMS initiates payments to ACOs that have earned shared savings for a performance year in September of the year following the applicable performance year. ACOs rely on the orderly and timely calculation of financial reconciliation, and distribution of shared savings. We noted that modifications to Shared Savings Program financial methodology as proposed in the proposed rule necessitate delaying the delivery of financial reconciliation reports to ACOs, and issuance of performance payments to ACOs that have earned shared savings.

We further explained in the proposed rule (89 FR 55174) that delayed use of CY 2023 data would also impair administration of the Shared Savings Program in 2024 and 2025. CY 2023 data are instrumental in determining factors used in the application cycle for ACOs applying to enter a new agreement period beginning on January 1, 2025, and change request cycle for existing ACOs continuing their participation in the program for PY 2025. For instance, CY 2023 data will be used in the calculation of total Medicare Parts A and B FFS revenue of ACO participants and total Medicare Parts A and B FFS expenditures for the ACO's assigned beneficiaries for purposes of identifying whether an ACO is high revenue or low revenue, as defined under § 425.20. The high/low revenue status is then used to determine an ACO's eligibility to receive advance investment payments to expand accountable care to underserved communities according to § 425.630, and an ACO's eligibility for the CMS Innovation Center's new ACO PC Flex Model for the January 1, 2025 start date. CY 2023 data will also be the basis for calculating the amount of required repayment mechanism arrangements for ACOs entering two-sided models for PY 2025. We explained that the proposed approach would help ensure the accuracy of the calculations used in determining ACO revenue status and repayment mechanism amounts. We noted that delays in the application cycle already underway could jeopardize our ability to timely issue application dispositions, execute participation agreements with eligible ACOs for the new agreement period beginning on January 1, 2025, deliver PY 2025 initial assignment list reports, and timely deliver initial advance investment payments for newly eligible ACOs. Substantial delays in change

²⁰ Refer to discussion in the CY 2023 PFS final rule, 87 FR 69869 through 69870.

request cycle milestones also would jeopardize our ability to ensure ACOs have met program requirements to facilitate their continued participation in the Shared Savings Program for the performance year beginning on January 1, 2025.

Finally, we explained (89 FR 55175) that modifications to Shared Savings Program financial methodology as proposed in the proposed rule would also necessitate delaying the delivery of final historical benchmark reports to ACOs. We expressed our recognition that delaying the availability of these program reports to ACOs could hamper ACOs' ability to set effective cost targets that may depend on the ACO's projected financial performance based on its benchmark value and that substantial delays in issuance of the historical benchmark reports to ACOs could make it more challenging for ACOs to effectively curb growth in Medicare FFS expenditures, a central aim of the Shared Savings Program.

Section 1871(b)(1) of the Act generally requires that Medicare rules must be proposed with a 60-day comment period. Section 1871(b)(2) of the Act provides that this requirement does not apply where a statute specifically permits a regulation to be issued in interim final form or otherwise with a shorter period for public comment; a statute establishes a specific deadline for the implementation of a provision and the deadline is less than 150 days after the date of the enactment of the statute in which the deadline is contained; or subsection (b) of section 553 of title 5, United States Code, does not apply under subparagraph (B) of such subsection. Subparagraph (B) of 5 U.S.C. 553(b) provides an exception to the requirement for an agency to publish a general notice of proposed rulemaking in the **Federal Register** when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

We found that a 60-day comment period was both impracticable and contrary to the public interest (89 FR 55174 through 55176). For the reasons stated, we therefore reduced the comment period of the proposed rule to 30 days. We noted in the proposed rule that failing to use a 30-day comment period in lieu of a 60-day comment period would be impracticable and contrary to the public interest in part for the same reasons described in section II.B. of the proposed rule that failing to apply this rule retroactively to PY 2023 and PY 2024 would be contrary to the

public interest. Additionally, we explained that failing to use the reduced comment period would be impracticable and contrary to the public interest because the additional time would not substantially enhance the public's ability to participate in this rulemaking, and it would substantially impair CMS's ability to administer the Shared Savings Program, by delaying the following:

- Issuance of initial determinations of shared savings and shared losses to ACOs for PY 2023.
- Disbursement of PY 2023 earned performance payments to ACOs.
- Determination of ACO revenue status used in determining ACO eligibility for advance investment payments and eligibility for the ACO PC Flex Model, in connection with the application cycle for ACOs applying to enter a new agreement period beginning on January 1, 2025.
- Calculation of required amounts for repayment mechanism arrangements for ACOs entering a two-sided model for PY 2025 and the deadline for ACO submission of repayment mechanism documentation to CMS for review, to ensure compliance with related requirements.
- Calculation of final historical benchmarks for ACOs beginning an agreement period on January 1, 2024, and delivery of final historical benchmark reports to ACOs.

We noted that it would be contrary to the public interest for ACOs to be harmed by the delay in administration of the Shared Savings Program caused by the rule that intended to relieve them from the unexpected harm arising from SAHS billing activity (89 FR 55175). A 60-day comment period would have likely necessitated delaying these key operations until at least late 2024, substantially delaying these operations and related processes, which would harm ACOs and impair the operation of the Shared Savings Program and thwart the relief to ACOs that would otherwise be provided by this rule.

We explained that a substantial delay to initial determinations of shared savings and losses for PY 2023 and disbursement of earned performance payments would be financially ruinous to the many ACOs that rely on these payments to operate (89 FR 55175). For example, in PY 2022, 304 ACOs earned \$2.52 billion in performance payments. Shared savings payments are the primary revenue source of ACOs. Many ACOs, particularly small, rural, and low revenue ACOs and those serving underserved populations, depend on receiving shared savings payments on a predictable annual schedule to continue operating. We noted that it is self-

evident that enabling ACOs to continue to operate with minimal disruption is itself in the public interest and in particular is in the interest of Medicare beneficiaries whose care is coordinated by ACOs.

We explained that delaying adjudication of application and repayment mechanism decisions also would jeopardize or prevent CMS and ACOs starting performance year 2025 (89 FR 55175). CMS and ACOs cannot timely enter into agreements for the agreement period beginning on January 1, 2025, jeopardizing the expansion of accountable care to underserved communities, stifling innovation in primary care payment reform and restricting ACOs' ability to meet requirements for entering or continuing their participation in a two-sided model for PY 2025. Phase 1 of the application period closed June 17, 2024.²¹ Failing to timely adjudicate hundreds of applications and over ten thousand change requests, for new and renewing ACOs, and ACOs continuing their participation in Shared Savings Program, would impair our ability to timely and accurately evaluate ACOs based on statutorily required eligibility criteria and existing regulatory requirements. We cannot start performance year 2025 until all applications and change requests have been reviewed, processed, and adjudicated.

Additionally, we noted that given the limited scope of the proposed rule, addressing a single issue through proposed changes to the Shared Savings Program regulations, a 30-day comment period was a reasonable amount of time for public inspection and comment (89 FR 55175). In advance of the SAHS billing activity proposed rule, many interested parties wrote to the Administrator requesting relief from SAHS billing activity, so they are familiar with this issue and would likely be ready to review the policy and impacts within the 30-day timeframe.

Furthermore, we explained that starting notice and comment rulemaking sooner to allow a 60-day comment period was impracticable (89 FR 55175 through 55176). As we described in the proposed rule, we could not have foreseen the SAHS billing activity in advance and were only able to determine that the increase in billing on HCPCS codes A4352 and A4353 in CY 2023 was significant, anomalous, and

²¹ See for example, Medicare Shared Savings Program, Key Application Actions and Deadlines For Agreement Period Beginning on January 1, 2025, available at <https://www.cms.gov/files/document/key-application-actions-and-deadlines.pdf>.

highly suspect after the calendar year ended. To identify that the billing activity in CY 2023 was SAHS billing activity, CMS reviewed actual billing levels after the calendar year closed and services furnished in CY 2023 had occurred and the billing level could then be compared to billing levels observed in prior calendar years. Careful analysis of the billing activity, plus careful analysis of the impact on ACOs in the Shared Savings Program, was critical to determining whether mitigation measures were necessary. Given the unprecedented nature of the circumstances, time was also required to develop the appropriate proposed mitigation approach. Once we determined that this billing activity in CY 2023 was significant, anomalous, and highly suspect, that it was necessary to mitigate its impact on Shared Savings Program expenditures and revenue calculations, and the appropriate proposed mitigation approach, we immediately began the process to undertake notice and comment rulemaking. For the aforementioned reasons, among others discussed the proposed rule, we found that a failure to reduce the comment period was impracticable and contrary to the public interest, and thus found the agency has good cause to set a 30-day comment period.

The modifications to the Shared Savings Program financial methodology that we are finalizing in this final rule, following the 30-day comment period, will allow us to maintain timely adjudication of certain determinations of applicant ACOs' eligibility to participate under the advance investment payment option, or the ACO PC Flex Model, for an agreement period beginning on January 1, 2025, and timely finalization of repayment mechanism arrangements required for ACOs to enter or continue their participation in two-sided models for PY 2025. While our use of the 30-day comment period will minimize disruptions to timelines for certain milestones, we anticipate that the issuance of initial determinations and the disbursement of earned performance payments for PY 2023 will still be delayed by approximately 6 weeks. Where possible, we will work to reduce delays and will proactively communicate with ACOs about changes in timelines for these, or other, milestones.

Comment: Some commenters requested that CMS extend deadlines by the same amount of time for the annual application and change request cycle, including deadlines for risk track

selection, participant lists, and ACO PC Flex Model participation decisions.

Response: While we appreciate the interests of ACOs in requesting an extension of deadlines in the annual application and change request cycle by the same amount of time as the delay in issuance of performance year determinations, we are unable to delay deadlines by multiple weeks since it would delay application dispositions scheduled for early December until after the January 1, 2025, agreement period start date. This would require delaying the start of PY 2025 until sometime after January 1, 2025. This would, among other things, require CMS to propose policies for conducting financial calculations using a non-standard performance year, as was done to accommodate a July 1, 2019, performance year start date in the Shared Savings Program final rule published in December 2018 (83 FR 67816). This would also create further delays and uncertainty for ACOs. A delay in finalizing participant lists would delay the publication of PY 2025 initial assignment lists, hindering ACOs' ability to effectively coordinate care for their assigned beneficiary populations.

A delay in the start of the Shared Savings Program's performance year also may have significant adverse consequences for ACO professionals participating in ACOs. Many Shared Savings Program tracks are Advanced Alternative Payment Models (APMs) for purposes of the Quality Payment Program APM incentive. Qualifying APM Participants (QPs) are not subject to the Merit-based Incentive Payment System reporting requirements or payment adjustments (though they may have separate and similar reporting obligations under the Shared Savings Program). See 42 CFR 414.1310(b)(1)(i) and (ii). For payment years through CY 2025, QPs also earn a lump-sum APM incentive payment based on estimated aggregate payments for covered professional services furnished during the preceding calendar year. See 42 CFR 414.1310; 414.1450. A reduction in the length of the Shared Savings Program's performance year could cause some ACO professionals to fail to achieve QP status.

While we are unable to modify Shared Savings Program applications deadlines for the reasons described previously in this final rule, we were able to extend the deadline for ACOs to apply to the ACO PC Flex Model from August 1, 2024, until August 23, 2024, as this delay would not delay Shared Savings

Program application dispositions or the start of the Model.²²

Furthermore, we are clarifying that we anticipate releasing PY2023 results in late October and making payments to ACOs in mid-November. Where possible, we will work to reduce delays and will proactively communicate with ACOs about changes in timelines.

B. Reduction of the 30-Day Delay in Effective Date of This Final Rule

In the proposed rule we explained that section 1871(e)(1)(B)(i) of the Act prohibits a substantive change in Medicare regulations from taking effect before the end of the 30-day period beginning on the date the rule is issued or published (89 FR 55176). Section 1871(e)(1)(B)(ii) of the Act permits a substantive rule to take effect on a date that precedes the end of the 30-day period if the Secretary finds that a waiver of the 30-day period is necessary to comply with statutory requirements or that the application of the 30-day period is contrary to the public interest. The Administrative Procedure Act (APA), 5 U.S.C. 553(d), similarly requires a 30-day delay in the effective date of a substantive final rule. This 30-day delay in effective date can be waived, however, if an agency finds good cause to support an earlier effective date, among other reasons. 5 U.S.C. 553(d)(3). We indicated in the proposed rule that, if CMS were to finalize a rule based on the proposed rule, we would strongly consider reducing or waiving the 30-day delay in effective date under the provisions described previously to the extent that the delay in effective date would also harm ACOs or thwart the purpose of this provision by delaying our timely administration of the Shared Savings Program functions as described in section III.A of the proposed rule (89 FR 55176). We noted that this waiver would be in part for the same reasons that we reduced the comment period on the proposed rule from 60 days to 30 days, as described in section III.A. of the proposed rule. We requested comment on this approach, including a possible finding of good cause and how ACOs would be impacted by the delay.

The following is a summary of the comments we received and our responses.

Comment: One commenter expressly supported an exception to the 30-day delay in effective date, while several other commenters urged CMS to finalize the proposed rule "as expeditiously as it can within its legal authority" and

²² See <https://www.cms.gov/priorities/innovation/innovation-models/aco-primary-care-flex-model>.

others urged CMS to finalize its proposals as quickly as possible to minimize delays in shared savings distribution.

Response: We thank commenters for their support of measures to finalize changes to Shared Savings Program regulations expeditiously to reduce delays to Shared Savings Program operations.

We find that the application of the 30-day period would be impracticable and contrary to the public interest. In conjunction with our application of this rule retroactively and the reduction of the proposed rule's comment period to 30 days, we have determined that, for us to timely adjudicate applicant ACOs' eligibility to participate under the advance investment payment option and the ACO PC Flex Model for agreement periods beginning on January 1, 2025, and timely finalize repayment mechanisms necessary for ACOs to participate in two-sided models for PY 2025, we must use expenditure and revenue calculations for CY 2023, adjusted to exclude all Medicare Parts A and B payment amounts on DMEPOS claims associated with HCPCS codes A4352 and A4353, to make certain initial determinations on ACO eligibility and determine final repayment mechanism amounts, and provide related information to ACOs no later than October 17, 2024.²³ Delaying the effective date of this final rule beyond this date would harm ACOs and ACO professionals, and thwart the purpose of the rule. Were we to issue initial determinations for the advance investment payment option and ACO PC Flex Model, as well as determine final repayment mechanism amounts after this date, the aforementioned processes would not be complete, which would jeopardize entry by ACOs into new agreement periods beginning on January 1, 2025 and continued participation by ACOs in the Shared Savings Program for the PY beginning on January 1, 2025. Delaying the start of

the PY 2025 would cause the harm to ACOs, ACO professionals, and CMS described in section III.A. of this final rule. Therefore, we find that there is good cause to reduce the 30-day delay in effective date for this final rule to 20 days from date of display, which provides CMS ample time to issue Phase 1 application dispositions on or before October 17, 2024 after this rule becomes effective.

IV. Collection of Information Requirements

Section 1899(e) of the Act provides that chapter 35 of title 44 U.S.C., which includes such provisions as the Paperwork Reduction Act of 1995, shall not apply to the Shared Savings Program. Accordingly, we are not setting out any requirements and burden estimates under this section of the preamble. Please refer to section V. (Regulatory Impact Statement) of this final rule for a discussion of the impacts associated with the changes described in section II. (Provisions of the Regulations) of this preamble.

V. Regulatory Impact Statement

A. Overview

We have examined the impact of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), Executive Order 14094 entitled "Modernizing Regulatory Review" (April 6, 2023), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), and Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

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). The Executive Order 14094 entitled "Modernizing Regulatory Review" (hereinafter, the Modernizing E.O.) amends section 3(f) of Executive Order 12866 (Regulatory Planning and Review). A Regulatory Impact Analysis (RIA) must be prepared for rules that are significant under section 3(f)(1) of Executive Order 12866. Based on our estimates, OMB's Office of Information and Regulatory Affairs (OIRA) has

determined this rulemaking is not significant per section 3(f)(1) as measured by the \$200 million or more in any 1 year threshold. OMB's Office of Information and Regulatory Affairs has determined that this final rule does not meet the criteria set forth in 5 U.S.C. 804(2).

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than \$9.0 million to \$47.0 million in any 1 year. Individuals and States are not included in the definition of a small entity. As explained elsewhere in this section, while this final rule will help preserve the accuracy of shared savings and losses calculations for ACOs in the Shared Savings Program, the great majority of ACOs will experience at most a minimal impact on their PY 2023 financial outcome. We did not prepare an analysis for the RFA because we determined, and the Secretary certified, that this final rule will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. As previously mentioned in this section of this final rule, all but a small fraction of ACOs will experience relatively minimal changes in their PY 2023 financial outcome. We did not prepare an analysis for section 1102(b) of the Act because we determined, and the Secretary certified, that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2024, that threshold is approximately \$183 million. This rule imposes no mandates on State, local, or tribal governments or on the private sector.

²³ See for example, Medicare Shared Savings Program, Key Application Actions and Deadlines For Agreement Period Beginning on January 1, 2025, available at <https://www.cms.gov/files/document/key-application-actions-and-deadlines.pdf> (specifying Phase 1 Dispositions to be issued on Oct. 17, 2024, at which time CMS makes available ACO Participant List and SNF Affiliate List dispositions, Beneficiary assignment eligibility Phase 1, and AIP eligibility final disposition). See also, CMS, Center for Medicare & Medicaid Innovation, ACO Primary Care Flex Model, Request for Applications (05/30/2024), available at <https://www.cms.gov/files/document/aco-pc-flex-rfa.pdf> (explaining that an applicant ACO will be notified whether CMS has selected them for participation in the ACO PC Flex Model during the phase 1 final disposition on October 17, 2024, which aligns with the Shared Savings Program phase 1 final dispositions).

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this regulation does not impose any costs on State or local governments, the requirements of Executive Order 13132 are not applicable.

B. Analysis

In this final rule, we discuss the reasons that excluding payment amounts incurred in 2023 for two urinary catheter HCPCS codes²⁴ on DMEPOS claims will prevent SAHS billing activity from deteriorating the accuracy of Shared Savings Program calculations determining both: (1) shared savings or losses for PY 2023 and (2) historical benchmarks for future performance years for ACOs entering agreement periods in 2024, 2025 or 2026. Total FFS spending in the two specified codes was minimal in preceding years before the SAHS billing activity in 2023 sharply increased in highly disparate ways. At a program level, billing for these codes remained less than 0.1 percent of total FFS billing in every year from 2016 to 2022 before increasing to nearly 1 percent in 2023. And while a handful of hospital referral

regions (HRRs) still managed to exhibit billing for the specified codes totaling less than 0.1 percentage points of total spending, approximately 10 percent of HRRs showed billing for the specified codes rising to at least 2 percentage points of total spending. In the most impacted HRR, billing for these codes in 2023 accounted for over a 5 percentage-point increase in total per capita billing from 2022, an astonishing and plainly unjustifiable increase in billing for the medical device supplied under these codes. By analyzing ACO-level program data, we observed material impacts likely for many PY 2023 ACOs related to these geographically heterogeneous and highly suspect increases in spending for the specified urinary catheter codes.

Preliminary estimates of PY 2023 performance after removing the specified codes, using three months of claims runout, and applying risk adjustment were used to update the impacts estimated for ACO shared savings and losses. These data were analyzed to estimate the marginal impact that catheter spending had on each ACO's performance. These marginal impact estimates continue to rely on analysis performed on preliminary data without final beneficiary assignment information and without 3 months of claims runout. Despite these remaining limitations, the precision in this analysis has increased relative to the analysis included in the proposed rule.

Billing for the specified codes was estimated in this study to have a

nominal impact to overall shared savings (net of losses) across the mix of ACOs in PY 2023. The neutral overall impact exemplifies to the fact that billing for these specific codes was not correlated to any ability for an average ACO to actively manage the rapid growth. For most ACOs, the inclusion of the specified catheter codes did not substantially change their estimated financial outcome in PY 2023. When expressing projected shared savings (or losses) as a percentage of benchmark, the impact of spending in the specified codes on projected shared savings (or losses) was projected to be within ± 0.05 percent for 56 percent of ACOs, within ± 0.10 percent for 74 percent of ACOs, and within 0.15 percent for 83 percent of ACOs. However, the impacts would potentially be substantial at the tails of the distribution. Table 1 shows that failing to exclude the specified codes would increase the net earnings for one ACO in the study by an amount equivalent to 1.5 percent of benchmark spending relative to the policy we are finalizing to exclude the codes. At the other extreme, leaving in the specified codes was estimated to reduce earnings to another ACO by an amount equivalent to 2.4 percent of benchmark relative to the policy we are finalizing to exclude such specified codes. The impact estimated at these extremes highlights the benefit of the proposed policy to prevent highly suspect billing in the two specified codes from materially impacting outcomes in the program.

²⁴ A4352 (Intermittent urinary catheter; Coude (curved) tip, with or without coating (Teflon, silicone, silicone elastomeric, or hydrophilic, etc.), each), and A4353 (Intermittent urinary catheter, with insertion supplies).

TABLE 1: Distribution of Estimated Impacts Elevated Catheter Spending (HCPCS codes A4352 and A4353) Would Have Impacted on Individual ACOs in PY 2023 Absent the Proposal (ACO Impacts Expressed as Percent of Estimated Updated PY 2023 Benchmark Excluding Specified Catheter Codes)

		Change in ACO Gross Savings	Change in ACO Earnings (Shared Savings /Losses)
	Mean	-0.1%	0.0%
	Min	-7.3%	-2.4%
Percentiles	5th	-0.7%	-0.4%
	10th	-0.3%	-0.1%
	20th	-0.1%	0.0%
	30th	0.0%	0.0%
	40th	0.0%	0.0%
	50th	0.1%	0.0%
	60th	0.1%	0.0%
	70th	0.1%	0.0%
	80th	0.2%	0.1%
	90th	0.3%	0.1%
	95th	0.4%	0.2%
	Max	1.1%	1.5%

While providing a valid illustration of the impacts likely across the distribution of ACOs, a key component of the simulation relies on preliminary data for PY 2023 with less than 7 days of claims runout (specifically, the estimated marginal impact of catheter spending on each ACO's performance relative to benchmark) versus the 90 day claims runout used in financial reconciliation. Because of the limitations in the data used for this simulation, and because of the potential for the overall impact to be influenced by the proximity of individual ACO-level outcomes to the applicable minimum savings rate or minimum loss rate (particularly for large ACOs), a stochastic simulation was employed to generate a range of outcomes surrounding the best estimate. Assuming the marginal impact of catheter spending on ACO gross savings (expressed on percent of benchmark basis) would vary relative to data used in the analysis under a normal distribution with standard deviation equal to the higher of (a) 0.1 percentage points or (b) one-fourth of the absolute value of the marginal percentage impact estimated for the ACO using preliminary data, the impact of removing spending in the specified codes across all ACOs combined was estimated to be roughly budget neutral

on average, ranging from a \$10 million decrease at the 10th percentile to a \$20 million dollar increase at the 90th percentile.

C. Compliance With Requirements of Section 1899(i)(3) of the Act

Certain policies, including both existing policies and the new policy described in this final rule, rely upon the authority granted in section 1899(i)(3) of the Act to use other payment models that the Secretary determines will improve the quality and efficiency of items and services furnished under the Medicare program, and that do not result in program expenditures greater than those that would result under the statutory payment model. By preventing SAHS spending growth in the two catheter codes from disrupting the accuracy and fairness of shared savings and loss outcomes for ACOs in the 2023 performance year, the policy furthers the goals of quality and efficiency by protecting the validity and integrity of the program's incentive for quality and efficiency. The provisions of this final rule, together with all existing program policies (including but not limited to those requiring authority granted in section 1899(i)(3) of the Act), result in a program that is expected to improve the quality and efficiency of items and

services furnished under the Medicare program and is not expected to result in a situation in which the payment methodology under the Shared Savings Program, including all policies adopted under the authority of section 1899(i) of the Act, results in more spending under the program than would have resulted under the statutory payment methodology in section 1899(d) of the Act.

In the CY 2023 PFS final rule, we estimated that the projected impact of the payment methodology that incorporates all policies finalized by that final rule would result in \$4.9 billion in greater program savings compared to a hypothetical baseline payment methodology that excluded the policies that required section 1899(i)(3) of the Act authority (see 87 FR 70195 and 70196). The marginal impact of the changes in the CY 2024 PFS final rule were estimated to lower net spending by \$330 million over the 10-year window for all new policies combined, including the cap an ACO's regional service area risk score growth, the addition of a new third step to the beneficiary assignment methodology, and the revised approach to identify the assignable beneficiary population (88 FR 79496). The marginal impact of the changes in this final rule are estimated to be budget neutral for the 2023 performance year, with a range

of uncertainty spanning \$10 million lower spending at the 10th percentile to \$20 million higher spending at the 90th percentile. The cumulative impact of all policies including the provisions in this final rule are estimated to result in more than \$4.9 billion in greater program savings compared to the hypothetical baseline payment methodology that excludes policies that require 1899(i)(3) of the Act authority. Therefore, we estimated that the implementation of the provision made in this final rule would not result in a program with spending greater than what would result under the statutory payment model, consistent with the requirements of section 1899(i)(3)(B) of the Act.

We will continue to reexamine this projection in the future to ensure that the requirement under section 1899(i)(3)(B) of the Act that an alternative payment model not result in additional program expenditures continues to be satisfied. Additional Shared Savings Program data beginning to accumulate after the end of the COVID-19 public health emergency, along with emerging information on the characteristics of new entrants in the Shared Savings Program for agreement periods beginning on January 1, 2024 and January 1, 2025, are anticipated to gradually improve our ability to reevaluate program impacts in a comprehensive fashion. In the event that we later determine that the payment model that includes policies established under section 1899(i)(3) of the Act no longer meets this requirement, we will undertake additional notice and comment rulemaking to make adjustments to the payment model to assure continued compliance with the statutory requirements.

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, approved this document on September 23, 2024.

List of Subjects in 42 CFR Part 425

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR part 425 as set forth below:

PART 425—MEDICARE SHARED SAVINGS PROGRAM

■ 1. The authority citation for part 425 continues to read as follows:

Authority: 42 U.S.C. 1302, 1306, 1395hh, and 1395jjj.

§§ 425.661 through 425.669 [Reserved]

■ 2. Add reserved §§ 425.661 through 425.669 to subpart G.

■ 3. Section 425.670 is added to subpart G to read as follows:

§ 425.670 Adjustments to mitigate the impact of significant, anomalous, and highly suspect billing activity on Shared Savings Program financial calculations involving calendar year 2023.

(a) *General.* This section describes adjustments CMS makes to Shared Savings Program calculations to mitigate the impact of significant, anomalous, and highly suspect billing activity occurring in calendar year 2023.

(b) *Significant, anomalous, and highly suspect billing activity for a HCPCS or CPT code impacting Shared Savings Program calculations.* CMS has determined that the billing of the following HCPCS codes represents significant, anomalous, and highly suspect billing activity for calendar year 2023 that warrants adjustment—

(1) A4352 (Intermittent urinary catheter; Coude (curved) tip, with or without coating (Teflon, silicone, silicone elastomeric, or hydrophilic, etc.), each); and

(2) A4353 (Intermittent urinary catheter, with insertion supplies).

(c) *Applicability of adjustments to performance year and benchmark year calculations.* Notwithstanding any other provision in this part, CMS adjusts the following Shared Savings Program calculations, as applicable, to exclude all Medicare Parts A and B fee-for-service payment amounts on DMEPOS claims (claim types 72 and 82) associated with a HCPCS code specified in paragraph (b) of this section for the period specified in paragraph (d) of this section:

(1) Calculation of Medicare Parts A and B fee-for-service expenditures for an ACO's assigned beneficiaries for all purposes including the following: Establishing, adjusting, updating, and resetting the ACO's historical benchmark and determining performance year expenditures.

(2) Calculation of fee-for-service expenditures for assignable beneficiaries as used in determining county-level fee-for-service expenditures and national Medicare fee-for-service expenditures, including the following calculations:

(i) Determining average county fee-for-service expenditures based on expenditures for the assignable population of beneficiaries in each county in the ACO's regional service area according to §§ 425.601(c) and 425.654(a) for purposes of calculating the ACO's regional fee-for-service expenditures.

(ii) Determining the 99th percentile of national Medicare fee-for-service expenditures for assignable beneficiaries for purposes of the following:

(A) Truncating assigned beneficiary expenditures used in calculating benchmark expenditures under § 425.652(a)(4), and performance year expenditures under §§ 425.605(a)(3) and 425.610(a)(4).

(B) Truncating expenditures for assignable beneficiaries in each county for purposes of determining county fee-for-service expenditures according to §§ 425.601(c)(3) and 425.654(a)(3).

(C) Truncating expenditures for assignable beneficiaries for purposes of determining truncated national per capita fee-for-service expenditures for purposes of calculating the ACPT according to § 425.660(b)(3).

(iii) Determining truncated national per capita fee-for-service Medicare expenditures for assignable beneficiaries for purposes of calculating the ACPT according to § 425.660(b)(3).

(iv) Determining national per capita expenditures for Parts A and B services under the original Medicare fee-for-service program for assignable beneficiaries for purposes of capping the regional adjustment to the ACO's historical benchmark according to § 425.656(c)(3) and capping the prior savings adjustment according to § 425.658(c)(1)(ii).

(v) Determining national growth rates that are used as part of the blended growth rates used to trend forward BY1 and BY2 expenditures to BY3 according to § 425.652(a)(5)(ii) and as part of the blended growth rates used to update the benchmark according to §§ 425.601(b)(2) and 425.652(b)(2)(i).

(3) Calculation of Medicare Parts A and B fee-for-service revenue of ACO participants for purposes of calculating the ACO's loss recoupment limit under the BASIC track as specified in § 425.605(d).

(4) Calculation of total Medicare Parts A and B fee-for-service revenue of ACO participants and total Medicare Parts A and B fee-for-service expenditures for the ACO's assigned beneficiaries for purposes of identifying whether an ACO is a high revenue ACO or low revenue ACO, as defined under § 425.20, and determining an ACO's eligibility to

receive advance investment payments according to § 425.630.

(5) Calculation or recalculation of the amount of the ACO's repayment mechanism arrangement according to § 425.204(f)(4).

(d) *Period of adjustment.* CMS adjusts the Shared Savings Program calculations specified in paragraph (c) of this section for significant, anomalous, and highly suspect billing activity identified pursuant to paragraph (b) of this section for calendar year 2023, when calendar year 2023 is either a performance year or a benchmark year.

(e) *Adjustments for growth rates used in calculating the ACPT.* In addition to adjustments described in paragraph (c) of this section, CMS makes adjustments for payments associated with a HCPCS code specified in paragraph (b) of this section for BY3 in projecting per capita growth in Parts A and B fee-for-service expenditures, according to § 425.660(b)(1), for purposes of calculating the ACPT for agreement periods beginning on January 1, 2024.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2024-22054 Filed 9-24-24; 4:15 pm]

BILLING CODE 4120-01-P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[GSAR-TA-2024-01; Docket No. GSA-GSAR-2024-0018; Sequence No. 1]

General Services Administration Acquisition Regulation; Technical Amendments

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is issuing this final rule to amend the General Services Administration Acquisition Regulation (GSAR) to make needed editorial changes.

DATES: Effective: September 27, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas O'Linn, Procurement Analyst, at 202-445-0390 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSARegsec@gsa.gov. Please cite GSAR-TA-2024-01.

SUPPLEMENTARY INFORMATION: This final rule amends the General Services Administration Acquisition Regulation

(GSAR) to make needed technical amendments to update erroneous clause dates.

List of Subjects in 48 CFR Part 552

Government procurement.

Jeffrey A. Koses

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.

Therefore, GSA amends 48 CFR part 552 as set forth below:

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

552.219-18 [Amended]

■ 2. Amend section 552.219-18 by removing from the date of the clause “(DATE)” and adding “(MAY 2024)” in its place.

552.238-115 [Amended]

■ 3. Amend section 552.238-115 by removing from the date of the clause “(AUG 24)” and adding “(SEP 2024)” in its place.

552.238-120 [Amended]

■ 4. Amend section 552.238-120 by removing from the date of the clause “(AUG 24)” and adding “(SEP 2024)” in its place.

[FR Doc. 2024-22158 Filed 9-26-24; 8:45 am]

BILLING CODE 6820-61-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 231127-0277]

RTID 0648-XE316

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2024 Commercial Closure for Snowy Grouper in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the commercial harvest of snowy grouper in South Atlantic Federal waters. NMFS projects commercial landings of snowy

grouper will reach the commercial quota for the July through December season. Therefore, NMFS closes Federal waters in the South Atlantic for the commercial harvest of snowy grouper to protect the resource.

DATES: This temporary rule is effective from September 29, 2024, through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Rick Devictor, NMFS Southeast Regional Office, phone: 727-204-5518, email: rick.devictor@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes snowy grouper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and NMFS, and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights described in this temporary rule are in gutted weight.

The commercial annual catch limit (ACL) for snowy grouper in 2024 is 106,174 pounds (lb) or 48,160 kilograms (kg). The commercial ACL is divided into two commercial quotas, with a separate quota for each 6-month fishing season. Seventy percent of the commercial ACL is allocated for the January through June commercial fishing season and that quota is 74,322 lb (33,712 kg) for 2024. The remaining 30 percent of the commercial ACL for the July through December fishing season is a quota of 31,852 lb (14,448 kg) for 2024 [50 CFR 622.190(a)(1)(i)(B) and (ii)(B)]. Any commercial quota remaining from the first season is added to the commercial quota in second season, but any commercial quota remaining from the second season is not carried forward into the next fishing year. The January through June quota was projected to be reached on June 4, 2024, and commercial harvest was closed (89 FR 47871, June 4, 2024). Subsequently, updated commercial harvest information showed that 8,035 lb (3,645 kg) of that quota was not harvested, and it was added to the 2024 commercial quota for the July through December season.

Under 50 CFR 622.193(b)(1), NMFS is required to close the commercial sector for snowy grouper when the commercial quota specified in 50 CFR 622.190(a)(1) is reached or is projected to be reached. NMFS projects that commercial landings of snowy grouper will reach the commercial quota for the 2024 July

through December season by September 29, 2024. Accordingly, the commercial sector for South Atlantic snowy grouper is closed starting on September 29, 2024, and remains closed through December 31, 2024.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having snowy grouper on board must have landed and bartered, traded, or sold such snowy grouper before September 29, 2024. During the commercial closure, the sale or purchase of snowy grouper taken from South Atlantic Federal waters is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of snowy grouper that were harvested, landed ashore, and sold before September 29, 2024, and were held in cold storage by a dealer or processor. The recreational harvest of snowy grouper is also closed for the rest of 2024 [50 CFR 622.183(b)(8)], and therefore, the bag and possession limits of snowy grouper harvested in or from the South Atlantic are zero.

For a person on a vessel issued a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper, the bag and possession limits and the sale and purchase provisions during the commercial closure for snowy grouper apply regardless of whether the fish are harvested in State or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.193(b)(1), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the commercial quota and accountability measures for South Atlantic snowy grouper have already been subject to notice and comment, and all that remains is to notify the public of the commercial closure for the remainder of the July through December fishing season this year. Prior notice and opportunity for public comment on this action is contrary to the public interest

because of the need to immediately implement the commercial closure to protect South Atlantic snowy grouper, because the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest that exceeds the commercial quota.

For the reasons just stated, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effective date of this action.

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

Dated: September 24, 2024.

Karen H. Abrams,

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

[FR Doc. 2024-22232 Filed 9-24-24; 4:15 pm]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 231221-0314; RTID 0648-XE335]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer From New Jersey to North Carolina

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of New Jersey is transferring a portion of their 2024 commercial bluefish quota to the State of North Carolina. This quota adjustment is necessary to comply with the Atlantic Bluefish Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2024 commercial bluefish quotas for New Jersey and North Carolina.

DATES: Effective September 26, 2024, through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Matthew Rigdon, Fishery Management Specialist, (978) 281-9336.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found in 50 CFR

648.160 through 648.167. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through Florida. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.162, and the final 2024 allocations were published on January 2, 2024 (89 FR 34).

The final rule implementing amendment 1 to the FMP, as published in the **Federal Register** on July 26, 2000 (65 FR 45844), provided a mechanism for transferring bluefish commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can request approval to transfer or combine bluefish commercial quota under § 648.162(e). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfers would not preclude the overall annual quota from being fully harvested; (2) the transfers address an unforeseen variation or contingency in the fishery; and (3) the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these criteria have been met for the transfers approved in this notification.

New Jersey is transferring 100,000 lb (45,359 kg) to North Carolina through mutual agreement of the states. This transfer was requested to ensure North Carolina would not exceed its 2024 state quota. The revised bluefish quotas for 2024 are: New Jersey, 148,898 lb (67,539 kg) and North Carolina, 965,996 lb (438,168 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.162(e)(1)(i) through (iii), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

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

Dated: September 24, 2024.

Karen H. Abrams,

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

[FR Doc. 2024-22210 Filed 9-26-24; 8:45 am]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 89, No. 188

Friday, September 27, 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.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272, 274, and 280

[FNS–2015–0021]

RIN 0584–AE00

Supplemental Nutrition Assistance Program (SNAP): Disaster Supplemental Nutrition Assistance Program (D–SNAP); Withdrawal

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document informs the public that the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA) is withdrawing the proposed rule titled Supplemental Nutrition Assistance Program (SNAP): Disaster Supplemental Nutrition Assistance Program (D–SNAP) that published in the **Federal Register** on May 10, 2016. This rule would have amended the SNAP regulations to establish procedures for planning, requesting and operating D–SNAP. The Department is withdrawing this proposed rule to maintain the flexibility to adapt D–SNAP to unique disaster situations. The importance of this flexibility became apparent as the Department adjusted traditional D–SNAP operations to accommodate the changing circumstances during the public health emergency. The proposed rule would have prevented the Department from enacting many of the successful responses utilized during the public health emergency to best serve households and State agencies in the aftermath of a disaster. After enacting these critical adaptations to D–SNAP design during the public health emergency, receiving feedback from D–SNAP listening sessions, and reviewing the comments received on the proposed rule, the Department is withdrawing the proposed rule to reduce the burden on State agencies and households responding to disasters.

DATES: As of September 27, 2024, the proposed rule published on May 10, 2016, at 81 FR 28738–28758, is officially withdrawn.

ADDRESSES: SNAP Program Development Division, Food and Nutrition Service, USDA, 1320 Braddock Place, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: John Noble, Branch Chief, Modernization and Integration Branch, Program Development Division, Supplemental Nutrition Assistance Program, Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314, 703–305–2022.

SUPPLEMENTARY INFORMATION: The decision to withdraw the proposed rule and maintain the current D–SNAP regulations is allowable due to the authority granted by § 412 of the Stafford Act and § 5(h)(1) the Food and Nutrition Act (FNA) of 2008. The Stafford Act authorizes the Secretary of Agriculture to approve D–SNAP operations when affected areas receive a Presidential Major Disaster Declaration for Individual Assistance (IA) and commercial channels of food distribution are available. The FNA permits the Secretary to establish temporary emergency standards for program eligibility during a disaster without regard to section 4(c) of the FNA or the procedures set forth in the Administrative Procedure Act (Sec. 553 of title 5 of the U.S. Code). This means that if an unusual disaster situation warranted unique eligibility standards, the Department may establish separate eligibility standards for that disaster.

This action withdraws a proposed rule published in the **Federal Register** on May 10, 2016, (81 FR 28738) which proposed to revise the SNAP regulations to establish specific procedures for planning, requesting and operating D–SNAP. The rule also proposed to specify State responsibilities in planning, reporting, and monitoring D–SNAP.

Comments on Proposed Rule

During the proposed rule's 60-day comment period ending March 7, 2016, FNS received 19 comments. The comments were submitted by various entities, including advocate organizations; individuals that identified as SNAP participants; individuals that did not identify with a State agency or organization; and State/ local government agencies. The comments were generally supportive of

the proposed rule and current guidance.¹

Despite the support for the proposed rule, there have been significant changes to the program design resulting from the COVID–19 public health emergency. The public health emergency, which began on January 31, 2020, and ended on May 11, 2023, highlighted the need for regulatory flexibility to adapt to new programmatic challenges.

Historically, State agencies operate D–SNAPs via an in-person application and interview process. During the public health emergency, State agencies faced unprecedented challenges to protect the health and safety of households and staff while responding to more frequent natural disasters. The Department approved novel virtual D–SNAP components to ensure social distancing and leveraged regulatory flexibility to meet household needs. The regulatory flexibility allows the Department to tailor D–SNAP responses on a case-by-case basis to maintain program integrity and equitable access. Additionally, feedback solicited during D–SNAP listening sessions contributes to the decision to withdraw this rule.

Flexibility During Public Health Emergency

The Department would not be responsive to household needs under the proposed rule. Household safety, supply chain issues, and other changing circumstances during the public health emergency demanded the Department adapt traditional D–SNAP operations. Under the proposed rule, FNS would have been restricted from enacting many of the successful responses utilized during the public health emergency to best serve households.

Allowing virtual components in D–SNAP operations is a significant deviation from the design outlined in the proposed rule. The Department is also currently evaluating the use of virtual components in D–SNAP operations. Withdrawing this rule allows the Department to fully evaluate the responses implemented during the public health emergency and reconsider future disaster response needs and rulemaking.

¹ https://www.fns.usda.gov/sites/default/files/resource-files/D-SNAP_handbook.pdf.

February 2023 Listening Sessions

The Department solicited feedback from external partners on the planning, requesting, and operating of D-SNAP in February 2023. Over three listening sessions, FNS explored ways to improve meeting the immediate needs of families following a disaster, with the aim to improve existing D-SNAP guidance. FNS held separate sessions for community partners, electronic benefit transfer (EBT) vendors, and State agencies administering SNAP. During these sessions, participants provided valuable insight into what is working well with D-SNAP and what could be improved moving forward. Overall, the feedback from participants in these listening sessions highlighted the benefits of maintaining flexibility in disaster response requirements.

Withdrawal

After reviewing feedback received through listening sessions and comments on the proposed rule, and considering program flexibility during the public health emergency, the Department has determined that the proposed rule to revise the current disaster regulations should not be finalized. In withdrawing this proposed rule, the Department reaffirms its longstanding D-SNAP operation policies and practices, authorized by § 412 of the Stafford Act and § 5(h)(1) of the FNA. The Department acknowledges that the flexibility afforded by current practices and D-SNAP guidance are critical to reducing the burden on needy households and State agencies who are responding to the aftermath of a disaster.

The Department agrees with the issues raised by many commenters and will use this feedback to inform any necessary updates to D-SNAP guidance. The Department no longer believes that finalizing this now outdated rule would allow for maximum flexibility in disaster response or sufficiently address the comments on the proposed rule. Accordingly, the proposed rule to revise D-SNAP regulations published in the **Federal Register** on May 10, 2016, (81 FR 28738) is hereby withdrawn.

Tameka Owens,

Acting Administrator and Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2024-22096 Filed 9-26-24; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

[Doc. No. AMS-SC-24-0042]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Idaho-Eastern Oregon Potato Committee (Committee) to increase the assessment rate established for the 2024–2025 fiscal period and subsequent fiscal periods from \$0.002 to \$0.003 per hundredweight of potatoes handled under the marketing order. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 28, 2024.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237. Comments can also be submitted to the Docket Clerk electronically by Email: MarketingOrderComment@usda.gov or via the internet at: <https://www.regulations.gov>. Comments should reference the document number and the date and page number of this issue of the **Federal Register**. Comments submitted in response to this proposed rule will be included in the record and made available to the public and can be viewed at: <https://www.regulations.gov>. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT:

Gregory A. Breasher, Marketing Specialist, or Barry M. Broadbent, Chief, Northwest Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326-2282, or Email: gregory.breasher@usda.gov or barry.broadbent@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, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement No. 98 and Marketing Order No. 945, both as amended (7 CFR part 945), regulating the handling of potatoes grown in certain counties in Idaho, and Malheur County, Oregon. Part 945 (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 comprises producers and handlers of potatoes operating within the area of production.

The Agricultural Marketing Service (AMS) is issuing this proposed 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 proposed action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This proposed 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 proposed 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 proposed rule has been reviewed under Executive Order 12988—Civil Justice Reform. Under the Order now in effect, Idaho-Eastern Oregon potato

handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable Idaho-Eastern Oregon potatoes for the 2024–2025 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. 608(c)(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 requesting 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 proposed rule would increase the assessment rate for Idaho-Eastern Oregon potatoes handled under the Order from \$0.002 per hundredweight, the rate that was established for the 2017–2018 fiscal period and subsequent fiscal periods (82 FR 28550), to \$0.003 per hundredweight for the 2024–2025 fiscal period and subsequent fiscal periods.

Sections 945.41 and 945.42 of the Order 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 2017–2018 fiscal period and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of \$0.002 per hundredweight of Idaho-Eastern Oregon potatoes within the production area (82 FR 28550). 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 June 5, 2024, and unanimously recommended 2024–2025 fiscal period expenditures of \$99,522 and an assessment rate of \$0.003 per hundredweight of Idaho Eastern-Oregon potatoes handled for the 2024–2025 fiscal period and subsequent fiscal periods. In comparison, the budgeted expenditures for fiscal period 2023–2024 were \$99,703. The proposed assessment rate of \$0.003 per hundredweight is \$0.001 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 August 2017 and June 2024. The Committee estimates shipments for the 2024–2025 season to be approximately 34,000,000 hundredweight, an increase from the 28,167,500 hundredweight handled for the 2023–2024 fiscal period.

The major expenditures recommended by the Committee for the 2024–2025 fiscal period include \$75,489 in administrative expenses; \$10,013 for operational expenses; \$4,670 for insurance/banking expenses; \$4,000 for annual audit/compliance expenses; \$2,950 for committee travel expenses and \$2,400 for IT support. For comparison, budgeted expenses for these items during the 2023–2024 fiscal period were \$74,960, \$10,013, \$4,880, \$4,500, \$2,950, and \$2,400, respectively.

The expected 34,000,000 hundredweight of Idaho-Eastern Oregon potatoes from the 2024–2025 crop would generate \$102,000 in assessment revenue at the proposed assessment rate (34,000,000 hundredweight of potatoes multiplied by \$0.003 assessment rate). The assessment rate increase should be appropriate to ensure the Committee has sufficient revenue to fully fund its recommended 2024–2025 fiscal period budgeted expenditures and begin replenishing the Committee's reserve funds to a level that the Committee believes is appropriate.

The Committee derived the recommended assessment rate by considering anticipated fiscal period expenses, expected shipments of potatoes, and the amount of funds available in the financial reserve. Income derived from handler assessments (\$102,000) would be adequate to cover budgeted expenses (\$99,522). Funds available in the financial reserve (currently about \$80,000) would be kept within the maximum permitted by the Order (approximately one fiscal period's expenses as authorized in § 945.44).

The proposed assessment rate would 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 would be in effect for an indefinite period, the Committee would 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 would 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 2024–2025 fiscal period budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by AMS.

Initial 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 proposed rule on small entities. Accordingly, AMS has prepared this initial 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 approximately 450 producers of Idaho-Eastern Oregon potatoes in the production area and 32 handlers subject to regulation under the Order. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural service firms as those having annual receipts equal to or less than \$34,000,000 (North American Industry Classification System (NAICS) code 115114, Postharvest Crop Activities), and small agricultural producers of potatoes as those having annual receipts equal to or less than \$4,250,000 (NAICS code 111211, Potato Farming) (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS), the average annual producer price

received for fresh market potatoes in Idaho, and Malheur County, Oregon, in 2022, the most recent full year for which there is NASS data, was \$12.50 per hundredweight. Total shipments of Idaho-Eastern Oregon potatoes for the 2021–2022 season were reported by the Committee to be 28,167,500 hundredweight. Using the average producer price from 2022, the total 2021–2022 crop value of Idaho-Eastern Oregon potatoes could therefore be estimated to be \$352,093,750 (28,167,500 hundredweight times \$12.50 per hundredweight). Dividing the crop value by the estimated number of producers (450) yields an estimated average receipt per producer of \$782,431. This figure is well below the SBA small agricultural producer threshold of \$4,250,000 in annual receipts. Assuming a normal distribution, this provides evidence that a large majority of potato producers would likely be considered small agricultural producers according to the SBA definition.

According to AMS Market News data, the reported average free on board (FOB) price for potatoes from Idaho-Eastern Oregon over the 2021–2022 fiscal period was \$15.68 per 50-pound carton, depending upon variety, size and grade, and shipping date. Multiplying this figure by 2 (to adjust to hundredweight) yields an average FOB price of \$31.36 per hundredweight for the 2021–2022 fiscal period. Multiplying the 2021–2022 Idaho-Eastern Oregon potato production of 28,167,500 hundredweight by the estimated average price per hundredweight of \$31.36 equals \$883,332,800. Dividing this figure by 32 regulated handlers yields estimated average annual handler receipts of \$27,604,150 (\$883,332,800 divided by 32 handlers), which is below the SBA threshold for small agricultural service firms. Therefore, according to the above data and assuming a normal distribution, most of the producers, and many of the handlers, of Idaho-Eastern Oregon potatoes may be classified as small entities.

This proposal would increase the assessment rate collected from handlers for the 2024–2025 fiscal period and subsequent fiscal periods from \$0.002 to \$0.003 per hundredweight of Idaho-Eastern Oregon potatoes. The Committee unanimously recommended 2024–2025 fiscal period expenditures of \$99,522 and an assessment rate of \$0.003 per hundredweight of Idaho-Eastern Oregon potatoes handled. The proposed assessment rate of \$0.003 is \$0.001 higher than the rate currently in effect. The Committee expects the industry to handle 34,000,000

hundredweight of Idaho-Eastern Oregon potatoes during the 2024–2025 fiscal period. Thus, the \$0.003 per hundredweight rate should provide \$102,000 in assessment income (34,000,000 hundredweight multiplied by \$0.003). The Committee expects that income generated from handler assessments should be sufficient to meet budgeted expenditures for the 2024–2025 fiscal period.

The major expenditures recommended by the Committee for the 2024–2025 fiscal period include \$75,489 in administrative expenses; \$10,013 for operational expenses; \$4,670 for insurance/banking expenses; \$4,000 for annual audit/compliance expenses; \$2,950 for committee travel expenses and \$2,400 for IT support. For comparison, budgeted expenses for these items during the 2023–2024 fiscal period were \$74,960, \$10,013, \$4,880, \$4,500, \$2,950, and \$2,400, respectively.

In recent years, the Committee has utilized reserve funds to partially fund its budgeted expenditures. The Committee recommended increasing the assessment rate to fully fund 2024–2025 fiscal period budgeted expenditures and replenish funds held in its reserve. This action would add an estimated \$2,478 to the Committee's financial reserve fund. The reserve balance would be kept at a level that the Committee believes is appropriate and which is compliant with the provisions of the Order.

Prior to arriving at this budget and assessment rate recommendation, the Committee discussed various alternatives, including maintaining the current assessment rate of \$0.002 per hundredweight and increasing the assessment rate by different amounts. However, the Committee determined that the recommended assessment rate would fully fund budgeted expenses and replenish reserves to appropriate levels. The assessment rate of \$0.003 per hundredweight of Idaho-Eastern Oregon potatoes was derived by considering anticipated expenses, the projected volume of assessable Idaho-Eastern Oregon potatoes, the projected monetary balance held in reserve, and additional pertinent factors.

A review of NASS information indicates that the average producer price for the 2021–2022 fiscal period was \$12.50 per hundredweight of potatoes in the production area. Therefore, utilizing the proposed assessment rate of \$0.003 per hundredweight, assessment revenue for the 2021–2022 fiscal period, as a percentage of total producer revenue, would have been approximately 0.024 percent of total producer revenue

(\$0.003 divided by \$12.50 multiplied by 100).

This proposed action would increase the assessment obligation imposed on Idaho-Eastern Oregon potato 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 production area. The Idaho-Eastern Oregon potato industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the June 5, 2024, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed 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 proposed rule. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large Idaho-Eastern Oregon potato 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 and 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 proposed rule.

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 proposed rule is consistent with and will effectuate the purposes of the Act.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments timely received will be considered before a final determination is made on this rulemaking.

List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 945 as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

■ 1. The authority citation for 7 CFR part 945 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 945.249 to read as follows:

§ 945.249 Assessment rate.

On and after August 1, 2024, an assessment rate of \$0.003 per hundredweight is established for Idaho-Eastern Oregon potatoes.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–22213 Filed 9–26–24; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM24–7–000]

Critical Infrastructure Protection Reliability Standard CIP–015–1—Cyber Security—Internal Network Security Monitoring

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to approve proposed Reliability Standard CIP–015–1 (Cyber Security—Internal Network Security

Monitoring), which the North American Electric Reliability Corporation (NERC), submitted in response to a Commission directive. In addition, the Commission proposes to direct that NERC develop certain modifications to proposed Reliability Standard CIP–015–1 to extend internal network security monitoring to include electronic access control or monitoring systems and physical access control systems outside of the electronic security perimeter.

DATES: Comments are due November 26, 2024.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways. Electronic filing through <http://www.ferc.gov>, is preferred.

- **Electronic Filing:** Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

- **Mail via U.S. Postal Service Only:** Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- **Hand (Including Courier) Delivery:** Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

The Comment Procedures Section of this document contains more detailed filing procedures.

FOR FURTHER INFORMATION CONTACT:

Margaret Steiner (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502 6704, Margaret.Steiner@ferc.gov
Hampden T. Macbeth (Legal Information), Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502 8957, Hampden.Macbeth@ferc.gov

SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215(d)(2) of the Federal Power Act (FPA),¹ the Commission proposes to approve proposed Critical Infrastructure Protection (CIP) Reliability Standard CIP–015–1 (Cyber Security—Internal Network Security Monitoring). The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted the proposed Reliability Standard for Commission approval in response to a

Commission directive in Order No. 887.² In addition, pursuant to section 215(d)(5) of the FPA,³ the Commission proposes to direct that NERC develop further modifications to Reliability Standard CIP–015–1, within 12 months of the effective date of a final rule in this proceeding, to extend Internal Network Security Monitoring (INSM)⁴ to include electronic access control or monitoring systems (EACMS)⁵ and physical access control systems (PACS)⁶ outside of the electronic security perimeter.

2. In Order No. 887, the Commission directed that NERC develop new or modified CIP Reliability Standards that require INSM for CIP-networked environments for all high impact bulk electric system (BES) Cyber Systems⁷ with and without external routable connectivity⁸ and medium impact BES Cyber Systems with external routable connectivity.⁹ Proposed Reliability Standard CIP–015–1 is partly responsive to the Commission's directives in Order No. 887 and advances the reliability of the Bulk-Power System by (1)

² *Internal Network Sec. Monitoring for High & Medium Impact Bulk Elec. Sys. Cyber Sys.*, Order No. 887, 88 FR 8354 (Feb. 9, 2023), 182 FERC ¶ 61,021 (2023).

³ 16 U.S.C. 824o(d)(5).

⁴ INSM is “a subset of network security monitoring that is applied within a ‘trust zone,’ such as an electronic security perimeter.” Order No. 887, 182 FERC ¶ 61,021 at P 2.

⁵ EACMS are “Cyber Assets that perform electronic access control or electronic access monitoring of the Electronic Security Perimeter(s) or BES Cyber Systems. This includes Intermediate Systems.” NERC, *Glossary of Terms Used in NERC Reliability Standards*, (July 22, 2024), https://www.nerc.com/pa/Stand/Glossary%20of%20Terms/Glossary_of_Terms.pdf (NERC Glossary).

⁶ PACS are “Cyber Assets that control, alert, or log access to the Physical Security Perimeter(s), exclusive of locally mounted hardware or devices at the Physical Security Perimeter such as motion sensors, electronic lock control mechanisms, and badge readers.” *Id.*

⁷ NERC defines BES Cyber Systems as “One or more BES Cyber Assets logically grouped by a responsible entity to perform one or more reliability tasks for a functional entity.” See NERC Glossary. BES Cyber Systems are categorized as high, medium, or low impact depending on the functions of the assets housed within each system and the risk they potentially pose to the reliable operation of the Bulk-Power System. Reliability Standard CIP–002–5.1a (BES Cyber System Categorization) sets forth criteria that registered entities apply to categorize BES Cyber Systems as high, medium, or low impact depending on the adverse impact that loss, compromise, or misuse of those BES Cyber Systems could have on the reliable operation of the BES. The impact level (*i.e.*, high, medium, or low) of BES Cyber Systems, in turn, determines the applicability of security controls for BES Cyber Systems that are contained in the remaining CIP Reliability Standards (*i.e.*, Reliability Standards CIP–003–8 to CIP–013–1).

⁸ External routable connectivity is “[t]he ability to access a BES Cyber System from a Cyber Asset that is outside of its associated Electronic Security Perimeter via a bi-directional routable protocol connection.” NERC Glossary.

⁹ Order No. 887, 182 FERC ¶ 61,021 at P 49.

¹ 16 U.S.C. 824o(d)(2).

establishing requirements for INSM for network traffic inside an electronic security perimeter, and (2) requiring INSM for all high impact BES Cyber Systems with and without external routable connectivity and medium impact BES Cyber Systems with external routable connectivity to ensure the identification of anomalous network activity indicating an ongoing attack.¹⁰ Accordingly, we propose approving proposed Reliability Standard CIP-015-1.

3. Proposed Reliability Standard CIP-015-1 is not, however, fully responsive to the Commission's directive to implement INSM for the "CIP-networked environment."¹¹ In particular, the proposed Standard may not adequately defend against attacks that circumvent network perimeter-based security controls. Attacks external to the electronic security perimeter may compromise systems, such as EACMS or PACS, and then infiltrate the perimeter as a trusted communication, thus limiting the effectiveness of an approach that employs INSM only within the electronic security perimeter. The Commission used the phrase "CIP-networked environment" in Order No. 887 to be necessarily broader than the electronic security perimeter.¹² Accordingly, to address this reliability and security gap, the Commission proposes to direct that NERC develop modifications to the proposed Reliability Standard CIP-015-1 to extend INSM to include EACMS and PACS outside of the electronic security perimeter.

I. Background

A. Section 215 and Mandatory Reliability Standards

4. Section 215 of the FPA provides that the Commission may certify an ERO, the purpose of which is to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.¹³ Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.¹⁴ Pursuant to section 215 of the FPA, the Commission established a process to

select and certify an ERO,¹⁵ and subsequently certified NERC.¹⁶

B. Internal Network Security Monitoring

5. INSM is a subset of network security monitoring that is applied within a "trust zone,"¹⁷ such as an electronic security perimeter. The trust zone applicable to INSM is the CIP-networked environment for this notice of proposed rulemaking (NOPR) and Order No. 887.¹⁸ INSM enables continuing visibility over communications between networked devices within a trust zone and detection of malicious activity that has circumvented perimeter controls. Further, INSM facilitates the detection of anomalous network activity indicative of an attack in progress, thus increasing the probability of early detection and allowing for quicker mitigation and recovery from an attack.

6. INSM is designed to address as early as possible situations where perimeter network defenses are breached by detecting intrusions and malicious activity within a trust zone. INSM consists of three stages: (1) collection; (2) detection; and (3) analysis. Taken together, these three stages provide the benefit of early detection and alerting of intrusions and malicious activity.¹⁹ INSM better positions an entity to detect an attacker in the early phases of an attack and reduces the likelihood that an attacker can gain a strong foothold, including operational control, on the target system. In addition to early detection and mitigation, INSM may improve incident response by providing higher

quality data about the extent of an attack internal to a trust zone. Finally, INSM provides insight into east-west network traffic²⁰ happening inside the network perimeter, which enables a more comprehensive picture of the extent of an attack compared to data gathered from the network perimeter alone.²¹

C. Order No. 887

7. On January 19, 2023, in Order No. 887, the Commission issued a final rule that directed that NERC develop "new or modified CIP Reliability Standards requiring INSM for all high impact BES Cyber Systems with and without external routable connectivity and medium impact BES Cyber Systems with external routable connectivity to ensure the detection of anomalous network activity indicative of an attack in progress."²² The Commission, noting that INSM is "applied within a 'trust zone,' such as an electronic security perimeter," stated that for the final rule the applicable trust zone for INSM is the CIP-networked environment.²³

8. The Commission explained that the currently effective CIP Reliability Standards focus on preventing unauthorized access at the electronic security perimeter and do not require INSM inside trusted CIP-networked environments.²⁴ The Commission determined that this left a reliability gap when vendors or individuals with authorized access are deemed trustworthy but could still introduce a cybersecurity risk.²⁵ The Commission then concluded that requirements to implement INSM will "fill a gap in the

¹⁵ *Rules Concerning Certification of the Elec. Reliability Org.; & Procs. for the Establishment, Approval, & Enforcement of Elec. Reliability Standards*, Order No. 672, 114 FERC ¶ 61,104, order on reh'g, Order No. 672-A, 114 FERC ¶ 61,328 (2006); see also 18 CFR 39.4(b) (2024).

¹⁶ *N. Am. Elec. Reliability Corp.*, 116 FERC ¶ 61,062, order on reh'g and compliance, 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

¹⁷ The U.S. Department of Homeland Security, Cybersecurity and Infrastructure Security Agency (CISA) defines trust zone as a "discrete computing environment designated for information processing, storage, and/or transmission that share the rigor or robustness of the applicable security capabilities necessary to protect the traffic transiting in and out of a zone and/or the information within the zone." CISA, *Trusted Internet Connections 3.0: Reference Architecture*, 2 (July 2020), https://www.cisa.gov/sites/default/files/publications/CISA_TIC%203.0%20Vol.%202%20Reference%20Architecture.pdf.

¹⁸ Order No. 887, 182 FERC ¶ 61,021, at P. 2.

¹⁹ See Chris Sanders & Jason Smith, *Applied Network Security Monitoring*, 9-10 (2013); see also ISACA, *Applied Collection Framework: A Risk-Driven Approach to Cybersecurity Monitoring* (Aug. 18, 2020), <https://www.isaca.org/resources/news-and-trends/isaca-now-blog/2020/applied-collection-framework>.

²⁰ East-west traffic refers to the communications among BES Cyber Systems and is the specific type of network traffic that remains within the network perimeter. It may refer to communication peer-to-peer industrial automation and control systems devices in a network or to activity between servers or networks inside a data center, rather than the data and applications that traverse networks to the outside world. CISCO, *Networking and Security in Industrial Automation Environments Design Guide*, 111 (Aug. 2020), https://www.cisco.com/c/en/us/td/docs/solutions/Verticals/Industrial_Automation/IA_Horizontal/DG/Industrial-AutomationDG.pdf; The President's National Security Telecommunications Advisory Committee, *Report to the President on Software-Defined Networking*, E-3 (Aug. 2020), <https://www.cisa.gov/sites/default/files/publications/NSTAC%20SDN%20Report%20%288-12-20%29.pdf>.

²¹ CISA, *CISA Analysis: FY2020 Risk and Vulnerability Assessments* (July 2021), https://www.cisa.gov/sites/default/files/publications/FY20-RVA-Analysis_508C.pdf.

²² Order No. 887, 182 FERC ¶ 61,021 at P. 3.

²³ *Id.* P. 2.

²⁴ *Id.* P. 20.

²⁵ *Id.* An attacker could move among devices inside a trust zone and perform actions such as: (1) escalate privileges (such as gaining administrator account privileges through a vulnerability); (2) move undetected inside the CIP-networked environment; or (3) execute a virus, ransomware or another form of unauthorized code. *Id.* P. 19.

¹⁰ NERC Petition at 1, 13.

¹¹ See Order No. 887, 182 FERC ¶ 61,021 at P. 1.

¹² *Id.* P. 49.

¹³ 16 U.S.C. 824o(c).

¹⁴ *Id.* 824o(e).

current suite of CIP Reliability Standards and improve the cybersecurity posture of the Bulk-Power System.”²⁶

9. The Commission directed that NERC ensure that the new or modified CIP Reliability Standards address three security objectives for east-west network traffic. First, the new or modified CIP Reliability Standards should address the need for each responsible entity to develop a baseline for their network activity by analyzing for security purposes their network traffic and data flows. Second, the new or modified CIP Reliability Standards should address the need for responsible entities to monitor and detect “unauthorized activity, connections, devices, network communication protocols, and software” in the CIP-networked environment. Third, the new or modified CIP Reliability Standards should provide responsible entities with flexibility in determining how to best identify anomalous activity with a high level of confidence, so long as the methods ensure: (1) logging of network traffic; (2) maintaining the logs, and other data collected, regarding network traffic that are of “sufficient data fidelity to draw meaningful conclusions” to investigate an incident; and (3) maintaining the integrity of the logs and other data by employing measures that minimize the likelihood of an attacker removing evidence of their tactics, techniques, and procedures.²⁷

D. NERC Petition and Proposed Reliability Standard CIP-015-1

10. On June 24, 2024, NERC submitted for Commission approval proposed Reliability Standard CIP-015-1 and the associated violation risk factors and violation severity levels, implementation plan, and effective date.²⁸ NERC states that proposed Reliability Standard CIP-015-1 is intended to advance the reliability of

the Bulk-Power System by providing a comprehensive suite of forward looking and objective-based requirements for INSM.²⁹

11. NERC explains that the proposed Reliability Standard would address the directives in Order No. 887 by establishing three requirements for responsible entities to implement INSM systems and processes. Specifically:

- *Requirement R1:* responsible entities would be required to implement process(es) to monitor, detect, and evaluate anomalous activity in “networks protected by the Responsible Entity’s Electronic Security Perimeter(s)” of high impact BES Cyber Systems and medium impact BES Cyber Systems with external routable connectivity.³⁰
- *Requirement R2:* responsible entities would be required to implement process(es) for retaining INSM data associated with anomalous network activity as determined by the applicable responsible entities.
- *Requirement R3:* responsible entities would be required to implement process(es) to protect INSM monitoring data collected and retained in support of Requirements R1 and R2 to guard against the risk of unauthorized deletion or modification.

According to NERC, Requirement R1 applies to data flows within “networks protected by the Responsible Entity’s Electronic Security Perimeter(s).”³¹ NERC states that proposed Reliability Standard CIP-015-1’s scope is consistent with the plain language of Order No. 887, which stated that INSM should apply within a trust zone, “such as an electronic security perimeter,” and that the trust zone for INSM is the “CIP-networked environment.”³² NERC states that its approach would provide the greatest benefits to the reliability of the Bulk-Power System by focusing industry’s limited resources on the most critical environment, “networks protected by the Responsible Entity’s Electronic Security Perimeter.”³³

II. Discussion

A. Proposal To Approve Proposed Reliability Standard CIP-015-1

12. Pursuant to section 215(d)(2) of the FPA, the Commission proposes to approve proposed Reliability Standard CIP-015-1 as just, reasonable, not unduly discriminatory or preferential,

and in the public interest. The proposed Reliability Standard requires responsible entities to implement INSM within the electronic security perimeter for all high impact BES Cyber Systems with and without external routable connectivity and medium impact BES Cyber Systems with external routable connectivity. Consistent with the security objectives identified in Order No. 887, Requirement R1 of the proposed Standard would require responsible entities to implement INSM by mandating the collection, detection, analysis of and appropriate response to anomalous activity within the electronic security perimeter. Proposed Reliability Standard CIP-015-1, Requirement R2 would require responsible entities to retain INSM data related to anomalous activity. Proposed Reliability Standard CIP-015-1, Requirement R3 would require responsible entities to protect INSM data associated with anomalous network activity.

13. Implementation of INSM within the electronic security perimeter will augment responsible entities’ ability to detect anomalous or malicious activity and provide information to assist in determining an appropriate response through proposed Reliability Standard CIP-015-1, Requirements R1, R2, and R3. The proposed Reliability Standard improves the security posture of the industry by providing visibility into east-west communications absent from previous Reliability Standards, improving the probability of detection for anomalous or malicious activity within the electronic security perimeter.

14. Notwithstanding the improvements to security made by the proposed Standard, as discussed below, the proposed Reliability Standard does not fully implement the scope of protection contemplated in Order No. 887. By restricting the implementation of INSM to within the electronic security perimeter, a reliability and security gap remains by not implementing INSM for the entire CIP-networked environment, *i.e.*, outside the electronic security perimeter inclusive of EACMS and PACS. To address this gap, we propose to direct NERC to develop modifications to the proposed Reliability Standard to include EACMS and PACS, thereby protecting the reliability and security of all trust zones of the CIP-networked environment. This approach—proposing to approve a Reliability Standard as enhancing protections and as a separate action under section 215(d)(5) of the FPA proposing to direct NERC to develop certain modifications to a Reliability Standard to address a reliability gap—is

²⁶ *Id.* P 49 (citing NERC Comments in Response to Notice of Proposed Rulemaking under Docket No. RM22-3-000 at 4-5 (current CIP Standards require “malicious communications monitoring at the Electronic Access Point on the [electronic security perimeter], not necessarily monitoring of activity of those who already have access to the network”). The Bulk-Power System is defined in the FPA as facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy. 16 U.S.C. 824o(a)(1).

²⁷ Order No. 887, 182 FERC ¶ 61,021 at PP 79-80.

²⁸ NERC Petition at 2, 26-28. Proposed Reliability Standard CIP-015-1 is not attached to this NOPR. The proposed Reliability Standards are available on the Commission’s eLibrary document retrieval system in Docket No. RM24-7-000 and on the NERC website, www.nerc.com.

²⁹ *Id.* at 4.

³⁰ *Id.*, Ex. A (Proposed Reliability Standard CIP-015-1) at 6.

³¹ *Id.*

³² NERC Petition at 16 (quoting Order No. 887, 182 FERC ¶ 61,021 at P 2).

³³ *Id.* at 14, 17.

consistent with Commission precedent.³⁴

B. Scope of the CIP-Networked Environment

15. NERC's proposed application of the term "CIP-networked environment" as limited to assets and systems within the electronic security perimeter is overly narrow. Order No. 887 used the term "CIP-networked environment" purposefully to apply more broadly than the electronic security perimeter, specifically to include all assets and systems to which the CIP standards apply and may be the targets of attacks. As explained below, NERC's petition does not address that reliability and security gap because it does not require implementation of INSM at EACMS and PACS outside the electronic security perimeter.

16. Excluding EACMS and PACS from the term "CIP-networked environment" is inconsistent with generally accepted approaches to cybersecurity. Under Reliability Standard CIP-002-5.1a and fundamental cybersecurity practices, similar systems within a network are grouped together to facilitate management, control, and monitoring of the networked environment.³⁵ For example, EACMS are grouped together to allow for early detection of malicious activity within the CIP-networked environment and potentially protect other grouped systems, such as BES Cyber Systems, with which the EACMS communicate. Thus, excluding certain grouped systems from protections—as is the case for EACMS and PACS in Reliability Standard CIP-015-1—leaves other grouped systems within the CIP-networked environment at risk. Here, the BES Cyber Systems would not benefit from monitoring of east-west (*i.e.*, lateral) movement within the grouping of EACMS and PACS, which allows for early detection of anomalous

or malicious activity.³⁶ Otherwise, for example, a compromised EACMS grouping could provide an attacker with the opportunity to infiltrate other connected groups, such as BES Cyber Systems located within the electronic security perimeter, as an authenticated user or trusted communication.³⁷

17. National Institute of Standards and Technology (NIST) guidance states that INSM monitoring needs to detect "[a]ny threat that is already inside of a network [that] can move laterally and remain undetected for days or even months."³⁸ According to the NIST guidance, east-west (lateral) monitoring (*i.e.*, INSM) improves the probability of detection for malicious or anomalous activity and should not be isolated to only the most critical trust zones.³⁹ While the terminology of EACMS and PACS is unique to the CIP Reliability Standards, these statements from NIST broadly include the concepts of EACMS and PACS and support the need for monitoring.

18. Further, we find NERC's rationale for limiting INSM to within the electronic security perimeter unpersuasive. First, NERC contends that

the devices supporting reliable operation are contained within the electronic security perimeter and thus industry resources are most effectively focused on data flows within the electronic security perimeter.⁴⁰ We disagree. While the devices *directly* supporting the reliable operation of the Bulk-Power System are located within the electronic security perimeter, attacks that threaten reliability can still emanate from outside the electronic security perimeter from connected Cyber Assets, such as EACMS.⁴¹

19. Second, NERC avers that requiring INSM implementation outside the electronic security perimeter could have the unintended effect of impeding an entity's ability to detect and respond to threats to their most critical systems due to alarm and alert fatigue from large volumes of generated data.⁴² Extending INSM implementation to include EACMS and PACS may generate large volumes of data;⁴³ however, we believe that the data can be managed and that the security benefits of implementing INSM outside the electronic security perimeter outweigh the burden associated with increased volumes of data. Defining incident alerting thresholds and establishing a baseline for normal network activity can reduce the potential for alarm and alert fatigue.⁴⁴ Restricting INSM to the assets within the electronic security perimeter could leave the most critical networks vulnerable to an attack from outside the electronic security perimeter. Assets such as EACMS are high value targets for an attack because if successfully compromised, EACMS would allow an attacker to infiltrate the perimeter as a trusted communication.⁴⁵ Further,

³⁴ See *e.g.*, *N. Am. Elec. Reliability Corp.*, 187 FERC ¶ 61,204 (2024) (order approving Reliability Standard EOP-012-2 because it clarified the requirements for generator cold weather preparedness and by making other improvements and, in addition, directing that NERC submit modifications to Reliability Standard EOP-012-2 to address certain concerns); *Critical Infrastructure Prot. Reliability Standard CIP-012-1—Cyber Sec.—Comm'n's between Control Ctrs.*, Order No. 866, 85 FR 7197 (Feb. 7, 2020), 170 FERC ¶ 61,031 (2020).

³⁵ Reliability Standard CIP-002.5.1a (BES Cyber System Categorization) (categorizing EACMS, PACS, protected cyber assets, and BES Cyber Systems into groups); see, *e.g.*, Nat'l Sec. Agency, *Network Infrastructure Security Guide*, 1, 3-4 (Oct. 2023), https://media.defense.gov/2022/Jun/15/2003018261/-1/-1/0/CTR_NSA_NETWORK_INFRASTRUCTURE_SECURITY_GUIDE_20220615.PDF (recommending the grouping of similar network systems as a best practice for overall network security) (NSA Network Security Guide).

³⁶ See CISA, *Cybersecurity Advisory: CISA Red Team Shares Key Findings to Improve Monitoring and Hardening of Networks*, 2, 14 (Feb. 2023), https://www.cisa.gov/sites/default/files/2023-03/aa23-059a-cisa_red_team_shares_key_findings_to_improve_monitoring_and_hardening_of_networks.pdf (finding that insufficient network monitoring contributed to a CISA red team avoiding detection and gaining access to an organization's network through lateral movement by leveraging access to an Active Directory system serving as an electronic access control system) (CISA Cybersecurity Advisory); Nat'l Inst. of Standards and Tech. (NIST), *NIST SP 800-215 Guide to a Secure Enterprise Network Landscape*, 5 (Nov. 2022), <https://doi.org/10.6028/NIST.SP.800-215> (describing the limitations of a perimeter-based security approach as not capturing threats from inside a network that can move laterally and remain undetected for an extended period of time) (NIST SP 800-215); NIST, *NIST SP 800-82r3 Guide to Operational Technology (OT) Security*, 74 (Sept. 2023), <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-82r3.pdf> (recommending the analyzing of information to differentiate between known and unknown communication as a necessary first step in implementing network security monitoring) (NIST SP 800-82r3). The term INSM is used by the Commission in Order No. 887, but the cybersecurity industry uses the term "network security monitoring." Similarly, the CIP Standards use the terms "EACMS" and "PACS," which are defined by the NERC Glossary, while NIST discusses the same concepts but does not use the same EACMS and PACS terminology.

³⁷ See CISA Cybersecurity Advisory at 2-6 (describing how a CISA Red Team was able to gain access to workstations and servers from an Active Directory system serving as an electronic access control system, which assisted in lateral movement to other networks).

³⁸ NIST SP 800-215 at 5.

³⁹ See *id.* (describing east-west traffic as "largely invisible to security teams" without INSM and that a threat inside a network can move east-west and "remain undetected for days or even months").

⁴⁰ NERC Petition at 14.

⁴¹ See, *e.g.*, CISA Cybersecurity Advisory at 1-2 (a CISA Red Team was able to gain access to systems adjacent to the organization's sensitive business systems (SBSs) by moving laterally from workstations and servers through an Active Directory system; Phase I of the attack ended before the team could implement a viable plan to achieve access to a SBS).

⁴² NERC Petition at 14-15 n.45.

⁴³ See NIST SP 800-82r3 at 130 (discussing alert "noise" from typical network traffic that can result from implementation of network security monitoring).

⁴⁴ See *id.* at 127-128 (recommending that organizations define incident alert thresholds to establish an efficient incident detection capability as not all events and anomalies are malicious or require investigation and establish alerting thresholds on baselines of normal network traffic and data flows to reduce false positive and nuisance alarms).

⁴⁵ See, *e.g.*, CISA Cybersecurity Advisory at 14 (finding a CISA red team gained access to an organization's network due to the lack of monitoring on endpoint management systems—high valued assets—that can include the monitoring system part of an EACMS).

declining to extend INSM implementation to EACMS and PACS outside the electronic security perimeter leaves a reliability gap because responsible entities will lack visibility into the high percentage of east-west traffic that occurs within the CIP-networked environment.⁴⁶ Monitoring and alerting of east-west traffic enables quicker detection of malicious communications, minimizing potential harmful effects.⁴⁷ Additionally, the collected data serves as invaluable forensic evidence in the event of an attempted or successful compromise of the CIP-networked environment.

20. Third, NERC asserts that requiring INSM implementation outside the electronic security perimeter would not promote security and reliability inside the CIP-networked environment or that the cost of doing so would outweigh associated benefits.⁴⁸ We disagree. EACMS and PACS are integral to the effective operation of BES Cyber Systems within the electronic security perimeter in providing services, such as centralized authentication, authorization, and monitoring, and serving as the access point to the electronic security perimeter.⁴⁹ These assets are valued targets for an attacker and illustrate the need for a defense-in-depth strategy for cybersecurity.⁵⁰ Implementing INSM outside the electronic security perimeter provides

significant benefits in monitoring, detecting, and collecting malicious code or anomalous activity from attackers moving east-west within the EACMS or PACS network segments of the CIP-networked environment and is a fundamental cybersecurity practice.⁵¹

C. Proposed Directive

21. Pursuant to section 215(d)(5) of the FPA, the Commission proposes to direct NERC to develop modifications to proposed Reliability Standard CIP-015-1 that would extend INSM to include EACMS and PACS outside the electronic security perimeter. We also propose directing NERC to submit the revised Reliability Standard for Commission approval within 12 months of the effective date of a final rule in this proceeding. We seek comment on all aspects of this proposal.

III. Information Collection Statement

22. The FERC-725B information collection requirements are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995. OMB's regulations require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing

requirements will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Commission solicits comments on the need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

23. The Commission bases its paperwork burden estimates on the additional paperwork burden presented by the proposed revision to Reliability Standard CIP-015-1 as this is a new proposed Reliability Standard. Reliability Standards are objective-based and allow entities to choose compliance approaches best tailored to their systems. The NERC Compliance Registry, as of July 2024, identifies approximately 1,636 unique U.S. entities that are subject to mandatory compliance with CIP Reliability Standards. Of this total, we estimate that 400 entities will face an increased paperwork burden under proposed Reliability Standard CIP-015-1. Based on these assumptions, we estimate the following reporting burden:

ANNUAL CHANGES PROPOSED BY THE NOPR IN DOCKET NO. RM24-7-000⁵²

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response ⁵³	Total annual burden hours & total annual cost	Cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Create one or more documented process(es) (R1)	400	1	400	40 hrs.; \$3,880	16,000 hrs.; \$1,552,000	\$3,880
Create documentation detailing network data feed(s) and reason (R1.1).	400	1	400	60 hrs.; \$5,820	24,000 hrs.; \$2,328,000	5,820
Create documentation of: anomalous events and baseline used to detect anomalous events (R1.2).	400	1	400	60 hrs.; \$5,820	24,000 hrs.; \$2,328,000	5,820
Create documentation of methods to: evaluate anomalous activity; response to detected activity; and escalation process(es) (R1.3).	400	1	400	60 hrs.; \$5,820	24,000 hrs.; \$2,328,000	5,820
Create documentation of: data retention process(es); system configuration(s), or system-generated report(s) (R2).	400	1	400	60 hrs.; \$5,820	24,000 hrs.; \$2,328,000	5,820
Create documentation of how the collected data is being protected (R3).	400	1	400	60 hrs.; \$5,820	24,000 hrs.; \$2,328,000	5,820
Total burden for FERC-725B(5) under CIP-015-1.	.....	.....	2,400	.....	136,000 hrs.; \$13,192,000	32,980

⁴⁶ NIST states that over 75% of network traffic is now east-west or server-to-server, i.e., traffic that is not covered by a perimeter-based defense approach. See NIST SP 800-215 at 5.

⁴⁷ See *id.* at 5.

⁴⁸ NERC Petition at 15-16 n.46.

⁴⁹ NERC, *Lessons Learned: CIP Version 5 Transition Program* (Sept. 2015), https://www.nerc.com/pa/CI/tptv5impmtntstdy/LL_EACMS_Mixed_Trust_Authentication_Sep_10_2015_clean.pdf.

⁵⁰ See, e.g., CISA Cybersecurity Advisory at 2-6, 14.

⁵¹ See NIST SP 800-215 at 5; NSA Network Security Guide at 3.

⁵² The paperwork burden estimate includes costs associated with the initial development of a policy to address the requirements.

⁵³ This burden applies in Year One to Year Three.

The hourly cost for wages is based in part on the average of the occupational categories from the Bureau of Labor Statistics website (http://www.bls.gov/oes/current/naics2_22.htm) plus

benefits:

Legal (Occupation Code: 23-0000): \$162.66.

Electrical Engineer (Occupation Code: 17-2071): \$79.31.

Office and Administrative Support (Occupation Code: 43-0000): \$48.59.

(\$162.66 + \$79.31 + \$48.59) ÷ 3 = \$96.85.

The figure is rounded to \$97.00 for use in calculating wage figures in this NOPR.

24. The responses and burden hours for Years 1–3 will total respectively as follows:

- Year 1–3 each: 2,400 responses; 136,000 hours.
- The annual cost burden for each year One to Three is \$13,192,000.

25. *Title:* Mandatory Reliability Standards, Revised Critical Infrastructure Protection Reliability Standards.

Action: Revision to FERC–725B information collection.

OMB Control No.: 1902–0248.

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: On Occasion.

Necessity of the Information: This NOPR proposes to approve the requested modifications to Reliability Standards pertaining to critical infrastructure protection. As discussed above, the Commission proposes to approve proposed Reliability Standard CIP–015–1 pursuant to section 215(d)(2) of the FPA because it improves upon the currently-effective suite of cybersecurity CIP Reliability Standards.

Internal Review: The Commission has reviewed the proposed Reliability Standard and made a determination that its action is necessary to implement section 215 of the FPA. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 [Attention: Kayla Williams, Office of the Executive Director, email: DataClearance@ferc.gov, phone: (202) 502–8663, fax: (202) 273–0873].

26. For submitting comments concerning the collection(s) of information and the associated burden estimate(s), please send your comments to the Commission, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–4638, fax: (202) 395–7285]. For security reasons, comments to OMB should be submitted by email to: oira_submission@omb.eop.gov. Comments submitted to OMB should include Docket Number RM24–7–000 and OMB Control Number 1902–0248.

IV. Environmental Analysis

27. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human

environment.⁵⁴ The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.⁵⁵ The action proposed herein falls within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act Certification

28. The Regulatory Flexibility Act of 1980 (RFA)⁵⁶ generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.⁵⁷ The SBA revised its size standard for electric utilities (effective March 17, 2023) to a standard based on the number of employees, including affiliates (from the prior standard based on megawatt hour sales).⁵⁸ The Commission believes that because the obligations imposed upon industry are directed at only entities that own or operate high impact BES Cyber Systems with or without external routable connectivity or medium impact BES Cyber Systems with external routable connectivity that there are no entities that meet the SBA revised standard for electric utilities. Therefore, the Commission certifies that this NOPR will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VI. Comment Procedures

29. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 26, 2024. Comments must refer to Docket No. RM24–7–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

30. All comments will be placed in the Commission's public files and may

be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

31. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software must be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

32. Commenters that are not able to file comments electronically may file an original of their comment by USPS mail or by courier or other delivery services. For submission sent via USPS only, filings should be mailed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submission of filings other than by USPS should be delivered to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

VII. Document Availability

33. 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>).

34. 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.

35. 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.reference@ferc.gov.

By direction of the Commission.

Issued: September 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22231 Filed 9–26–24; 8:45 am]

BILLING CODE 6717–01–P

⁵⁴ *Reguls. Implementing the Nat'l Env'tl Pol'y Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

⁵⁵ 18 CFR 380.4(a)(2)(ii).

⁵⁶ 5 U.S.C. 601–612.

⁵⁷ 13 CFR 121.101.

⁵⁸ 13 CFR 121.201, Subsector 221 (Utilities).

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506-AB39

Proposal of Special Measure Against ABLV Bank, AS as a Financial Institution of Primary Money Laundering Concern; Withdrawal**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.**ACTION:** Withdrawal of finding and notice of proposed rulemaking.

SUMMARY: This document withdraws FinCEN's finding that ABLV Bank AS (ABLV) is a financial institution of primary money laundering concern and the related notice of proposed rulemaking seeking to impose the fifth special measure regarding ABLV, pursuant to section 311 of the USA PATRIOT Act (section 311). Because of material subsequent developments that have mitigated the money laundering risks associated with ABLV, FinCEN has determined ABLV is no longer a financial institution of primary money laundering concern that warrants the implementation of a special measure under section 311.

DATES: The finding and notice of proposed rulemaking, published at 83 FR 6986 (Feb. 16, 2018), are withdrawn as of September 27, 2024.

ADDRESSES: Mail: Global Investigations Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 1-800-767-2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (the "USA PATRIOT Act"). Title III of the USA PATRIOT Act amended the anti-money laundering provisions of the Bank Secrecy Act (BSA)¹ to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Section 311 of

the USA PATRIOT Act (section 311), codified at 31 U.S.C. 5318A, grants the Secretary of the Treasury (Secretary) authority, upon finding that reasonable grounds exist for concluding that one or more financial institutions operating outside the United State is of primary money laundering concern, to require domestic financial institutions and financial agencies to take certain "special measures". The authority of the Secretary to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.²

The five special measures enumerated under section 311 are safeguards that may be employed to defend the U.S. financial system from money laundering and terrorist financing risks. The Secretary may impose one or more of these special measures in order to protect the U.S. financial system from such threats. Through special measures one through four, the Secretary may impose additional recordkeeping, information collection, and information reporting requirements on covered domestic financial institutions and domestic financial agencies—collectively, "covered financial institutions".³ Through special measure five, to the Secretary may prohibit, or impose conditions on, the opening or maintaining in the United States of correspondent or payable-through accounts by covered financial institutions.⁴

II. Procedural History and Subsequent Events*A. Finding and Notice of Proposed Rulemaking*

On February 16, 2018, FinCEN issued a notice of proposed rulemaking (NPRM) that (1) set forth FinCEN's finding that ABLV, a commercial bank located in Riga, Latvia, was, at that time, a foreign financial institution of primary money laundering concern and (2) proposed imposing special measure five under section 311, prohibiting covered financial institutions from opening or maintaining in the United States correspondent accounts for, or on behalf of, ABLV.⁵

² Pursuant to Treasury Order 180-01, the authority of the Secretary of the Treasury (Secretary) to administer the BSA, including, but not limited to, 31 U.S.C. 5318A, has been delegated to the Director of FinCEN. Treasury Order 180-01 (Jan. 14, 2020).

³ 31 U.S.C. 5318A(b)(1)–(b)(4).

⁴ 31 U.S.C. 5318A(b)(5).

⁵ FinCEN, *Proposal of Special Measure Against ABLV Bank, AS as a Financial Institution of Primary Money Laundering Concern*, 83 FR 6986 (Feb. 16, 2018), available at https://www.fincen.gov/sites/default/files/federal_register_notices/2018-02-16/2018-03214.pdf.

B. Subsequent Developments

In light of significant developments since FinCEN issued that NPRM, FinCEN has now determined that ABLV is no longer a financial institution that is of primary money laundering concern.

1. ABLV Lost Its License, Ceased Banking Operations, and Is Undergoing Irrevocable and Supervised Liquidation

On February 23, 2018 (one week after FinCEN issued its NPRM), the European Central Bank (ECB) determined that ABLV—as well as its subsidiary ABLV Bank Luxembourg—was failing or likely to fail, noting that, following issuance of FinCEN's NPRM, ABLV had experienced an abrupt wave of deposit withdrawals and increasing lack of access to U.S. dollar funding.⁶ As a result, the ECB instructed the Latvian supervisory authority, the then-named Financial and Capital Markets Commission (FCMC),⁷ to impose a moratorium on ABLV in order to provide the bank time to stabilize operations. A similar moratorium was placed upon ABLV's subsidiary in Luxembourg.⁸ In addition, on July 11, 2018, ECB formally withdrew ABLV's banking license.⁹

As a consequence of the ECB's determination and subsequent action by relevant national authorities, ABLV and its subsidiary began winding up shortly afterwards. On June 12, 2018, ABLV—with the approval of FCMC—entered irrevocable liquidation, formally changing its name to ABLV Bank-in-Liquidation.¹⁰ By July 12, 2018, ABLV no longer operated as a depository institution. On January 29, 2019, Luxembourg's main financial regulatory authority, the Commission de Surveillance du Secteur Financier (CSSF), issued a fine against ABLV Bank Luxembourg of €250,000, the maximum

⁶ See ECB, Press Release, *ECB determined ABLV Bank was failing or likely to fail* (Feb. 24, 2018), available at <https://www.bankingsupervision.europa.eu/press/pr/date/2018/html/ssm.pr180224.en.html>.

⁷ In January 2023, the FCMC was integrated into the Bank of Latvia. Latvijas Banka, Press Release, *As of 1 January, the FCMC will be integrated into Latvijas Banka* (Dec. 28, 2022), available at <https://www.bank.lv/en/news-and-events/news-and-articles/press-releases/16285-as-of-1-january-the-fcmc-will-be-integrated-into-latvijas-banka>.

⁸ See *id.*

⁹ See Nasdaq, *ECB Withdraws Credit Institution's License of ABLV Bank, AS in Liquidation* (July 12, 2018), available at <https://view.news.eu.nasdaq.com/view?id=bd5ccbdd7886f3040713f0c5eb9193353&lang=en>.

¹⁰ See Reuters, *Latvian bank regulator approves liquidation of ABLV Bank* (June 12, 2018), available at <https://www.reuters.com/article/business/latvian-banking-regulator-approves-liquidation-of-ablv-bank-idUSKBN1J82E0/>.

¹ The BSA, as amended, is the popular name for a collection of statutory authorities that FinCEN administers that is codified at 12 U.S.C. 1829b, 1951–1960 and 31 U.S.C. 5311–5314, 5316–5336, and includes other authorities reflected in notes thereto. Regulations implementing the BSA appear at 31 CFR chapter X.

allowable by law, on the finding that, *inter alia*, ABLV had failed to comply with obligations established under Luxembourg's AML/CFT legal requirements.¹¹ Shortly afterward, the Luxembourg courts ordered ABLV Bank Luxembourg dissolved.¹²

Significantly, since July 2018, ABLV-in-Liquidation has undergone a strictly supervised liquidation process, closely monitored by the Government of Latvia, which ensures AML/CFT compliance. Throughout the process (which is at an advanced stage), Latvian authorities have kept FinCEN apprised of ABLV's liquidation with updates on the authorities' role in: (1) supervising the liquidation; (2) approving updates to the liquidation methodologies for verifying creditors and ensuring AML/CFT and sanctions compliance; (3) reviewing the liquidators' submitted reports; and (4) monitoring ABLV creditors' claims.¹³

Further, under liquidation, ABLV has engaged in minimal ongoing activity, continues to exist as a legal entity to solely conclude liquidation, and is conducting, and subject to, ongoing efforts to identify additional past illicit activity. Notably, the ongoing efforts to identify additional past illicit activity—comprised of administrative and criminal investigations by relevant Latvian authorities into the activities of the bank and its shareholders—underscore the gravity with which Latvian authorities are treating the matter. Of note, those investigations have already resulted in criminal charges against the owners and senior managers of ABLV,¹⁴ ensuring that any potential future application for a bank license in Latvia or other EU member states by these individuals would elicit the heightened scrutiny established by the relevant EU rules.¹⁵

Given the revocation of ABLV's licenses, significant efforts to identify and address past illicit activity, and the advanced stage of liquidation of ABLV, ABLV-in-Liquidation is no longer a financial institution of primary money laundering concern.

2. Marked Systemic Improvements to the Latvian AML/CFT Regime and Oversight

In parallel with targeted efforts relating to ABLV, the Government of Latvia has also made notable progress with a series of meaningful legal and regulatory reforms in its financial sector since issuance of FinCEN's NPRM that have substantially reduced non-resident deposit activity, a principal source of FinCEN's money laundering concern, and strengthened both its AML/CFT authorities and institutional capacity. In particular, in April 2018, the Government of Latvia took the first of many actions to remediate AML/CFT regime weaknesses and compliance failures by prohibiting most transactions with shell companies.¹⁶ Shortly afterwards, in November 2018, the Government of Latvia reorganized the Financial Intelligence Unit (FIU) from under the Prosecutor General's Office, granting the FIU independence and autonomy.¹⁷ Finally, in 2019, the Government of Latvia adopted a series of legal and regulatory reforms to its AML/CFT regime. Those reforms extended the scope of the financial regulator—formerly the FCMC, which was absorbed by the Bank of Latvia in January 2023¹⁸—to increase AML/CFT supervision in the financial and capital markets sectors. The Government of Latvia also amended the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing in several ways, including: (1) introducing a fit-and-proper-person test for banking senior management and compliance employees; (2) requiring termination of the pending business relationship for any customer who fails due diligence; (3) prohibiting the opening and maintaining of anonymous accounts; (4) expanding the definition of “beneficial ownership” to include indirect control; (5) clarifying Know Your Customer (KYC) and Customer Due Diligence (CDD) requirements

through adding additional industries subject to KYC/CDD and introducing ongoing monitoring and verification of source of wealth; (6) requiring the State Revenue Service to provide information on politically exposed persons, their relatives, and close associates; (7) mandating Enhanced Due Diligence (EDD) for customers from high-risk jurisdictions; (8) expanding requirements for suspicious transaction reports; and (9) authorizing the FCMC (now Bank of Latvia) to revoke banking licenses or otherwise suspend economic activity.¹⁹

In 2021, the Government of Latvia implemented further changes to its Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, including: (1) expanding the scope of AML/CFT regulations and oversight to cover additional types of businesses and legal entities; (2) including real estate agents and brokers as entities obligated to follow AML/CFT requirements; (3) requiring continuous and ongoing training for those entities with AML/CFT obligations; (4) requiring that beneficial owners cannot have been convicted of international crimes or crimes against the state; (5) expanding upon the risk assessment triggers used by financial institutions; and (6) adopting new tools and software to assist with due diligence and the filing for suspicious transaction reports.²⁰

The Government of Latvia and the ECB have also added additional rules to assess the suitability of individuals to own or run a bank (*i.e.*, fit-and-proper person tests).²¹ These rules now consider whether criminal charges have been filed against prospective bank officials and owners, irrespective of final verdict, and how such allegations might affect the bank's reputation.

As a result of these and other efforts by the Government of Latvia, the share of non-resident deposits in Latvia's financial sector—one of the principal risk factors in Latvia's private sector that existed at the time of publication of the

¹¹ See CSSF, *Administrative penalty imposed on the credit institution ABLV Bank Luxembourg S.A.* (Jan. 29, 2019).

¹² See CSSF, *Dissolution and judicial liquidation: ABLV Bank Luxembourg S.A.—Appointment of liquidators* (July 2, 2019).

¹³ Notably, Latvian authorities ultimately confirmed that, having reviewed the bank's records, they found evidence to support FinCEN's findings in the NPRM concerning the complicity of ABLV owners, shareholders, and senior leadership in the use of the bank for money laundering purposes.

¹⁴ OCCRP, *Latvian Prosecutors Charge Bankers with Laundering 2.1B Euro* (July 29, 2022), available at <https://www.occrp.org/en/news/latvian-prosecutors-charge-bankers-with-laundering-21b-euro>.

¹⁵ European Bank Authority, *Final Report on Joint ESMA and EBA Guidelines* (July 2, 2021), pp. 38–40, available at [https://www.eba.europa.eu/sites/default/files/document_library/Publications/Guidelines/2021/EBA-GL-2021-06%20Joint%20GLs%20on%20the%20assessment%20of%20suitability%20\(fit&proper\)/1022127/Final%20report%20on%20joint%20EBA%20and%20ESMA%20GL%20on%20the%20assessment%20of%20suitability.pdf](https://www.eba.europa.eu/sites/default/files/document_library/Publications/Guidelines/2021/EBA-GL-2021-06%20Joint%20GLs%20on%20the%20assessment%20of%20suitability%20(fit&proper)/1022127/Final%20report%20on%20joint%20EBA%20and%20ESMA%20GL%20on%20the%20assessment%20of%20suitability.pdf).

¹⁶ Cabinet of Ministers Republic of Latvia, *Saeima Imposes the Ban on Servicing Shell Companies* (Apr. 27, 2018), available at <https://www.mk.gov.lv/en/article/saeima-imposes-ban-servicing-shell-companies>.

¹⁷ Office for Prevention of Laundering of Proceeds Derived from Criminal Activity, *Annual Report for 2018* (Mar. 31, 2019), available at https://fid.gov.lv/uploads/files/English%20version/Annual_Report_2018_EN.pdf.

¹⁸ See *supra* note 7.

¹⁹ Cabinet of Ministers Republic of Latvia, *Latvian Financial Sector Update*, No. 15 27 June 2019 (June 27, 2019), available at <https://www.mk.gov.lv/en/media/1678/download>.

²⁰ Anti-Money Laundering and Terrorism and Proliferation Financing Act, available at <https://likumi.lv/ta/id/178987#p3>.

²¹ Regulation on the Assessment of the Suitability of the Executive and Supervisory Board Members and Key Function Holders, available at https://www.bank.lv/images/pielikumi/tiesibu-akti/Normativie_noteikumi_nr_94_ENG_Regulation_on_the_Assessment_of_the_Suitability_of_MB_KFH_FCMC_No94.pdf; ECB, *Guide to fit and proper assessments* (Dec. 2021), pp. 14–22, available at https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm:fit_and_proper_guide_update202112-d66f230eca.en.pdf.

NPRM—has decreased steadily from 2016 to the present.

III. Withdrawal of the Finding and NPRM

For the reasons set forth above and taking into account the Government of Latvia's significant efforts to reform its AML/CFT regime, FinCEN is satisfied that ABLV no longer poses a money laundering threat to the U.S. financial system. Therefore, FinCEN hereby withdraws its finding that ABLV is of primary money laundering concern and the related NPRM published on February 16, 2018, seeking to impose special measure five regarding ABLV.

Andrea M. Gacki,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2024–22299 Filed 9–26–24; 8:45 am]

BILLING CODE 4810–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2024–0193; FRL–12285–01–R1]

Air Plan Approval; Connecticut; State Implementation Plan Revisions Required by the 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Connecticut for the 2015 ozone National Ambient Air Quality Standard (NAAQS). These revisions (1) certify the adequacy of the SIP to satisfy the nonattainment new source review (NNSR) permitting requirements of the Clean Air Act (CAA) for the reclassification of the Greater Connecticut area to moderate nonattainment for the 2015 ozone NAAQS, and (2) certify the emission statement program satisfies the requirements of CAA section 182(a)(3)(B) for the initial nonattainment designations and the reclassification to moderate nonattainment for the 2015 ozone NAAQS. This action is being taken in accordance with the CAA.

DATES: Written comments must be received on or before October 28, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2024–0193 at <https://www.regulations.gov>, or via email to

creilson.john@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that, if possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Branch, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (Mail code 5–MI), Boston, MA 02109–3912, telephone number (617) 918–1046, email: mcconnell.robert@epa.gov.

SUPPLEMENTARY INFORMATION:

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

Table of Contents

- I. Background
 - a. NNSR Certification
 - b. Emission Statement Certification
- II. Summary and Evaluation of Connecticut's SIP Revisions
 - a. NNSR Certification
 - b. Emission Statement Certification
- III. Proposed Action
- IV. Statutory and Executive Order Reviews

I. Background

On May 22, 2023, the Connecticut Department of Energy and Environmental Protection (CT DEEP) submitted three revisions to its State Implementation Plan (SIP). We are proposing action on two of these revisions in this notice as described below.

a. NNSR Certification

The first SIP revision certifies the adequacy of the SIP to satisfy the NNSR permitting requirements of the CAA for the reclassification of the Greater Connecticut area to moderate nonattainment for the 2015 ozone NAAQS.

Effective November 7, 2022, the EPA reclassified the Greater Connecticut nonattainment area to moderate nonattainment for the 2015 ozone NAAQS (see 87 FR 60897). Although CT DEEP had previously submitted and EPA had approved a NNSR certification for the 2015 ozone NAAQS initial classification of marginal nonattainment for the Greater Connecticut nonattainment area (see 87 FR 38284, July 28, 2022), EPA's reclassification requires that the state recertify the adequacy of its NNSR program under the moderate nonattainment area requirements. With one exception, explained in more detail below, EPA retained the NNSR requirements for its implementation of the 2015 ozone NAAQS.

The minimum SIP requirements for NNSR permitting programs for the 2015 ozone NAAQS are codified in 40 CFR 51.165. These NNSR program requirements include those promulgated in the “Phase 2 Rule” implementing the 1997 8-hour ozone NAAQS (See 70 FR 71612, November 29, 2005) and the 2008 ozone implementation rule. Additionally, although the 2015 ozone implementation rule included a provision to explicitly allow for inter-pollutant trading for meeting the emissions offset requirement for ozone, this provision was subsequently vacated by *Sierra Club v. Environmental Protection Agency*, 21 F.4th 815 (D.C. Cir. 2021). Under the Phase 2 Rule, the SIP for each ozone nonattainment area must contain NNSR provisions that: set major source thresholds for nitrogen oxides (NO_x) and volatile organic compounds (VOCs) pursuant to 40 CFR 51.165(a)(1)(iv)(A)(1)(i) through (iv) and (a)(1)(iv)(A)(2); classify physical changes at a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(3); consider any significant net emissions increase of

NO_x as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E); consider increases of VOC emissions in extreme ozone nonattainment areas as significant net emissions increases and major modifications for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F); set significant emissions rates for VOCs and NO_x as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A) through (C) and (E); contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(1) and (2); provide that the requirements applicable to VOCs also apply to NO_x pursuant to 40 CFR 51.165(a)(8); and set offset ratios for VOCs and NO_x pursuant to 40 CFR 51.165(a)(9)(i) through (iii) (renumbered as (a)(9)(ii) through (iv) under the 2008 ozone implementation rule). Additionally, pursuant to the 2008 ozone implementation rule, areas designated as nonattainment for that standard that also remain nonattainment for the 1997 ozone standard must satisfy the anti-backsliding requirements of 40 CFR 51.1105.

b. Emission Statement Certification

The second SIP revision certifies that Connecticut's emission statement program satisfies the requirements of CAA section 182(a)(3)(B) for the initial nonattainment designations and the reclassification to moderate nonattainment for the 2015 ozone NAAQS.

CAA Section 182(a)(3)(B) applies to stationary sources that emit NO_x or VOCs in an ozone nonattainment area. The owner of each stationary source that emits NO_x or VOCs must provide a statement each year of its NO_x and VOC emissions, and the statement must be certified as to accuracy. For stationary sources in categories for which the state provides an emissions inventory to the EPA, the state may waive the emission statement requirement for sources with actual emissions of NO_x or VOCs below 25 tons per year.

The entire State of Connecticut was designated as nonattainment for ozone for the 1-hour, 1979 ozone NAAQS and each subsequent ozone NAAQS, including the 2015 ozone NAAQS. Beginning with its initial emission statement program SIP filing on January 12, 1993 (approved on January 10, 1995; 60 FR 2524), Connecticut administered its emission statement program under the record keeping and reporting requirements of section 22a-174-4 of the Regulations of Connecticut State Agencies (RCSA). RCSA section 22a-174-4 was repealed effective October 28, 2022, and replaced with RCSA section 22a-174-4a. RCSA section 22a-

174-4a retains the elements necessary to administer the emission statement program in RCSA section 22a-174-4a(b)(1). On November 17, 2022, Connecticut submitted RCSA section 22a-174-4a (Source monitoring, record keeping and reporting) to EPA as a SIP revision to replace RCSA section 22a-174-4. This revision was approved into the SIP by final rule published July 8, 2024 (89 FR 55888), and associated correction notice published July 23, 2024 (89 FR 59620).

II. Summary and Evaluation of Connecticut's SIP Revisions

a. NNSR Certification

Connecticut's longstanding SIP-approved NNSR program, established in RCSA sections 22a-174-1 (definitions) and 22a-174-3a (applicability and substantive requirements), applies to the construction and modification of stationary sources, including major stationary sources in nonattainment areas. In Connecticut's May 22, 2023, SIP revision, the State certifies that the version of RCSA Sections 22a-174-1 and 22a-174-3a in the current SIP meet the federal NNSR requirements for the Greater Connecticut ozone nonattainment area. EPA has, however, revised the Connecticut SIP twice since Connecticut's May 2023 certification: on October 5, 2023 (see 88 FR 60591) and November 15, 2023 (see 89 FR 9771). The October 5, 2023, revisions address, among other things, finalizing the incorporation by reference of the provisions regulating NSR permitting, updating the CT DEEP's NSR procedural requirements, and adding to substantive review criteria for CT DEEP's minor NSR permitting process. The November 15, 2023, SIP revision approved Connecticut's revised definition of "severe non-attainment area for ozone," contained in RCSA 22a-174-1 as amended by the State of Connecticut on November 13, 2023, expanding the more stringent severe nonattainment area to include all of Middlesex and New Haven counties. These changes do not impact the certification criteria in 40 CFR 51.165 as it relates to the NNSR program in the Greater Connecticut nonattainment area and thus we find it appropriate to propose approval of the certification despite the subsequent rulemaking changes. In Connecticut's certification, the State provides a side-by-side comparison demonstrating the State's rules are at least as stringent as EPA's nonattainment new source review permitting program requirements.

Connecticut's SIP-approved NNSR regulation contains the NNSR requirements applicable to serious and

severe nonattainment areas. The term "Serious nonattainment area for ozone" is defined to include "all towns within the State of Connecticut, except those towns located in the severe nonattainment area for ozone." This is the portion of the State that was historically part of the serious Greater Connecticut nonattainment area designated for the one-hour ozone NAAQS, however it no longer includes all of Middlesex and New Haven counties, as those areas are now part of the severe nonattainment area. The SIP's definition of "Major stationary source" then uses these terms to define the NO_x and VOC emission thresholds when determining if a source is major for ozone. The SIP's major stationary source threshold for NO_x and VOCs in a "Severe nonattainment area for ozone" is 25 tons per year. The SIP's major stationary source threshold for NO_x and VOCs in a "Serious nonattainment area for ozone" is 50 tons per year. These thresholds for NO_x and VOCs are consistent with EPA regulations and with CAA major source thresholds for ozone nonattainment areas.

Connecticut's NNSR SIP also properly addresses the thresholds for NO_x and VOCs, as precursors to ozone, within the definition of "Major modification" for an existing major source by establishing the threshold for either of these ozone precursors at 25 tons per year in severe nonattainment areas and 50 tons per year in serious nonattainment areas. These thresholds for a major modification are consistent with EPA regulations. Lastly, since Connecticut's NNSR SIP retains its previously approved major source thresholds, the State's SIP meets the anti-backsliding requirements.

b. Emission Statement Certification

As described above, Connecticut currently implements its emissions statement program under RCSA section 22a-174-4a. This regulation contains the elements necessary to administer the emission statement program in RCSA section 22a-174-4a(b)(1). On November 17, 2022, Connecticut submitted RCSA section 22a-174-4a (Source monitoring, record keeping and reporting) to EPA as a SIP revision to replace RCSA section 22a-174-4. This revision was approved into the SIP by final rule published July 8, 2024 (89 FR 55888), and associated correction notice published July 23, 2024 (89 FR 59620).

Connecticut's emission statement program supports development of the state's emissions inventory of ozone precursors, and requires, consistent

with the Air Emissions Reporting Rule¹ (AERR), submittal of annual emissions statements from sources with actual emissions of VOC or NO_x greater than 25 tons per year. Such statements are also required from the owners of all combustion turbines under the authority, historically, of RCSA section 22a–174–4(d), and future statements will be required under the authority of RCSA section 22a–174–4a(b)(1). In addition, emission statements, certified as to accuracy, of actual NO_x and VOC emissions are required annually from owners and operators of facilities operating under RCSA section 22a–174–33a or section 22a–174–33b.

In addition, other sources that may have actual emissions of NO_x or VOCs in amounts of at least 25 tons per year are identified through information submitted under CT DEEP's minor NSR permit program authorized by RCSA section 22a–174–3a. Minor NSR permits are required for any source with potential emissions greater than 15 tons per year. Each permit requires monitoring, record keeping, and reporting. Should the facility have potential emissions of NO_x or VOCs equal to or greater than 25 tons per year per pollutant, the permit requires the facility owner to monitor NO_x or VOC emissions, as applicable, and calculate annual emissions. If the actual annual emissions of NO_x or VOCs are equal to or greater than 25 tons per year, the facility owner must submit an annual emission statement to the CT DEEP Commissioner.

At any other time that CT DEEP becomes aware of a source for which the owner is not submitting an annual emission statement but that may emit actual emissions greater than or equal to 25 tons per year of NO_x or VOCs, CT DEEP requires an annual emission statement from the owner under the authority of RCSA section 22a–174–4a(b)(1).

III. Proposed Action

EPA is proposing approval of portions of Connecticut's May 23, 2023, SIP submittal. Specifically, we are proposing approval of the portion of that submittal that addresses the NNSR requirements for the 2015 ozone NAAQS for the Greater Connecticut nonattainment area, finding the applicable NNSR provisions of Connecticut's regulations satisfy the requirements of 40 CFR 51.165 and CAA's anti-backsliding requirements implemented at 40 CFR 51.1105. Additionally, we are also proposing to

approve Connecticut's May 23, 2023, SIP revision request addressing certification that Connecticut's emission statement program satisfies the requirements of CAA section 182(a)(3)(B) for the initial nonattainment designations and the reclassification to moderate nonattainment for the 2015 ozone NAAQS.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**.

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

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

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

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

Connecticut DEEP did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral or positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for communities with EJ concerns.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

¹ The AERR is found at 40 CFR part 51, subpart A.

Dated: September 23, 2024.

David Cash,

Regional Administrator, EPA Region 1.

[FR Doc. 2024–22115 Filed 9–26–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2024–0117; FRL–12283–01–R1]

Air Plan Approval; Connecticut; New Haven and Fairfield Counties Second 10-Year Limited Maintenance Plan for the 2006 24-Hour PM_{2.5} Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, under the Clean Air Act (CAA), the limited maintenance plan (LMP) for the 2006 PM_{2.5} national ambient air quality standard (NAAQS) for New Haven and Fairfield Counties, which comprise the Connecticut portion of the New York-N. New Jersey-Long Island (NY-NJ-CT) 2006 PM_{2.5} NAAQS maintenance area. This LMP was submitted on May 9, 2023, and supplemented on February 21, 2024, by the Connecticut Department of Energy and Environmental Protection (CT DEEP). The plan addresses the second 10-year maintenance period for particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, known as PM_{2.5}. EPA is proposing approval of Connecticut's LMP submission because it provides for the maintenance of the 2006 24-hour PM_{2.5} NAAQS through the end of the second 10-year portion of the maintenance period. In addition, EPA is initiating the process to find the Connecticut PM_{2.5} LMP adequate for transportation conformity purposes.

DATES: Written comments must be received on or before October 28, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2024–0117 at <https://www.regulations.gov>, or via email to martinelli.ayla@gmail.com. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that, if possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Ayla Martinelli, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 5–MI), Boston, MA 02109–3912, tel. (617) 918–1057, email martinelli.ayla@epa.gov.

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

Table of Contents

- I. Background and Purpose
 - A. The PM_{2.5} National Ambient Air Quality Standards (NAAQS)
 - B. Regulatory Actions in New Haven and Fairfield Counties
- II. The Limited Maintenance Plan Option
 - A. Demonstration of Maintenance Using the Limited Maintenance Plan Option
 - B. Transportation Conformity Under Limited Maintenance Plan Option
 - C. General Conformity Under Limited Maintenance Plan Option
- III. EPA's Analysis of the State's Submittal
 - A. Demonstration of Qualification for the Limited Maintenance Plan Option
 - B. Attainment Inventory
 - C. Air Quality Monitoring Network
 - D. Verification of Continued Attainment
 - E. Contingency Provisions
- IV. Proposed Action
- V. Statutory and Executive Order Reviews

I. Background and Purpose

A. The PM_{2.5} National Ambient Air Quality Standards (NAAQS)

EPA has established NAAQS for particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers, known as PM_{2.5}, to protect human health and the environment. In 1997, EPA established the first PM_{2.5} standards based on significant scientific evidence and health studies demonstrating the serious health effects associated with exposure to PM_{2.5}. EPA set an annual standard of 15.0 micrograms per cubic meter (µg/m³) and a 24-hour (or daily) standard of 65 µg/m³. In 2006, EPA strengthened the 24-hour PM_{2.5} NAAQS by revising it to 35 µg/m³ and retained the level of the annual PM_{2.5} standard at 15.0 µg/m³. Subsequently, in 2012, EPA established an annual primary PM_{2.5} NAAQS at 12.0 µg/m³ and retained the 2006 24-hour PM_{2.5} NAAQS at 35 µg/m³. In early 2024, EPA strengthened the level of the annual primary PM_{2.5} standard to 9.0 µg/m³ and retained the 2006 24-hour PM_{2.5} NAAQS at 35 µg/m³.

B. Regulatory Actions in New Haven and Fairfield Counties

Hereafter, “New Haven-Fairfield” means the Connecticut portion of the NY-NJ-CT maintenance area which is comprised of New Haven and Fairfield Counties. EPA promulgated the designations for New Haven-Fairfield as a PM_{2.5} nonattainment area for the 1997 annual PM_{2.5} NAAQS on January 5, 2005 (70 FR 944) and the 2006 24-hour PM_{2.5} NAAQS (74 FR 58688) on November 13, 2009, due to measured violations of the standards. These designations became effective on April 5, 2005, and December 14, 2009, respectively. On June 22, 2012, CT DEEP submitted a request to EPA to redesignate the New Haven-Fairfield nonattainment area to attainment of both the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. This submittal included a maintenance plan to provide for maintenance of the PM_{2.5} NAAQS in the area for 10 years. EPA redesignated New Haven-Fairfield to attainment for the 1997 and 2006 PM_{2.5} NAAQS on October 24, 2013 (78 FR 58467) and approved the associated maintenance plan into the Connecticut State Implementation Plan (SIP). The purpose of CT DEEP's May 9, 2023 (supplemented on February 21, 2024) LMP submission is to fulfill the second 10-year planning requirement of CAA section 175A(b), thus ensuring PM_{2.5} NAAQS compliance through the end of the maintenance period.

In the LMP submittal, CT DEEP indicates that it is seeking approval of the LMP for both the 2006 24-hour standard as well as the 1997 annual standard. However, as explained in the PM_{2.5} SIP Requirements Rule (81 FR 58009), a second 10-year maintenance plan for the revoked 1997 annual PM_{2.5} NAAQS is not required. Therefore, CT DEEP clarified via email that it incorrectly sought approval of the plan for the revoked 1997 annual standard and asked that EPA ignore the request for approval of the plan for this standard. The email, sent on July 7, 2023, can be found in the docket of this action. Thus, EPA will only proceed with proposing approval of the LMP for the 2006 24-hour PM_{2.5} NAAQS.

II. The Limited Maintenance Plan Option

A. Demonstration of Maintenance Using the Limited Maintenance Plan Option

Section 175A of the CAA sets forth the elements of a maintenance plan. Under section 175A, a state must submit a revision to the SIP that provides for maintenance of the applicable NAAQS for at least 10 years after an area is redesignated to attainment. Section 175A also requires that eight years into the first maintenance period, the state must submit a second maintenance plan demonstrating that the area will continue to attain for the following 10-year period.

EPA has published long-standing guidance for states on developing maintenance plans.¹ The Calcagni memo provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the

area was attaining the NAAQS (*i.e.*, attainment year inventory). EPA clarified in subsequent guidance memos that certain nonattainment areas could meet the CAA section 175A requirement to provide for maintenance by demonstrating that an area's design value is well below the NAAQS and that the historical stability of the area's air quality levels shows that the area is unlikely to violate the NAAQS in the future.²

Most recently, in October 2022, EPA released guidance extending this streamlined option for demonstrating maintenance under CAA section 175A to certain PM_{2.5} areas, titled "Guidance on Limited Maintenance Plan Option for Moderate PM_{2.5} Nonattainment Areas and PM_{2.5} Maintenance Areas" (PM_{2.5} LMP Guidance).³ EPA refers to this streamlined demonstration of maintenance as an LMP. EPA has interpreted CAA section 175A as permitting this option because section 175A of the Act defines few specific content requirements for maintenance plans, and in EPA's experience implementing the various NAAQS, areas that qualify for an LMP and have approved LMPs have rarely, if ever, experienced subsequent violations of the NAAQS. As noted in the PM_{2.5} LMP Guidance, states seeking an LMP should still submit the other maintenance plan elements outlined in the Calcagni memo, including: an attainment emissions inventory, provisions for the continued operation of the ambient air

quality monitoring network, verification of continued attainment, and a contingency plan in the event of a future violation of the NAAQS. Moreover, states seeking an LMP must still submit their section 175A maintenance plan as a revision to their SIP, with all attendant notice and comment procedures.

The PM_{2.5} LMP Guidance, similar to the PM₁₀ LMP Guidance, allows states to demonstrate that certain areas qualify for an LMP by showing that, based on their recent measured air quality, they are unlikely to violate the NAAQS in the future. Specifically, the PM_{2.5} LMP Guidance relies on the critical design value (CDV) concept. This guidance directs states to calculate a site-specific CDV for the monitoring site in an area with the highest design value, and also for all other active monitoring sites in the area with complete data. The PM_{2.5} LMP Guidance states that areas should show that the average design value (ADV) for each monitoring site in the area, *i.e.*, the average of at least the most recent consecutive 5 years of PM_{2.5} design values, does not exceed the associated CDV for each site.⁴ If the ADV for each monitoring site in the area is below the CDV then the probability of a future exceedance, based on the area's historical air quality and variability, is less than 10 percent. The CDV calculation for a monitoring site involves the following parameters: (1) the level of the relevant NAAQS; (2) the co-efficient of variation of recent design values measured at that site; and (3) a statistical parameter corresponding to a 10 percent probability of exceedance, such that sites with historically high variability in design values result in a lower (or more stringent) CDV. The eligibility calculation equations for the CDV demonstration are shown in table 1.

⁴ EPA recommends that the ADV be calculated using at least five years of design values, each representing a three-year period, because this approach would rely on a more robust dataset. However, we acknowledge that an alternative interpretation may be acceptable, where these variables could be calculated using three years of design values, collectively representing five years of air quality data.

¹ See Calcagni, John, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, "Procedures for Processing Requests to Redesignate Areas to Attainment," September 4, 1992 (Calcagni memo). A copy of this memorandum can be found in the docket for this proposed rulemaking.

² See "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas" from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, OAQPS, dated October 6, 1995; and "Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas" (PM₁₀ LMP Guidance) from Lydia Wegman, OAQPS, dated August 9, 2001. Copies of these guidance memoranda can be found in the docket for this proposed rulemaking.

³ See the guidance document developed by the Office of Air Quality Planning and Standards, the Office of Transportation and Air Quality, and the Office of Air and Radiation titled "Guidance on the Limited Maintenance Plan Option for Moderate PM_{2.5} Nonattainment Areas and PM_{2.5} Maintenance Areas". A copy of this guidance can be found in the docket for this proposed rulemaking.

Table 1. The Critical Design Value Calculation

Standard Deviation (σ)	$\sigma = \sqrt{\frac{\sum (x_i - \text{ADV})^2}{n-1}}$
Coefficient of Variation (CV)	$\text{CV} = \sigma / \text{ADV}$
Critical Design Value (CDV)	$\text{CDV} = \text{NAAQS} / (1 + (t_c * \text{CV}))$

ADV = Average of 3-year design values.

DV = Design value.

NAAQS = Applicable standard (35 $\mu\text{g}/\text{m}^3$).

t_c = Critical t-value (based on the one-tail student's t-distribution, at a significance level of 0.10).

x_i = a given three-year period design value for the area.

n = the total number of design values evaluated, which in this case is five.

B. Transportation Conformity Under Limited Maintenance Plan Option

Transportation conformity is required by section 176(c) of the CAA. Under that provision, conformity to a SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, delay timely attainment of the NAAQS or any required interim emission reductions or other milestones in any area. See CAA 176(c)(1)(A) and (B). EPA's transportation conformity rule at 40 CFR part 93 subpart A establishes the criteria and procedures to determine whether metropolitan transportation plans, transportation improvement programs, and federally supported highway and transit projects conform to the SIP. Transportation conformity applies for transportation-related criteria pollutants in nonattainment areas and redesignated attainment areas with a CAA section 175A maintenance plan (*i.e.*, maintenance areas).

While qualification for the LMP option does not exempt an area from the need to determine conformity, in an area with an adequate or approved LMP, conformity may be demonstrated for a transportation plan or a transportation improvement program without a regional emissions analysis for the relevant NAAQS and pollutant (40 CFR 93.109(e)). However, transportation plan and transportation improvement program conformity determinations that meet applicable requirements continue to be required in these areas (see table 1 in 40 CFR 93.109). The areas also remain subject to the other transportation conformity requirements

of 40 CFR part 93, subpart A, including fulfilling project-level conformity analyses requirements and consultation requirements. In addition, an LMP must demonstrate that it is unreasonable to expect that the qualifying area would experience enough growth in on-road emissions during the maintenance period such that a violation of the relevant NAAQS would occur (40 CFR 93.109(e)). Furthermore, consistent with the PM_{2.5} LMP Guidance, if re-entrained road dust has been found to be significant for PM_{2.5} transportation conformity purposes under 40 CFR 93.102(b)(3), the plan should include an on-road PM_{2.5} emissions analysis consistent with the methodology provided in attachment B of the PM₁₀ LMP Guidance. EPA discusses CT DEEP's submittal in section III.A of this notice.

Along with this proposed action, EPA is initiating an adequacy process for the New Haven and Fairfield LMP. See 40 CFR 93.118(e)(4) and 93.118(f). Since LMPs do not include motor vehicle emissions budgets, EPA's adequacy review is to assess whether the demonstration required by 40 CFR 93.109(e) is met.

C. General Conformity Under Limited Maintenance Plan Option

The general conformity rule of November 30, 1993 (58 FR 63214) applies to nonattainment areas and redesignated attainment areas operating under maintenance plans (*i.e.*, maintenance areas). General conformity requires compliance to the purpose of a SIP, which means that federal activities

not related to transportation plans, programs, and projects will not cause or contribute to any new violation of any standard in any area, increase the frequency or severity of any existing violation of any standard in any area or delay timely attainment of any standard or any required interim emission reductions or other milestones in any area (CAA section 176(c)(1)(A) and (1)(B)). As noted in the PM_{2.5} LMP Guidance, EPA's general conformity regulations do not distinguish between maintenance areas with an approved "full maintenance plan" and those with an approved LMP. Thus, maintenance areas with an approved LMP are subject to the same general conformity requirements under 40 CFR part 93 subpart B, as those covered by a "full maintenance plan." Full compliance with the general conformity program is required within an LMP.

III. EPA's Analysis of the State's Submittal

A. Demonstration of Qualification for the Limited Maintenance Plan Option

EPA redesignated New Haven-Fairfield to attainment of the PM_{2.5} NAAQS on October 24, 2013 (78 FR 58467). Table 2 below shows the historical design values for each monitoring site within the maintenance area since it was redesignated in 2013.⁵ The 2006 24-hour PM_{2.5} NAAQS is attained when the 3-year average of the 98th percentile of 24-hour PM_{2.5}

⁵ See <https://www.epa.gov/air-trends/air-quality-design-values>.

concentrations is equal to or less than 35 $\mu\text{g}/\text{m}^3$, and as shown in table 2, the area has been measuring air quality well below the 2006 $\text{PM}_{2.5}$ NAAQS with an

overall decrease in $\text{PM}_{2.5}$ concentrations over time. These design values from the individual monitoring sites within the maintenance area demonstrate the

stability of ambient $\text{PM}_{2.5}$ concentrations over time.

TABLE 2— $\text{PM}_{2.5}$ DESIGN VALUES IN NEW HAVEN-FAIRFIELD SINCE REDESIGNATION TO ATTAINMENT IN $\mu\text{G}/\text{M}^3$ [2013–2023]

Design value period	090010010— Roosevelt School— Bridgeport	090011123— Western Conn State University	090090027— Criscuolo Park— New Haven	090092123— Meadow and Bank Streets
2011–2013	23	25	24	23
2012–2014	23	24	21	24
2013–2015	24	25	22	24
2014–2016	24	23	20	* 23
2015–2017	21	22	20	* 20
2016–2018	20	21	19	* 20
2017–2019	19	20	18	19
2018–2020	21	21	20	20
2019–2021	22	21	21	20
2020–2022	21	22	21	21
2021–2023	21	21	20	⁶ 20

* 24-hr data invalid due to site reconstruction.

EPA proposes to find that the New Haven-Fairfield area meets the critical design value demonstration for an LMP. As noted above, the parameters of the CDV calculation include the level of the relevant NAAQS, the co-efficient of variation of recent design values, and a statistical parameter corresponding to a

10 percent probability of future violation. The CDV demonstration is designed such that if a site's ADV is lower than the site's CDV, the probability of a future violation of the NAAQS is less than 10 percent.⁷ Section 2.2 of CT DEEP's LMP submittal demonstrates the likelihood of

continued attainment. EPA reviewed the data and methodology provided by the state and we find that each monitor's 5-year ADV is well below the corresponding site-specific CDV, as shown in table 3.

TABLE 3—RESULTS OF CALCULATION OF CDVs AT NEW HAVEN-FAIRFIELD MONITORS FOR THE 24-HOUR $\text{PM}_{2.5}$ NAAQS

Site	CDV	Average design value (2017–2021) ^a	Qualify for LMP?
090010010	32.3	20.6	Yes.
090011123	33.3	21.0	Yes.
090090027	32.1	19.6	Yes.
090092123	33.2	^b 19.7	Yes.

^a CT DEEP uses the term 'mean' interchangeably with ADV in the proposed LMP; the design values averaged for the ADV span seven years of data (2015–2017, 2016–2018, 2017–2019, 2018–2020, 2019–2021).

^b Only three years of design values (5 years of data) were used for the Meadow and Bank Streets' monitor due to site reconstruction. activities resulting in incomplete data for 2016 and invalidating design values for 2016–2018.

We also propose to find that the CT DEEP LMP submittal satisfies transportation conformity regulations under the LMP option. Connecticut holds annual transportation conformity interagency consultation meetings which include Federal, State, and local agencies. Additionally, the LMP SIP submittal for New Haven-Fairfield was developed in accordance with interagency consultation between Federal, State, and local partners. CT DEEP also includes analysis that addresses the demonstration under 40 CFR 93.109(e) in their supplement

submitted on February 21, 2024. This transportation conformity regulation requires that an LMP would have to demonstrate that it would be unreasonable to expect that a maintenance area would experience enough motor vehicle emissions growth for a NAAQS violation to occur (40 CFR 93.109(e)).

The state's demonstration assesses the total projected growth in on-road motor vehicle $\text{PM}_{2.5}$ emissions through the end of the 20-year maintenance period, where the projected percentage increase in vehicle miles traveled (VMT_{pi}) to the

end of the 20-year maintenance period (*i.e.*, 2033), is multiplied by the motor vehicle design value (DV_{mv}). The DV_{mv} is based on the on-road mobile portion of the attainment year inventory. CT DEEP analyzed whether the area's ADV for the period used to demonstrate LMP qualification plus ($\text{VMT}_{\text{pi}} \times \text{DV}_{\text{mv}}$) was less than or equal to the CDV for the relevant $\text{PM}_{2.5}$ standard in $\mu\text{g}/\text{m}^3$ for the given area. The state calculated the CDV for the entire maintenance area, 33 $\mu\text{g}/\text{m}^3$, using the most recent (2017–2021) maximum design values from each year.⁸ CT DEEP calculated the projected

⁶ The 2020–2022 and 2021–2023 design values were not finalized until after CT DEEP submitted the $\text{PM}_{2.5}$ LMP to EPA; they are included here to show the most recent air quality data.

⁷ See the "Example Site Calculation", page 7 of the October 2022 $\text{PM}_{2.5}$ LMP guidance, found in the docket for this rulemaking.

⁸ See appendix A of the state submittal for the complete calculation, which is included in the docket of this rulemaking.

design value in 2033 to be $21.49 \mu\text{g}/\text{m}^3$ which is less than the determined CDV, $33 \mu\text{g}/\text{m}^3$. Thus, CT DEEP concludes that it is unlikely that increased emissions from on-road mobile sources could, in the next 10 years, increase concentrations in the area enough to threaten the maintenance of the $\text{PM}_{2.5}$ NAAQS. In consultation with the Connecticut Department of Transportation (CTDOT), CT DEEP also provided a VMT_{pi} of .0565 from 2017 to 2033, which is a 5.65% increase.

The VMT projection considered by Connecticut was based on the on-road emissions analysis calculation as laid out in the PM_{10} LMP Guidance. Under the $\text{PM}_{2.5}$ LMP Guidance, this on-road emissions analysis is only necessary for LMPs where re-entrained road dust has been found to be significant for $\text{PM}_{2.5}$ transportation conformity purposes under 40 CFR 93.102(b)(3) for a given maintenance area. While CT DEEP does not identify re-entrained road dust as a significant contributor to $\text{PM}_{2.5}$ concentrations in the maintenance area, the state utilizes the same methodology to address projected VMT and motor vehicle emissions growth in its LMP submittal. CT DEEP's analysis indicates that the projected design value in 2033 is significantly below the area's CDV signaling future continued maintenance of the relevant NAAQS, with limited growth in VMT from 2017 to 2033. This analysis supports a conclusion that the state has demonstrated that it would be unreasonable to expect New Haven-Fairfield to experience enough growth in on-road emissions during the remaining maintenance period such that a violation of the 2006 24-hour $\text{PM}_{2.5}$ NAAQS will occur.

Also, per 40 CFR 93.109(e), an area with an adequate or approved LMP is not required to satisfy the regional emissions analysis for § 93.118 and/or § 93.119 for a given pollutant and NAAQS, in this instance the 2006 $\text{PM}_{2.5}$ NAAQS. However, the first 10-year maintenance plan for the New Haven-Fairfield area included motor vehicle emissions budgets for 2025. Therefore, if 2025 is within the timeframe of any transportation plan or transportation improvement program (TIP) and transportation conformity is determined for that plan or TIP, a regional emissions analysis is required for 2025.

In the $\text{PM}_{2.5}$ LMP Guidance, EPA clarifies that an area submitting the second 10-year maintenance plan may be eligible for the LMP option if monitored air quality data and VMT trends support the LMP option. Given the air quality data demonstrating that New Haven-Fairfield has been maintaining the 2006 $\text{PM}_{2.5}$ NAAQS for

at least 8 years, the current $\text{PM}_{2.5}$ design values in the area, the demonstrated downward trend in $\text{PM}_{2.5}$ concentrations over the last ten years, and the state's on-road emissions analysis of projected VMT discussed above, we propose to find that CT DEEP's LMP submittal for the New Haven-Fairfield 2006 $\text{PM}_{2.5}$ maintenance area meets the qualification criteria for an LMP, consistent with 40 CFR 93.109(e) and the $\text{PM}_{2.5}$ LMP Guidance.

The following is a summary of EPA's interpretation of the section 175A requirements and EPA's evaluation of how each requirement is met. Under the LMP option, the state will be expected to determine on a regular basis that the criteria are still being met. If the state determines that the LMP criteria are not being met, it should take action to reduce $\text{PM}_{2.5}$ concentrations enough to requalify. One possible approach the state could take is to implement the contingency measures contained in its first maintenance plan (78 FR 58467), that the state will continue to adhere to for the second maintenance period (See section 3.6 of the current state submittal). If the attempt to reduce $\text{PM}_{2.5}$ concentrations fails, or if it succeeds but in future years it becomes necessary again to address increasing $\text{PM}_{2.5}$ concentrations in an area, the area will no longer qualify for the LMP option.

B. Attainment Inventory

As noted above, states that qualify for an LMP must still meet the other elements of a maintenance plan, as articulated in the Calcagni Memo. This includes an attainment year emissions inventory. CT DEEP's New Haven-Fairfield $\text{PM}_{2.5}$ LMP submission includes an emissions inventory, with a base year of 2017. This inventory was prepared as part of the 2017 National Emissions Inventory⁹ Version 2 under EPA's Air Emissions Reporting Rule (73 FR 76539, December 17, 2008). The 2017 base year represents the most recent emissions inventory data available when the state prepared the submission and is representative of the level of emissions during a period that the area shows monitored attainment of the NAAQS and is consistent with the data used to determine applicability of the LMP option (*i.e.*, having no violations of the NAAQS during the 5-year period used to calculate the design value). Table 3 shows the total 2017 emissions in New Haven-Fairfield in

tons per year included in the state's submission.

TABLE 3—2017 EMISSIONS (TONS/YEAR) IN NEW HAVEN-FAIRFIELD

Pollutant	Total emissions
$\text{PM}_{2.5}$	4,361
Ammonia (NH_3)	1,485
Nitrogen oxides (NO_x)	22,020
Sulfur dioxide (SO_2)	1,296
Volatile organic compounds (VOCs)	43,518

C. Air Quality Monitoring Network

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify the attainment status of the area. CT DEEP continues to operate a $\text{PM}_{2.5}$ monitoring network sited and maintained in accordance with federal siting and design criteria in 40 CFR part 58, and in consultation with EPA Region 1. CT DEEP submitted its 2023 Annual Monitoring Network Plan on June 26, 2023,¹⁰ which EPA approved on July 12, 2023.¹¹ In the LMP submittal, CT DEEP commits to continued operation of its $\text{PM}_{2.5}$ monitors within New Haven-Fairfield, consistent with the EPA-approved CT DEEP annual network plan. Currently, there are 4 monitors in the New Haven-Fairfield maintenance area.

D. Verification of Continued Attainment

The level of the 2006 24-hour $\text{PM}_{2.5}$ NAAQS is $35 \mu\text{g}/\text{m}^3$ (40 CFR 50.13). The NAAQS is attained when the 3-year average of the 98th percentile of $\text{PM}_{2.5}$ concentrations is equal to or less than the NAAQS, which CT DEEP has proven in its LMP submittal. As stated previously, CT DEEP commits to verifying continued attainment of the $\text{PM}_{2.5}$ standards through the maintenance plan period with the operation of an appropriate $\text{PM}_{2.5}$ monitoring network. In developing the second 10-year maintenance plan, CT DEEP evaluated the last 5 years of complete, quality-assured data (2017 through 2021) for New Haven-Fairfield at the time of the submittal to verify continued attainment of the standard. Certified air quality data from 2023, as

¹⁰ See CT DEEP's 2023 Annual Air Monitoring Network Plan found in the docket for this proposed rulemaking.

¹¹ See EPA's Approval Letter for CT DEEP'S 2023 Annual Monitoring Network Plan found in the docket for this proposed rulemaking.

⁹ See <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data>.

shown in table 2, confirms continued attainment of the standard.¹²

E. Contingency Provisions

CAA section 175A(d) states that a maintenance plan must include contingency provisions, as necessary, to ensure prompt correction of any violation of the relevant NAAQS which may occur after redesignation of the area to attainment. As explained in the Calcagni memo, these contingency provisions are an enforceable part of the federally approved SIP. The maintenance plan should clearly identify the events that would “trigger” the adoption and implementation of a contingency provision, the contingency provision(s) that would be adopted and implemented, and the schedule indicating the timeframe by which the state would adopt and implement the provision(s). The Calcagni memo states that EPA will determine the adequacy of a contingency plan on a case-by-case basis. At a minimum, the plan must require that the state implement all measures contained in the CAA part D nonattainment plan for the area prior to redesignation.

CT DEEP will continue to adhere to the contingency plan they submitted with their first maintenance plan, which includes the required contingency provisions to ensure the area will promptly correct any violation of the 2006 PM_{2.5} NAAQS.¹³ Connecticut’s contingency measures include a Warning Level Response and an Action Level Response. CT DEEP also commits to pursuing adoption (and submittal to EPA) and implementation of any appropriate regulatory revisions within 18 to 24 months after the verified violation. CT DEEP will select contingency measures based on cost effectiveness, emission reduction potential, economic and social considerations, or other appropriate factors. Stakeholder input will be solicited before final selection of any contingency measures. The contingency measures are described in detail in the NPRM for the first maintenance plan and will not be repeated here. See 78 FR 43096. EPA proposes to find that the contingency provisions in the PM_{2.5} LMP for the New Haven-Fairfield 2006 PM_{2.5} maintenance area meet the requirements of section 175A(d) of the CAA.

¹² See <https://www.epa.gov/air-trends/air-quality-design-values>.

¹³ See section 5.4 of PM_{2.5} post-comment supplemental submission to EPA found in the docket for this proposed rulemaking.

IV. Proposed Action

EPA is proposing to approve the second 10-year PM_{2.5} LMP for the New Haven-Fairfield 2006 24-hour PM_{2.5} maintenance area submitted by CT DEEP on May 9, 2023, and supplemented on February 21, 2024. EPA’s review of the air quality data for the maintenance area indicates that it continues to show attainment well below the level of the 2006 24-hour PM_{2.5} NAAQS and meet all the LMP qualifying criteria as described in this action. If finalized, EPA’s approval of this LMP will satisfy the CAA section 175A requirements for the second 10-year maintenance period.

As discussed previously, EPA is also initiating as part of this proposed rulemaking the process to determine if the LMP is adequate for transportation conformity purposes. Any comments on the adequacy of the submitted CT LMP should be submitted to the docket established for this rulemaking. EPA may complete that process either in a final action on this LMP or through a separate process provided for in the transportation conformity regulations. See 40 CFR 93.118(f). EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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

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

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

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

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

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

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

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

CT DEEP did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations

neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for communities with EJ concerns.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: September 23, 2024.

David Cash,

Regional Administrator, EPA Region 1.

[FR Doc. 2024–22114 Filed 9–26–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2024–0371; FRL–12159–01–R10]

Designation of Areas for Air Quality Planning Purposes; Redesignation Request and Associated Maintenance Plan for Whatcom County, WA 2010 SO₂ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 25, 2024, the State of Washington (WA) submitted a request for the Environmental Protection Agency (EPA) to redesignate to attainment a portion of Whatcom County immediately surrounding the now permanently closed aluminum smelter, Intalco Aluminum LLC, which the EPA designated nonattainment for the 2010 sulfur dioxide (SO₂) primary National Ambient Air Quality Standard (NAAQS). Washington also submitted a request for the EPA to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the area. In response to this submittal, the EPA is proposing to take the following actions: determine that the Whatcom County (partial) SO₂ nonattainment area (NAA) is attaining the 2010 SO₂ primary NAAQS; approve Washington's plan for maintaining attainment of the 2010 SO₂ primary NAAQS in the area; and redesignate the Whatcom County

(partial) SO₂ NAA to attainment for the 2010 1-hour primary SO₂ NAAQS.

DATES: Written comments must be received on or before October 28, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2024–0371 at <https://www.regulations.gov>. For comments submitted at [regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about confidential business information or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553–6357 or hunt.jeff@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the use of “we” and “our” means the EPA.

I. What is the background for the EPA's proposed actions?

On June 22, 2010, the EPA published a new 1-hour primary SO₂ NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 parts per billion (ppb), as determined in accordance with appendix T of 40 CFR part 50 (75 FR 35520). Under Clean Air Act (CAA) section 107(d)(1), the EPA is required to designate areas as “nonattainment,” “attainment,” or “unclassifiable” within two years of establishing a new or revising an existing standard. As part of this process, states must submit recommendations for area designations

and boundaries to the EPA within one year of the effective date of the standard. In 2011, Washington State, like many states across the nation, did not have sufficient SO₂ monitoring data for specific stationary sources that may cause or contribute to violations of the revised SO₂ NAAQS and recommended that all areas in the state be designated as unclassifiable. In response to the lack of sufficient SO₂ monitoring data across the nation, the EPA promulgated the Data Requirements Rule (DRR) on August 21, 2015 (80 FR 51052), which established a phased-in approach for state air agencies to characterize air quality via additional monitoring or modeling in areas associated with sources meeting certain criteria. In addition to the original round of nonattainment designations published on August 5, 2013 (78 FR 47191), the EPA promulgated three subsequent rounds of designations in 2016 (81 FR 45039, July 12, 2016), 2018 (83 FR1098, January 9, 2018), and 2021 (86 FR 16055, March 26, 2021), as information to characterize air quality became available. The EPA designated Whatcom County (partial), Washington (also referred to as the “nonattainment area” or “area”) as nonattainment effective April 30, 2021, as part of the Agency's Round 4 designations (86 FR 16055, March 26, 2021).

In the case of Washington, the EPA and the Washington Department of Ecology (Ecology) identified the Alcoa Intalco Aluminum LLC (Intalco) facility, located in the Cherry Point Industrial Area in Whatcom County, as emitting 2,000 tons or more of SO₂ annually, which triggered the DRR requirement for additional modeling or monitoring to characterize air quality in the area. Washington chose to meet this DRR requirement via the establishment of monitoring at the Intalco facility beginning on January 1, 2017. Based on the monitoring data established under the DRR, the Ferndale Mountain View Road monitor (AQS ID 53–073–0017) violated the 75 ppb level of the revised 1-hour primary SO₂ NAAQS with a 2017–2019 design value of 106 ppb.¹ The state did not send an updated formal designation recommendation for Whatcom County. However, Ecology, in collaboration with Northwest Clean Air Agency (NWCAA), submitted a technical report and modeling analysis on June 12, 2020, to help inform the EPA's nonattainment boundary determination using data from the monitors that were installed pursuant to

¹ The design value is the metric used for determining compliance with the SO₂ NAAQS under appendix T of 40 CFR part 50.

the DRR. Given that the state did not provide a formal recommendation for the boundary, the EPA conducted an extensive review of the submitted modeling to develop sufficient evidence to support the determination of a nonattainment boundary. The nonattainment boundary must contain all of the area where the NAAQS are not attained and all areas that contribute to the violations. Based on our review, the EPA determined that the state's modeling assessment was reliable for determining the extent of the area of violation of the 1-hour primary SO₂ NAAQS. Specifically, we agreed that the region of violation was most likely due to plume downwash at the Intalco facility during certain wind conditions, that the modeled area of violation did not extend far from the Intalco facility fence line, that the gradient of concentration near the areas of violation was steep, quickly dropping with distance from the Intalco facility fence line, and that other nearby industrial facilities did not sufficiently contribute to violations of the 1-hour primary SO₂ NAAQS to warrant inclusion in the NAA boundary. In our final nonattainment boundary determination, we concurred with Ecology and NWCAA's view that the boundary should be drawn to encompass the cause of the SO₂ violations, the Intalco facility. However, we used a simpler nonattainment boundary consisting of four Universal Transverse Mercator (UTM) coordinates instead of the various roadways and property lines suggested by NWCAA in a June 9, 2020, letter. For more information about the specific modeling and the EPA's analysis, please see "Appendix A Whatcom County SO₂ Area Designation" included in the docket for this action.

In response to the EPA's designation of the NAA, Washington submitted an attainment plan on December 15, 2022, to the EPA for approval. This plan and associated order required significant upgrades to the Intalco facility including installation and operation of a new SO₂ wet scrubber.² Subsequently, on March 16, 2023, Alcoa Corporation publicly announced their plans to permanently close the Intalco facility.³ Ecology issued a notice of intent to revoke the associated minor new source review (NSR) and Title V Operating Permits on November 30, 2023, which

became effective December 7, 2023.⁴ Under Revised Code of Washington (RCW) and Washington Administrative Code (WAC), Intalco cannot operate the facility without first obtaining a new Title V operating permit and applicable NSR permits, including a demonstration of compliance with the 2010 1-hour SO₂ NAAQS. Since the 2022 attainment plan, which imposed specific control requirements on Intalco, became functionally moot with the 2023 permanent closure of the facility, Ecology proceeded directly to submitting a redesignation request and maintenance plan for the area. Upon the EPA's final approval of the redesignation request and maintenance plan for the area, Ecology intends to withdraw the now outdated 2022 attainment plan. The EPA is not proposing to act on the 2022 attainment plan in this action.

II. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a NAA to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation of a NAA provided that: (1) the Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the State containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, the EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). The EPA has provided further guidance on processing redesignation requests in several

guidance documents. For the purposes of this action, the EPA will be referencing two of these documents: (1) the September 4, 1992, Memorandum from John Calcagni titled "Procedures for Processing Requests to Redesignate Areas to Attainment," (hereafter referred to as the "Calcagni Memo"); and (2) the April 23, 2014, Memorandum from Stephen D. Page titled "Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions," (hereafter referred to as "2014 SO₂ NAA Guidance").

III. What is the EPA's analysis of the request?

The EPA's evaluation of Washington's redesignation request and maintenance plan was based on consideration of the five redesignation criteria provided under CAA section 107(d)(3)(E).

Criteria (1)—The Whatcom County (Partial) SO₂ Nonattainment Area Has Attained the 2010 1-Hour SO₂ NAAQS

For redesignating a NAA, the CAA requires the EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). The two primary methods for evaluating ambient air quality impacted by SO₂ emissions are through dispersion modeling and air quality monitoring. For SO₂, an area may be considered attaining the 2010 1-hour SO₂ NAAQS if it meets the NAAQS as determined in accordance with 40 CFR 50.17 and appendix T of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS based on monitoring, the 3-year average of the annual 99th percentile (fourth highest value) of 1-hour daily maximum concentrations measured at each monitor within an area must be less than or equal to 75 ppb. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS). The EPA's determination of attainment can be based on monitoring data alone, without the need for dispersion modeling analyses, if the air agency provides an analysis demonstrating that the monitor(s) for the affected area is located in the area of maximum ambient concentration of SO₂.⁵

In this action, the EPA is proposing to determine that the Whatcom County (partial) SO₂ nonattainment area is attaining the 2010 1-hour SO₂ NAAQS. The EPA reviewed SO₂ monitoring data from the two monitoring stations inside the Whatcom County (partial) SO₂ nonattainment area, the Ferndale-Mountain View Road station (AQS Site

² See 202 Intalco Sulfur Dioxide Attainment Plan_2202035.pdf, included in the docket for this action.

³ See Appendix A of state submittal included in the docket for this action.

⁴ *Id.*, November 30, 2023, from James DeMay to Tia Daulph, "Termination of Title V Air Operating Permit No. 0002950 and Notice of Construction Orders, Compliance Orders, and Agreed Orders" and December 7, 2023, from Tia Daulph to James DeMay, "Re: Termination of Title V Air Operating Permit No. 0002950" included in the docket for this action.

⁵ See 2014 SO₂ NAA Guidance, at 62.

ID 53–073–0017) and the Ferndale-Kickerville Road station (AQS Site ID 53–073–0013). The monitoring station data have been quality-assured, are

recorded in the EPA's Air Quality System (AQS), and indicate that the area is attaining the 2010 1-hour SO₂ NAAQS. The fourth-highest 1-hour SO₂

values at the monitoring stations for the 3-year averages of these values (*i.e.*, design values), are summarized in Table 1, below.

TABLE 1—WHATCOM COUNTY (PARTIAL) MONITORED SO₂ CONCENTRATIONS
[ppb]

Station	2021 99th Percentile	2022 99th Percentile	2023 99th Percentile	2021–2023 Design value
Ferndale-Mountain View Road	2.6	3.3	4.4	3
Ferndale-Kickerville Road	2.4	3.1	4.4	3

As shown, the 3-year design values for 2021–2023 at the monitoring stations are well below the 2010 1-hour SO₂ NAAQS. Concentrations of SO₂ at these monitoring stations decreased significantly from the 2017–2019 design value of 106 ppb following the shutdown of the Intalco facility. Since the facility last operated in July 2020, 99th percentile values at the monitoring stations have not exceeded 4.4 ppb SO₂. These low values are anticipated to be consistent, as the state demonstrated in its analysis that SO₂ emissions since 2020 have consistently decreased to levels well below the 2010 1-hour SO₂ NAAQS during both curtailment and permanent closure of the Intalco facility.⁶

As part of Washington's 2022 attainment plan and 2024 redesignation request, Ecology submitted information to support a showing that the Ferndale-Mountain View Road monitor was sited in the area of maximum ambient SO₂ concentration within the Whatcom County (partial) SO₂ NAA in accordance with the 2014 SO₂ NAA Guidance. Ecology identified appropriate locations for the two Ferndale monitors in 2015 by running the AERMOD⁷ dispersion model using SO₂ actual emissions from Intalco.⁸ The EPA reviewed Washington's information regarding this showing in designating the area nonattainment in Round 4. We found that the state's modeling assessment was reliable for determining the extent of the area of violation of the 1-hour SO₂ NAAQS. Specifically, we agreed that the region of violation was most likely due

to plume downwash at the Intalco facility during certain wind conditions, that the modeled area of violation does not extend far from the Intalco facility fenceline, that the gradient of concentration near the areas of violation is steep, quickly dropping with distance from the Intalco facility fenceline, and that other nearby industrial facilities do not sufficiently contribute to violations of the SO₂ NAAQS to warrant inclusion in the nonattainment area boundary.⁹ With Intalco permanently closed, monitored SO₂ concentrations in the Whatcom County (partial) SO₂ nonattainment area are well below the 75 ppb standard.

In this action, the EPA is proposing to determine that the Whatcom County (partial) SO₂ nonattainment area is attaining the 2010 1-hour SO₂ NAAQS, and therefore meets the requirements of CAA section 107(d)(3)(E)(i). If the 3-year design value exceeds the NAAQS prior to the EPA taking action in response to the state's request, the EPA will not take final action to approve the redesignation request.¹⁰

Because the EPA's analysis in determining whether an area has attained under the clean data policy is the same as its analysis under the first redesignation criterion, the EPA is also here proposing that the Whatcom County (partial) SO₂ nonattainment area qualifies for a determination of attainment under the clean data policy, based on the 2021–2023 monitoring data at the two Ferndale monitoring stations. The clean data policy represents the EPA's interpretation that certain requirements of part D of title I of the Act are suspended for areas that are currently attaining the NAAQS. The requirements that are suspended in an area attaining the standard include the requirements to submit an "attainment SIP" that provides for: attainment of the NAAQS; implementation of all reasonably available control measures (RACM); reasonable further progress

(RFP); and implementation of contingency measures for failure to meet deadlines for RFP and attainment. In the 2014 SO₂ NAA Guidance, the EPA explained our intention to apply the EPA's clean data policy to the 2010 SO₂ primary NAAQS.¹¹

In the event that the EPA does not finalize the proposed redesignation, the EPA may choose to finalize the clean data determination, thereby suspending attainment planning-related requirements for the area for as long as the area continues to attain the standard.

Criteria (2)—Washington Has a Fully Approved SIP Under Section 110(k) and Criteria (5)—Washington Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA

For redesignating a nonattainment area to attainment under a NAAQS, the CAA requires the EPA to determine that the state has met all applicable requirements for that NAAQS under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for that NAAQS for the area (CAA section 107(d)(3)(E)(ii)). The EPA proposes to find that Washington has met all applicable SIP requirements for the Whatcom County (partial) SO₂ nonattainment area for the 2010 SO₂ NAAQS under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, the EPA proposes to find that the Washington SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v). Further, the EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for the 2010 SO₂ NAAQS for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making the determinations, the EPA ascertained

⁶ Whatcom County (partial) redesignation request, at pages 20–22.

⁷ AERMOD is one of the EPA's preferred and recommended dispersion models listed in the Guideline on Air Quality Models—Appendix W to be used for State Implementation Plan (SIP) revisions for existing sources and for New Source Review (NSR) and Prevention of Significant Deterioration (PSD) programs. See <https://www.epa.gov/scram/air-quality-dispersion-modeling-preferred-and-recommended-models>.

⁸ See 201_Appendix A Whatcom County SO₂ Area Designation and 203 Appendix C Intalco SO₂ Attainment Modeling Report, included in the docket for this action.

⁹ Id.

¹⁰ See 2014 SO₂ NAA Guidance, at 56.

¹¹ Id. at 52.

which requirements are applicable to the Whatcom County (partial) SO₂ nonattainment area and, if applicable, that they are fully approved under section 110(k).

a. The Whatcom County (Partial) SO₂ Nonattainment Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP Requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, the EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. The EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, the EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, the EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's

designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with the EPA's existing policy on applicability (*i.e.*, for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rules (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rule (61 FR 20458, May 7, 1996); and Tampa, Florida, final rule (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 0399, October 19, 2001).

Title I, Part D, Applicable SIP Requirements. Section 172(c) of the CAA sets forth the basic requirements of attainment plans for NAAs that are required to be submitted pursuant to section 172(b). Subpart 5 of part D, which includes section 191 and 192 of the CAA, establishes requirements for SO₂, nitrogen dioxide and lead NAAs. A thorough discussion of the requirements contained in sections 172(c) can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992).

Section 172(c)(1) requires the plans for all NAAs to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the NAAQS. The EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements.

The EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not "applicable" for purposes of CAA sections 107(d)(3)(E)(ii) and (v) and therefore, need not be approved into the SIP before the EPA can redesignate the area. In the 1992 General Preamble for Implementation of Title I, the EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR 13498, 13564 (April 16, 1992). The EPA noted that the requirements for RFP and other

measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements "have no meaning" for an area that has already attained the standard. *Id.* This interpretation was also reiterated in the 1992 Calcagni Memo and consistently applied in many proposed and final redesignation actions since. The EPA's understanding of section 172 also forms the basis of its Clean Data Policy, which was articulated with regard to SO₂ in the 2014 SO₂ NAA Guidance and suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9). Courts have upheld the EPA's interpretation of section 172(c)(1) for "reasonably available" control measures and control technology as meaning only those controls that advance attainment, which precludes the need to require additional measures where an area is already attaining. *NRDC v. EPA*, 571 F.3d 1245, 1252 (D.C. Cir. 2009); *Sierra Club v. EPA*, 294 F.3d 155, 162 (D.C. Cir. 2002); *Sierra Club v. EPA*, 314 F.3d 735, 744 (5th Cir. 2002); *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004). But *see Sierra Club v. EPA*, 793 F.3d 656 (6th Cir. 2015).

Therefore, because the design values for 2021–2023 are well below the NAAQS in the Whatcom County (partial) SO₂ NAA, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements for an attainment demonstration and RACM are not part of the "applicable implementation plan" required to have been approved prior to redesignation per CAA section 107(d)(3)(E)(ii). The other section 172 requirements that are designed to help an area achieve attainment—the section 172(c)(2) requirement that nonattainment plans contain provisions promoting reasonable further progress, the requirement to submit the section 172(c)(9) contingency measures that would apply if the area fails to timely attain, and the section 172(c)(6) requirement for the SIP to contain control measures necessary to provide for attainment of the NAAQS—are also not required to be approved as part of the "applicable implementation plan" for purposes of satisfying CAA section 107(d)(3)(E)(ii).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. The requirement for an emission inventory can be satisfied by

meeting the inventory requirements of the maintenance plan.¹² Ecology submitted an emissions inventory as part of the maintenance plan for the Whatcom County (partial) SO₂ nonattainment area, and this inventory will be discussed further in the maintenance plan portion of this proposed action.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled “Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.” Ecology has demonstrated that the Whatcom County (partial) SO₂ nonattainment area will be able to maintain the NAAQS without part D NSR in effect, and therefore Washington need not have fully approved part D NSR programs prior to approval of the redesignation request. Nevertheless, we note that Washington’s nonattainment NSR for major sources was last approved by the EPA on October 6, 2016 (81 FR 69386) and the NWCAA’s nonattainment NSR for minor sources was last approved by the EPA on June 5, 2020 (85 FR 36156). Both programs meet all relevant NSR requirements for SO₂. Washington’s PSD program for major sources will become effective in the Whatcom County (partial) SO₂ nonattainment area upon redesignation to attainment. Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, the EPA believes the Washington SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to

determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that the EPA promulgated pursuant to its authority under the CAA.

The EPA interprets the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d) because, like other requirements listed above, state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. *See Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida).

For these reasons, the EPA proposes to find that Washington has satisfied all applicable requirements for purposes of redesignation of the Whatcom County (partial) SO₂ nonattainment area under section 110 and part D of title I of the CAA.

b. The Whatcom County (Partial) SO₂ Nonattainment Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

The EPA has fully approved the applicable Washington SIP for the Whatcom County (partial) area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. As indicated above, the EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area’s nonattainment status are not applicable requirements for purposes of redesignation. The EPA has approved all part D requirements applicable under the 2010 SO₂ NAAQS, as identified above, for purposes of this redesignation.

Criteria (3)—The Air Quality Improvement in the Whatcom County (Partial) SO₂ Nonattainment Area Is Due to Permanent and Enforceable Reductions in Emissions

For redesignating a nonattainment area to attainment, the CAA requires the EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable

Federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). The EPA proposes to find that Washington has demonstrated that the observed air quality improvement in the Whatcom County (partial) SO₂ NAA is due to permanent and enforceable reductions in emissions. Specifically, the EPA considers the shutdown of the Intalco facility, identified as the key contributor to the SO₂ NAAQS violations at the Ferndale-Mountain View Road monitor,¹³ to be both permanent and enforceable. Given the well-established correlation of much lower SO₂ emissions at the two Ferndale monitors during periods when Intalco has not operated and the very low SO₂ concentrations following the facility’s permanent shutdown, the EPA anticipates that the area will continue to attain the SO₂ NAAQS. As stated in the Calcagni Memo, “Emission reductions from source shutdowns can be considered permanent and enforceable to the extent that those shutdowns have been reflected in the SIP and all applicable permits have been modified accordingly.”¹⁴ Ecology revoked Alcoa’s Title V (operating) and NSR permits for the Intalco facility.¹⁵ The facility is now permanently closed, making its future operation impossible and thus displaying the permanence of the emissions reductions in the NAA. Any new sources that may come into being within the area would be required to demonstrate that their new SO₂ emissions would not interfere with attainment and maintenance of the 2010 1-hour primary SO₂ NAAQS. Therefore, the EPA is proposing to find that the air quality improvement in the Whatcom County (partial) SO₂ NAA is due to permanent and enforceable reductions in emissions.

Criteria (4)—The Whatcom County (Partial) SO₂ Nonattainment Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

To redesignate a NAA to attainment, the CAA requires the EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its

¹³ See EPA’s final Technical Support Document (TSD) for the Whatcom County (partial) SO₂ nonattainment area, included in the docket for this action. See 201_Appendix A Whatcom County SO₂ Area Designation.pdf.

¹⁴ Calcagni Memo at 10.

¹⁵ Ecology’s November 30, 2023, permit revocation letter is included in appendix A of the redesignation request, included in the docket for this action.

¹² Calcagni Memo at 6.

request to redesignate the Whatcom County (partial) SO₂ nonattainment area to attainment for the 2010 1-hour SO₂ NAAQS, Ecology submitted a SIP revision to provide for the maintenance of the 2010 1-hour SO₂ NAAQS for at least 10 years after the effective date of redesignation to attainment. The EPA is proposing to find that this maintenance plan for the area meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

CAA section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as the EPA deems

necessary to assure prompt correction of any future 2010 1-hour SO₂ violations. The Calcagni Memo provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, the EPA is proposing to determine that Washington's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Washington SIP.

b. Attainment Emissions Inventory

As part of a state's maintenance plan for a 2010 SO₂ NAA, the air agency should develop an attainment inventory to identify the level of emissions in the affected area which is sufficient to attain and maintain the SO₂ NAAQS.¹⁶ Washington selected 2020 as the base year (*i.e.*, attainment emissions inventory year) for developing an emissions inventory for SO₂ in the NAA through 2033. The 2020 base year represents the most contemporaneous National Emissions Inventory (NEI) available. The 2020 base year also represents Intalco's final year of

operation with facility emissions of 1,613 tons of SO₂.

In the 2019–2021 monitoring period, representative of the base year, the Ferndale-Mountain View Road monitor had a 3-year design value of 56 ppb and the Ferndale-Kickerville Road monitor had a 3-year design value of 44 ppb, both below the 75 ppb concentration of the 1-hour SO₂ NAAQS. The 2020 99th percentiles recorded at the two monitors are consistent with these low design values at 62.0 ppb and 59.2 ppb, respectively. The EPA has therefore determined that this is a level sufficient to attain the 2010 1-hour SO₂ NAAQS and is proposing to find that the attainment inventory submitted as part of Washington's maintenance plan meets the "Attainment Emissions Inventory" requirement.

The EPA notes that the permanent shutdown of Intalco has left the Whatcom County (partial) SO₂ NAA with no significant sources of SO₂, and the maintenance plan for the area contains an emissions inventory which projects no significant SO₂ emissions in the NAA from 2020 through 2033. The EPA therefore does not anticipate emissions activity in the 2010 SO₂ nonattainment area that will approach 1,613 tons of SO₂.

TABLE 2—BASE YEAR 2020 AND PROJECTION YEARS 2026 AND 2033 SO₂ EMISSIONS FOR THE MAINTENANCE AREA
[Tons per year]

Source	2020 Base year	2026 Projection	2033 Projection
Alcoa Primary Metals Intalco Works	1613.4000	0	0
Residential non-wood fuel use	0.0026	0.0026	0.0026
Residential wood combustion (home heating)	0.0266	0.0266	0.0266
On-road mobile sources	0.0095	0.0095	0.0095
Ships (commercial marine vessels)	0.0221	0.0221	0.0221
Railroad (locomotives)	0.0002	0.0002	0.0002
Non-road mobile equipment and vehicles (NEC)	0.0010	0.0010	0.0010
Total	1,613.4620	0.0620	0.0620

c. Maintenance Demonstration

An air agency may generally demonstrate maintenance of the NAAQS by either showing that future emissions of SO₂ will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS.¹⁷ Washington has demonstrated maintenance by showing that future year emissions (through "out year" 2033) of SO₂ in the maintenance area are expected to remain near zero following the Intalco shutdown. Due to the small geographic scope of the

nonattainment area surrounding the facility boundary (4.5 square miles), other contributing sources such as mobile sources and area sources are nearly nonexistent and are projected to remain constant through 2033. The EPA considers the inventory projection sufficient to attain and maintain the SO₂ NAAQS. The EPA is therefore also proposing to find that Washington's "Maintenance Demonstration" requirement is met based on this projected emissions inventory.

d. Monitoring Network and Verification of Continued Attainment

According to the Calcagni Memo, the state should continue to operate an appropriate air quality monitoring network to verify the attainment status of the area.¹⁸ In addition, the state must have the legal authority to implement and enforce all measures necessary to attain and maintain the NAAQS and the maintenance plan should contain provisions to track the progress of the maintenance plan.

With respect to the monitoring network, Ecology maintains two SO₂ monitors in the nonattainment area:

¹⁶ See 2014 SO₂ NAA Guidance, at 66.

¹⁷ See 2014 SO₂ NAA Guidance at 67.

¹⁸ Calcagni Memo at 11.

Ferndale-Mountain View Road and the Ferndale-Kickerville Road. These monitors were included in Ecology's 2023 Ambient Air Monitoring Network Plan as microscale SLAMS monitors.¹⁹ EPA approved this network plan on November 16, 2023.²⁰ As discussed in the EPA's 2020 designation of the area and the 2022 attainment plan included in the docket for this action, the Ferndale-Mountain View Road and the Ferndale-Kickerville Road SO₂ monitors were sited for the specific purpose of measuring building downwash impacts from the Intalco facility.²¹ With the closure of the Intalco facility, these monitors would not be considered to be sited in the area of maximum concentration if a new SO₂ emitting source were to locate to the area.

Therefore, Ecology included in its maintenance plan a stepwise analytical process for deploying SO₂ monitors in the maintenance area and verifying continued attainment. Ecology's intentions with this process are twofold: (1) provide an alternative to maintaining the existing microscale monitors for the duration of the maintenance period and (2) providing a basis for potential future discontinuation of the two microscale Ferndale monitors under 40 CFR 58.14(c)(3). Note, EPA is not proposing in this action to approve any discontinuation of any monitoring sites. Any future discontinuation of monitoring is subject to the approval procedures in 40 CFR part 58.

Ecology lays out its plan for deploying monitors and verifying continued attainment in Chapter 6 *Verification of Attainment, Control Measures, and Maintenance Demonstration* of the maintenance plan. This plan builds upon Washington's SIP-approved minor and major NSR programs. Washington's SIP includes NWCAA Rule 300 which establishes the minor NSR program applicable to sources constructed or modified in the Ferndale Area. Under Rule 300, save for certain limited exemptions, sources with a potential to emit more than 2.0 tons per year (tpy) of SO₂ must obtain approval prior to construction.²² NWCAA may not approve construction or modification unless, among other things, the source will employ best available control

technology and allowable emissions will not cause or contribute to a violation of any NAAQS.²³ As to the latter, NWCAA may require modeling using EPA guidelines in appendix W of 40 CFR part 51 to determine whether construction and operation of the source will cause or contribute to a violation of any NAAQS.

Washington's SIP also includes a major new source review program to regulate the construction and modification of major sources constructed or modified in the Ferndale Area.²⁴ In general, Washington's major NSR program incorporates by reference the Federal major NSR program at 40 CFR 52.21. The major NSR program applies to sources with a potential to emit 100 tpy of any regulated NSR pollutant for certain listed source categories, and 250 tpy of any regulated NSR pollutant for unlisted sources. Regulated NSR pollutant includes pollutants for which the EPA has established a NAAQS.

Similar to the minor NSR program, all sources subject to the major NSR program must obtain a permit before commencing construction. In order to obtain a permit, the source must, among other things, demonstrate the source will apply best available control technologies for each regulated NSR pollutant that the source has the potential to emit in significant amounts. In the case of SO₂, the significant emissions rate is 40 tpy. In addition, the source must demonstrate through dispersion modeling that construction and operation of the source will not cause or contribute to a violation of any NAAQS or violate any prevention of significant deterioration increment.

In addition to the preexisting NSR programs, Washington's maintenance plan includes a stepwise process for assessing the cumulative impacts of new sources constructed in the area and triggering deployment of SO₂ monitors. This process will ensure that cumulative impacts remain below the NAAQS should multiple facilities move to the nonattainment area. Under the maintenance plan verification of continued attainment provisions, Washington, with NWCAA as the lead agency for the jurisdiction in coordination with Ecology, will evaluate the cumulative impacts of the new source or modifications using three sequential "Action Levels." Under Action Level 1, Washington will conduct cumulative dispersion modeling using potential emissions if

two conditions are met: (1) the cumulative potential SO₂ emissions in the area are greater than or equal to 250 tons per year of SO₂ and (2) the proposed new source or modification has the potential to emit 40 tons per year of SO₂ (the significant emission rate under the major NSR program). Washington will use EPA's preferred screening and dispersion modeling tools identified in 40 CFR part 51 appendix W ("Appendix W") as normally applicable for any source seeking a construction permit under the NSR program. If the results of the modeling under Action Level 1 indicate a design concentration of greater than or equal to 90% of the 1-hour NAAQS, then Washington will proceed to Action Level 2.

Under Action Level 2, Washington will conduct refined dispersion modeling that uses actual emissions from existing sources and potential emissions from the new source or modification. If the results of that modeling indicate a design concentration of greater than or equal to 50% of the 1-hour SO₂ NAAQS, then Washington will proceed to Action Level 3.

Under Action Level 3, Washington will deploy SO₂ ambient monitors within 1 year of the initial startup of the new source or modification. Any new monitors established for verification of continued attainment will be operated as State and Local Air Monitoring Stations (SLAMS) as part of Ecology's Primary Quality Assurance Organization (PQAO). Ecology will verify that monitor siting complies with 40 CFR part 58 appendix E (Probe and Monitoring Path Siting Criteria for Ambient Air Quality Monitoring) and will include any new site proposals in its annual Ambient Air Monitoring Network Plan. This plan is available for public inspection and comment for at least 30 days before its submission to the EPA by July 1 of each year. Any such proposal will be subject to review and approval by the EPA Regional Administrator, following the process described in 40 CFR 58.10.

The State of Washington has the legal authority to enforce and implement the maintenance plan for the Whatcom County (partial) 2010 SO₂ NAA. This includes the authority to conduct the stepwise ambient air quality analysis, deploy monitors, and adopt, implement, and enforce any subsequent emissions control contingency measures

¹⁹ Department of Ecology, State of Washington, 2023 Ambient Air Monitoring Network Plan, Publication 23-02-043, June 2023, at p. 20.

²⁰ November 16, 2023, Letter from Debra Suzuki, Air Planning and State/Tribal Coordination Branch, EPA Region 10, to Jill Schulte, Ambient Air Monitoring Coordinator, Department of Ecology.

²¹ See 201_Appendix A Whatcom County SO₂ Area Designation.pdf and 202_Intalco Sulfur Dioxide Attainment Plan_2202035.pdf, included in the docket for this action.

²² Rule 300.1(A); 300.4.

²³ Rule 300.9.

²⁴ 40 CFR 52.2470(c); WAC 173-400-113 and WAC 173-400-700 through 173-400-750.

determined to be necessary to correct future SO₂ attainment problems.²⁵

Washington's SIP-approved NSR programs coupled with the stepwise approach for assessing cumulative impacts is adequate to verify continued maintenance of the SO₂ NAAQS. The 250 tpy inventory threshold and 40 tpy PTE threshold in Action Level 1 are set at emission levels the EPA anticipates would not cause or contribute to a violation of the NAAQS. For comparison, the emissions inventory in 2017 when the area exceeded the NAAQS was 3,987 tpy of emissions from the Intalco facility.²⁶ Refining the modeling to take into consideration actual emissions of existing sources is also sufficiently protective, particularly considering that Washington will deploy monitors if the design concentration from this modeling is greater than or equal to 50% of the SO₂ NAAQS. For these reasons, the EPA is proposing to find that Washington's maintenance plan meets the Monitoring and "Verification of Continued Attainment" requirements.

e. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as the EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must also include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

The maintenance plan includes an action level to determine when the contingency plan process is triggered and a process of developing and implementing appropriate control measures. If an SO₂ monitor records a consecutive two-year average of the annual 99th percentile of 1-hour daily maximum SO₂ values exceeding 67.5 ppb (90 percent of the NAAQS), and

such data is certified as accurate, the action level is triggered. If the action level is triggered, NWCAA will first evaluate whether elevated SO₂ readings are due to exceptional events, as defined at 40 CFR 50.1(j), and follow the EPA's exceptional events policy. If the action level is triggered and is not found to be due to an exceptional event, NWCAA will determine if the exceedance was a result of a stationary source's non-compliance with existing regulations and/or permit conditions. If so, NWCAA will undertake enforcement actions in accordance with current agency policy and guidance related to compliance and enforcement. If the high levels of SO₂ are not found to be due to a stationary source's non-compliance, NWCAA will work with the entity or entities believed to be responsible for the high levels of SO₂ to evaluate control measures necessary to ensure future attainment of the NAAQS. The implementation of the control measures will take place no later than 18 months after NWCAA decides, based on quality-assured ambient data, that the action-level response described above was triggered (a consecutive two-year average of the annual 99th percentile of 1-hour daily maximum SO₂ values exceeding 67.5 ppb).

Washington must submit to the EPA its analysis demonstrating that the proposed control measures are adequate to ensure continued maintenance of the 2010 1-hour SO₂ NAAQS in the area or to return the area to attainment of the NAAQS. Since the only significant source of SO₂ in the nonattainment area has shut down, it is not possible to develop specific contingency measures until the cause of the elevated concentrations is known. The EPA is proposing to find that Washington's maintenance plan meets the "Contingency Measures" requirement.

The EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, the EPA proposes to find that the maintenance plan SIP revision submitted by Washington for the Whatcom County (partial) 2010 SO₂ NAA meets the requirements of section 175A of the CAA and is approvable.

IV. What are the actions the EPA is proposing to take?

The EPA is proposing to take the following four separate but related actions: (1) determine that the Whatcom County (partial) SO₂ nonattainment area is attaining the 2010 1-hour SO₂

NAAQS; (2) approve Washington's plan for maintaining the 2010 1-hour SO₂ NAAQS (maintenance plan), including proposed approval of a "reproducible approach" to representing the air quality of the affected area in the event that the monitors that were sited for the Intalco facility shut down; (3) redesignate the Whatcom County (partial) SO₂ nonattainment area to attainment for the 2010 1-hour SO₂ NAAQS; and (4) determine that the Whatcom County (partial) SO₂ NAA has clean monitoring data. Section III of this document provides a discussion of each of these proposed actions.

The EPA is also proposing to approve the maintenance plan under the 2010 NAAQS for the Whatcom County (partial) SO₂ nonattainment area into the Washington SIP (under CAA section 175A). The maintenance plan demonstrates that the area will continue to maintain the 2010 1-hour SO₂ NAAQS and includes a process to develop contingency measures to remedy any future violations of the 2010 1-hour SO₂ NAAQS and procedures for evaluation of potential violations.

Additionally, the EPA is proposing to determine that the Whatcom County (partial) SO₂ nonattainment area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 2010 1-hour SO₂ NAAQS. On this basis, the EPA is proposing to approve Washington's redesignation request for the area. Final approval of Washington's redesignation request would change the legal designation of the portion of Whatcom County designated nonattainment at 40 CFR 81.348 to attainment for the 2010 1-hour SO₂ NAAQS.

The EPA is also proposing to determine that the Whatcom County (partial) SO₂ nonattainment area has attaining monitoring data for the 2010 SO₂ primary NAAQS based on the most recent complete three-year period (2021–2023) design value period that meets the clean data policy. As noted elsewhere, in the event that EPA does not finalize the proposed redesignation, the EPA may choose to finalize the clean data determination, thereby suspending the attainment planning related requirements for the area.

V. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment is an action that affects the status of a geographical area and does not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in

²⁵ The EPA last determined that Washington's SIP was sufficient to meet the requirements of 110(a)(2)(E)(i) of the CAA on February 18, 2021 (86 FR 10022).

²⁶ See 202 Intalco Sulfur Dioxide Attainment Plan, 2202035.pdf, at page 45, included in the docket for this action.

and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. In addition, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For these reasons, this proposed action:

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

In addition, this proposed action, pertaining to redesignation of the Whatcom County (partial) SO₂ nonattainment area and approval of a maintenance plan for the area, would not be approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule would not have Tribal implications and would not impose substantial direct costs on tribal

governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Consistent with EPA policy, the EPA provided a consultation opportunity to Tribes located near the nonattainment area, in letters dated July 25, 2024 and July 29, 2024, included in the docket for this action.

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

The Washington Department of Ecology did evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for communities with EJ concerns.

List of Subjects in 40 CFR Part 52

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

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

Dated: September 19, 2024.

Casey Sixkiller,

Regional Administrator, Region 10.

[FR Doc. 2024–22171 Filed 9–26–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2021–0221; FRL–12141–01–OCSPF]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (21–3.F)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for chemical substances that were the subject of premanufacture notices (PMNs). The chemical substances received “not likely to present an unreasonable risk” determinations pursuant to TSCA. The SNURs require persons who intend to manufacture (defined by statute to include import) or process any of these chemical substances for an activity that is proposed as a significant new use by this rulemaking to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the conditions of use for that chemical substance. In addition, the manufacture or processing for the significant new use may not commence until EPA has conducted a review of the required notification, made an appropriate determination regarding that notification, and taken such actions as required by that determination.

DATES: Comments must be received on or before October 28, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0221, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

For technical information: William Wysong, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–4163; email address: wysong.william@epa.gov.

For general information: The TSCA–Hotline, ABVI–Goodwill, 422 South

Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What is the Agency's authority for taking this action?

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including the factors in TSCA section 5(a)(2) (see also the discussion in Unit II.).

B. What action is the Agency taking?

EPA is proposing SNURs for the chemical substances discussed in Unit III. These SNURs, if finalized as proposed, would require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

C. Does this action apply to me?

1. General Applicability

This action applies to you if you manufacture, process, or use the chemical substances identified in Unit III. This may include entities in North American Industrial Classification System (NAICS) codes 325 and 324110, e.g., chemical manufacturing and petroleum refineries.

2. Applicability to Importers and Exporters

This action may also apply to certain entities through pre-existing import certification and export notification requirements under TSCA (<https://www.epa.gov/tsc-import-export-requirements>).

Chemical importers are subject to TSCA section 13 (15 U.S.C. 2612), the requirements promulgated at 19 CFR 12.118 through 12.127 (see also 19 CFR 127.28), and the EPA policy in support of import certification at 40 CFR part 707, subpart B. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including regulations issued under TSCA sections 5, 6, 7 and Title IV.

Pursuant to 40 CFR 721.20, any persons who export or intend to export a chemical substance that is the subject of this proposed rule on or after October 28, 2024 are subject to the export notification provisions of TSCA section

12(b) (15 U.S.C. 2611(b)) and must comply with the export notification requirements in 40 CFR part 707, subpart D.

D. What are the incremental economic impacts of this action?

EPA has evaluated the potential costs of establishing SNUN reporting requirements for potential manufacturers (including importers) and processors of the chemical substances subject to these proposed SNURs. This analysis, which is available in the docket, is briefly summarized here.

1. Estimated Costs for SNUN Submissions

If a SNUN is submitted, costs are an estimated \$45,000 per SNUN submission for large business submitters and \$14,500 for small business submitters. These estimates include the cost to prepare and submit the SNUN (including registration for EPA's Central Data Exchange (CDX)), and the payment of a user fee. Businesses that submit a SNUN would be subject to either a \$37,000 user fee required by 40 CFR 700.45(c)(2)(ii) and (d), or, if they are a small business as defined at 13 CFR 121.201, a reduced user fee of \$6,480 (40 CFR 700.45(c)(1)(ii) and (d)) per fiscal year 2022. The costs of submission for SNUNs will not be incurred by any company unless a company decides to pursue a significant new use as defined in these SNURs. Additionally, these estimates reflect the costs and fees as they are known at the time of this rulemaking.

2. Estimated Costs for Export Notifications

EPA has also evaluated the potential costs associated with the export notification requirements under TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D. For persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided for the first export or intended export to a particular country. The total costs of export notification will vary by chemical, depending on the number of required notifications (*i.e.*, the number of countries to which the chemical is exported). While EPA is unable to make any estimate of the likely number of export notifications for the chemical substances covered by these SNURs, as stated in the accompanying economic analysis, the estimated cost of the export notification requirement on a per unit basis is approximately \$106.

E. What should I consider as I prepare my comments for EPA?

1. Submitting CBI

Do not submit CBI to EPA through email or <https://www.regulations.gov>. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR parts 2 and 703.

2. Tips for Preparing Your Comments

When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/epa-dockets>.

II. Background

This unit provides general information about SNURs. For additional information about EPA's new chemical program go to <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca>.

A. Significant New Use Determination Factors

TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In determining what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, and potential human exposures and environmental releases that may be associated with the substances, in the context of the four bulleted TSCA section 5(a)(2) factors listed in this unit and discussed in Unit III.

These proposed SNURs include PMN substances that received a "not likely to present an unreasonable risk" determination in TSCA section 5(a)(3)(c). During its review of these chemicals, EPA identified certain

conditions of use that are not intended by the submitters, EPA is proposing to designate those conditions of use as new uses.

B. Rationale and Objectives of the SNURs

1. Rationale

Under TSCA, no person may manufacture a new chemical substance or manufacture or process a chemical substance for a significant new use until EPA makes a determination as described in TSCA section 5(a) and takes any required action. The issuance of a SNUR is not a risk determination itself, only a notification requirement for “significant new uses,” so that the Agency has the opportunity to review the SNUN for the significant new use and make a TSCA section 5(a)(3) risk determination.

During review of the PMNs submitted for the chemical substances that are the subject of these proposed SNURs and as further discussed in Unit III., EPA identified certain other conditions of use, in addition to those conditions of use intended by the submitter. EPA has determined that the chemical under the conditions of use is not likely to present an unreasonable risk. However, EPA has not assessed risks associated with certain conditions of use. EPA is proposing to designate these other circumstances of use as significant new uses. As a result, those significant new uses cannot occur without going through a separate, subsequent EPA review and determination process associated with a SNUN.

2. Objectives

EPA is proposing these SNURs because the Agency wants:

- To be able to complete its review and determination on each of the PMN substances, while deferring analysis on the significant new uses proposed in these rules unless and until the Agency receives a SNUN.

- To have an opportunity to review and evaluate data submitted in a SNUN before the submitter begins manufacturing or processing a listed chemical substance for the described significant new use.

- To be obligated to make a determination under TSCA section 5(a)(3) regarding the use described in the SNUN, under the conditions of use. The Agency will either determine under TSCA section 5(a)(3)(C) that the significant new use is not likely to present an unreasonable risk, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of

use, or make a determination under TSCA section 5(a)(3)(A) or (B) and take the required regulatory action associated with the determination, before manufacture or processing for the significant new use of the chemical substance can occur.

Issuance of a proposed SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available at <https://www.epa.gov/tscainventory>.

C. Significant New Uses Claimed as CBI

EPA is proposing to establish certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure at 40 CFR 721.11 to deal with the situation where a specific significant new use is CBI.

Under these procedures a manufacturer or processor may request EPA to identify the confidential significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will identify the confidential significant new use to that person. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in 40 CFR 721.11 into a single step.

D. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to SNURs, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Pursuant to 40 CFR 721.1(c), persons subject to SNURs must comply with the same requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), 5(h)(2), 5(h)(3), and 5(h)(5) and the regulations at 40

CFR part 720. In addition, provisions relating to user fees appear at 40 CFR part 700.

Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury under the conditions of use for the chemical substance or take such regulatory action as is associated with an alternative determination under TSCA section 5 before the manufacture (including import) or processing for the significant new use can commence. If EPA determines that the significant new use of the chemical substance is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

As discussed in Unit I.C.2., persons who export or intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b), and persons who import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements. See also <https://www.epa.gov/tscainport-export-requirements>.

E. Applicability of the Proposed SNURs to Uses Occurring Before the Effective Date of the Final Rule

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this proposed rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which a NOC has not been submitted, EPA concludes that the designated significant new uses are not ongoing. The identities of many of the chemical substances subject to this proposed rule have been claimed as confidential per 40 CFR 720.85 and the PMN submitter did not intend to engage in the other circumstances of use that are designated as significant new uses for the chemical substances subject to this proposed rule. Based on this, the Agency believes that it is highly unlikely that any of the significant new uses identified in Unit III. are ongoing.

When the chemical substances identified in Unit III. are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use.

Persons who begin manufacture or processing of the chemical substances for a significant new use identified on or after the designated cutoff date specified in Unit III.A. would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and EPA would have to take action under TSCA section 5 allowing manufacture or processing to proceed.

F. Important Information About SNUN Submissions

1. SNUN Submissions

SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E-PMN software is available electronically at <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca>.

2. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (e.g., generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, order or consent agreement under TSCA section 4, then TSCA section 5(b)(1)(A) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, TSCA order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. To assist with EPA's analysis of the SNUN, submitters are encouraged, but not required, to provide the potentially useful information identified for the chemical substance in Unit III.C.

EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach

Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h). For more information on alternative test methods and strategies to reduce vertebrate animal testing, visit <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/alternative-test-methods-and-strategies-reduce>.

The potentially useful information described in Unit III. may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA sections 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.

III. Chemical Substances Subject to These Proposed SNURs

A. What is the designated cutoff date for ongoing uses?

EPA designates September 27, 2024, as the cutoff date for determining whether the new use is ongoing. This designation is explained in more detail in Unit II.E.

B. What information is provided for each chemical substance?

For each chemical substance identified in Unit III.C., EPA provides the following information:

- PMN number (the proposed CFR citation assigned in the regulatory text section of this document).
- Chemical name (generic name if the specific name is claimed as CBI).
- Chemical Abstracts Service Registry Number (CASRN) (if assigned for non-confidential chemical identities).
- Basis for the SNUR.
- Potentially useful information.

The regulatory text section of this document specifies the activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated in the proposed rules, may be claimed as CBI.

These chemical substances have undergone premanufacture review. In

addition to those conditions of use intended by the submitter, EPA has identified certain other circumstances of use. EPA has preliminarily determined that these chemicals under their conditions of use are not likely to present an unreasonable risk. However, EPA has not assessed risks associated with the other circumstances of use for these chemicals. EPA is proposing to designate these other circumstances of use as significant new uses. As a result, those significant new uses cannot occur without first going through a separate, subsequent EPA review and determination process associated with a SNUN.

C. Which chemical substances are subject to this proposed rule?

The substances subject to the proposed rules in this document are as follows:

PMN Number (Proposed CFR Citation): P–15–633 (40 CFR 721.11925)

Chemical Name: 1(2H)-Naphthalenone,4-ethyloctahydro-8-methyl.

CAS Number: 870515–09–6.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as part of a fragrance formula (dispersive use). Based on estimated physical/chemical properties of the PMN substance, submitted test data on the new chemical substance, and comparison to analogous neutral organic substances, EPA has identified concerns for skin irritation, dermal sensitization, systemic effects (liver, spleen, and bone marrow effects), and aquatic toxicity if the new chemical substance is not used following the limitation noted. The conditions of use of the PMN substance as described in the PMN includes the following protective measure:

- No release of the PMN substance resulting in surface water concentrations that exceed 43 ppb.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation):
P-16-326 (40 CFR 721.11926)

Chemical Name: Propanoic acid, 2,2-dimethyl-, 1-methyl-2-(1-methylethoxy)-2-oxoethyl ester.

CAS Number: 1821051-37-9.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as part of a fragrance formula. Based on estimated physical/chemical properties of the PMN substance, submitted test data on the new chemical substance, and comparison to analogous esters, EPA has identified concerns for systemic effects (liver effects) and aquatic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN includes the following protective measure:

- No processing of the PMN substance above 1% in formulation for consumer products.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of systemic effects testing may be potentially useful to characterize the health effects of the PMN substance.

PMN Number (Proposed CFR Citation):
P-17-195 (40 CFR 721.11927)

Chemical Name: 1,3-Propanediol, 2-methylene-, substituted (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be for manufacturing a modified ethylene vinyl alcohol copolymer. Based on the estimated physical/chemical properties of the PMN substance, comparison to analogous chemical substances, submitted data on the PMN substance, and comparison to analogous esters and vinyl esters, EPA has identified concerns for acute oral toxicity, systemic effects, developmental effects, and aquatic toxicity if the chemical substance is not used following the limitations noted. The condition of use of the PMN substance as described in the PMN includes the following protective measure:

- No use of the PMN substance other than as a chemical intermediate.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation):
P-17-389 (40 CFR 721.11928)

Chemical Name: Alkyl oil, polymer with 1,4-cyclohexanedimethanol, dehydrated alkyl oil, hydrogenated rosin, phthalic anhydride and trimethylolpropane (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as a polymer precursor. Based on estimated physical/chemical properties of the PMN substance, comparison to structurally analogous chemical substances, and comparison to analogous esters, EPA has identified concerns for bladder effects, developmental toxicity, and aquatic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- No manufacturing, processing, or use of the PMN substance in a manner that results in inhalation exposure; and
- No release of the PMN substance resulting in surface water concentrations that exceed 39 ppb.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of chronic ecotoxicity, skin absorption, metabolism or pharmacokinetics, specific target organ toxicity, developmental toxicity, and chronic toxicity/carcinogenicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation):
P-18-98 (40 CFR 721.11929)

Chemical Name: Polyphosphoric acids, polymers with

(alkoxyalkoxy)alkanol and substituted heteromonocycle (generic).

CAS Number: Not available.

Basis for action: The PMN states that the use of the PMN substance will be as a dispersing additive for pigments. Based on estimated physical/chemical properties of the PMN substance, comparison to structurally analogous chemical substances, and comparison to analogous anionic surfactants, EPA has identified concerns for irritation of the skin, eyes, and respiratory tract, reproductive and developmental effects, lung effects, and aquatic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- No processing of the PMN substance to greater than 5% by weight in the final formulated product for any use; and
- No release of the PMN substance resulting in surface water concentrations that exceed 16 ppb.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity, skin irritation, eye irritation, reproductive toxicity, and pulmonary effects testing may be potentially useful to characterize the health and environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation):
P-18-150 (40 CFR 721.11930)

Chemical Name: Tertiary amine, compounds with amino sulfonic acid blocked aliphatic isocyanate homopolymer (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as a component of an industrial coating. Based on estimated physical/chemical properties of the PMN substance, submitted test data on the new chemical substance, comparison to structurally analogous chemical substances, and comparison to analogous diisocyanates, EPA has identified concerns for systemic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance

as described in the PMN include the following protective measures:

- No domestic manufacture (*i.e.*, import only);
- Use of the PMN substance only for the confidential use described in the PMN; and

- Use of a National Institute for Occupational Safety and Health (NIOSH)-certified respirator with an Assigned Protection Factor (APF) of at least 10 where there is a potential for inhalation exposure.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of pulmonary effects and specific target organ toxicity testing may be potentially useful to characterize the health effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-18-187 (40 CFR 721.11931)

Chemical Name: Carboxylic acid-polyamine condensate (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as an emulsifier. Based on estimated physical/chemical properties of the PMN substance, comparison to structurally analogous chemical substances, and comparison to analogous aliphatic amines, EPA has identified concerns for skin and respiratory sensitization, developmental toxicity, lung effects, skin, eye, and lung irritation, and aquatic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- No manufacturing, processing, or use of the PMN substance in a manner that results in inhalation exposure; and
- No release of the PMN substance resulting in surface water concentrations that exceed 1 ppb.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be

designated by this SNUR. EPA has determined that the results of absorption, specific target organ toxicity or pulmonary effects, reproductive (developmental effects) toxicity, skin sensitization, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-18-211 (40 CFR 721.11932)

Chemical Name: Alkanamine, (aminoalkyl)-, polymer with aziridine and 1,6-diisocyanatohexane, polyethylene glycol alkyl ether- and polyethylene-polypropylene glycol aminoalkyl alkyl ether- and alkenyl benzenated polyethylene glycol Ph ether (generic).

CAS Number: Not available.

Basis for action: The PMN states that the use of the PMN substance will be as a wetting and dispersing agent for pigment formulations, paints, and coatings. Based on estimated physical/chemical properties of the PMN substance, comparison to structurally analogous chemical substances, and comparison to analogous polycationic polymers, EPA has identified concerns for lung effects, irritation, and aquatic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- No use of the PMN substance in spray applications;
- No consumer use of the PMN substance; and
- No release of the PMN substance resulting in surface water concentrations that exceed 16 ppb.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of absorption, pulmonary effects, specific target organ toxicity, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance.

PMN Numbers (Proposed CFR Citations): P-18-267 (40 CFR 721.11933), P-18-268 (40 CFR 721.11934) and P-18-269 (40 CFR 721.11935)

Chemical Names: Branched alkanic acid, epoxy ester, reaction products with monocyclic dialkylamine and polycyclic alcohol epoxy polymer (generic) (P-18-267), Polycyclic alkane, polymer with monocyclic amine, polycyclic epoxide ether, reaction products with dialkylamine alkyl amine (generic) (P-18-268), and Polycyclic substituted alkane, polymer with epoxide, reaction products with cycloalkylamine and dialkylamine substituted alkyl amine (generic) (P-18-269).

CAS Numbers: Not available.

Basis for action: The PMNs state that the generic (non-confidential) use of the PMN substances will be as curing agents. Based on estimated physical/chemical properties of the PMN substances and comparison to structurally analogous chemical substances, EPA has identified concerns for lung effects, irritation, and systemic toxicity if the chemical substances are not used following the limitations noted. The conditions of use of the PMN substances as described in the PMNs include the following protective measure:

- No use of the PMN substances in a spray application method where more than 1% of particles are less than 10 microns in diameter.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substances if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of pulmonary effects, specific target organ toxicity, skin irritation/corrosion, eye damage, and particle size testing may be potentially useful to characterize the health effects of the PMN substances.

PMN Number (Proposed CFR Citation): P-18-376 (40 CFR 721.11936)

Chemical Name: Thiosulfuric acid, aminoalkyl ester (generic).

CAS Number: Not available.

Basis for action: The PMN states that the use of the PMN substance will be to improve physical properties in rubber products. Based on estimated physical/chemical properties of the PMN substance and submitted test data on the

new chemical substance, EPA has identified concerns for irritation to the eye and skin, skin sensitization, systemic toxicity, and reproductive/developmental effects if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- No domestic manufacture (*i.e.*, import only); and
- No use of the PMN substance other than for incorporating into rubber products.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that human exposure information would be useful to characterize the potential effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-18-380 (40 CFR 721.11937)

Chemical Name: Butanoic acid ethyl amine (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be for automotive brake parts. Based on estimated physical/chemical properties of the PMN substance, comparison to structurally analogous chemical substances, and comparison to analogous substances, EPA has identified concerns for surfactant effects on the lung, eye irritation, and aquatic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- No domestic manufacture (*i.e.*, import only);
- No import of the PMN substance other than in the confidential form described in the PMN; and
- No processing of the PMN substance in end use formulations to greater than the confidential concentration percentage identified in the PMN.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize

the human health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of pulmonary effects, eye irritation, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-18-389 (40 CFR 721.11938)

Chemical Name: Alkenoic acid, alkyl-substituted, epoxy ester, polymer with alkyl alkenoate, alkene, and polylactide (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as a component in package coatings. Based on estimated physical/chemical properties of the PMN substance and comparison to structurally analogous chemical substances, EPA has identified concerns for lung effects if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN includes the following protective measure:

- No manufacturing, processing, or use of the PMN substance in a manner that results in inhalation exposure.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity testing may be potentially useful to characterize the health effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-18-396 (40 CFR 721.11939)

Chemical Name: Alkenoic acid, alkyl, polymer with carbomonocycle alkyl propenoate and substituted alkyl alkenoate, ester with substituted alkyl alkanolate, tertbutyl substituted peroxyate-initiated (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as paint. Based on estimated physical/chemical properties of the PMN substance and comparison to structurally analogous chemical substances, EPA has identified

concerns for developmental effects and eye, skin, and respiratory tract irritation if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- No consumer use of the PMN substance; and
- Use of the PMN substance only for the confidential use described in the PMN.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of reproductive toxicity, skin irritation, and eye irritation testing may be potentially useful to characterize the health effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-19-134 (40 CFR 721.11940)

Chemical Name: 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, poly[oxy(methyl-1,2-ethanediyl), .alpha.-hydro.-omega.-hydroxy-, polymer with 1,6-diisocyanatohexane, polymer with poly(oxy-1,4-butanediyl), .alpha.-hydro.-omega.-hydroxy-, cyclic amine—ketone adduct, reduced, and 1,3-propanediol, 2-ethyl-2-(hydroxymethyl)- (generic).

CAS Number: Not available.

Basis for action: The PMN states that the use of the PMN substance will be as a binder for moisture cure coatings. Based on the estimated physical/chemical properties of the PMN substance and comparison to analogous chemical substances, EPA has identified concerns for respiratory sensitization, skin sensitization, lung effects, and systemic effects if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN includes the following protective measure:

- No consumer use of the PMN substance.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be

designated by this SNUR. EPA has determined that the results of skin sensitization and pulmonary effects testing may be potentially useful to characterize the health effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-19-161 (40 CFR 721.11941)

Chemical Name: Alkanol amine salt mixture (generic).

CAS Number: Not available.

Basis for action: The PMN states that the use of the PMN substance will be as an organic amine salt mixture used as a foaming agent in the production of urethanes. Based on the estimated physical/chemical properties of the PMN substance, data on chemicals identified in the chemical structure, and comparison to analogous chemical substances, EPA has identified concerns for irritation to skin, eyes, and respiratory tract, and systemic effects if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN includes the following protective measure:

- No consumer use of the PMN substance.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of skin irritation, eye irritation, and specific target organ toxicity testing may be potentially useful to characterize the health effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-19-170 (40 CFR 721.11942)

Chemical Name: Heteroatom-substituted alkyl triethoxysilane, reaction products with methylated formaldehyde-melamine polymer (generic).

CAS Number: Not available.

Basis for action: The PMN states that the use of the PMN substance will be as a coupling agent in elastomer-based formulations that will be used in molding operations to manufacture different types of rubber articles including but not limited to rubber tires. Based on estimated physical/chemical properties of the PMN substance, comparison to analogous alkoxysilanes, and comparison to structurally analogous chemical substances, EPA has identified concerns for irritation to all

exposed tissues, lung effects, systemic effects, carcinogenicity, and aquatic toxicity if the chemical substance is not used following the limitations noted.

The conditions of use of the PMN include the following protective measures:

- No release of the PMN substance, or any waste stream containing the PMN substance, into water;
- No manufacturing, processing, or use of the PMN substance in a manner that results in inhalation exposure; and
- Use of the PMN substance only as a coupling agent in elastomer-based formulations that will be used in molding operations to manufacture different types of rubber articles including but not limited to rubber tires.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of skin irritation, eye irritation, specific target organ toxicity, pulmonary effects, carcinogenicity, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-19-189 (40 CFR 721.11943)

Chemical Name: Fatty acids, polymers with alkanediol and 1,1'-methylenebis[4-isocyanatobenzene] (generic).

CAS Number: Not available.

Basis for action: The PMN states that the use of the PMN substance will be as a reactive polymer for use in adhesives and sealants. Based on estimated physical/chemical properties of the PMN substance, submitted test data on the new chemical substance, and comparison to structurally analogous chemical substances, EPA has identified concerns for skin and respiratory sensitization if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- Use of the PMN substance only as a reactive polymer for use in adhesives and sealants; and

- No manufacturing, processing, or use of the PMN substance in a manner that results in inhalation exposure.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that human exposure information may be potentially useful to characterize the effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-20-8 (40 CFR 721.11944)

Chemical Name: 7-Heteropolycyclicsulfonic acid, 2-[4-[2-[1-[(2-methoxy-5-methyl-4-sulfonylphenyl)amino]carbonyl]-2-oxopropyl]diazenyl]phenyl]-6-methyl-, compd. with (alkylamino)alkanol and (hydroxyalkyl)amine (generic).

CAS Number: Not available.

Basis for action: The PMN states that the use of the PMN substance will be as a dye for use with paper, paper products, and nonwoven products produced from paper. Based on estimated physical/chemical properties of the PMN substance, submitted test data on the new chemical substance, comparison with analogous acid dyes, amphoteric dyes, and anilines, and comparison to structurally analogous chemical substances, EPA has identified concerns for systemic and developmental effects and aquatic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- No use other than as a dye for use with paper, paper products, and nonwoven products produced from paper.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity and aquatic toxicity testing may be potentially useful to characterize the health and

environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-20-12 (40 CFR 721.11945)

Chemical Name: Polyol, polymer with alkyl diisocyanate, alkyl substituted heterocycle blocked (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as an ink additive. Based on estimated physical/chemical properties of the PMN substance, submitted test data on the new chemical substance, and comparison to structurally analogous chemical substances, EPA has identified concerns for systemic effects (spleen, liver, and blood), and aquatic toxicity if the new chemical substance is not used following the limitation noted. The conditions of use of the PMN substance as described in the PMN include the following protective measure:

- No release of the PMN substance resulting in surface water concentrations that exceed 5 ppb.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-20-22 (40 CFR 721.11946)

Chemical Name:

Polyalkoxycarbopolycycle hydroxy (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as a fuel additive for combustion improver. Based on estimated physical/chemical properties of the PMN substance and comparison to structurally analogous chemical substances, EPA has identified concerns for systemic effects, lung effects (surfactancy), and aquatic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- No manufacturing, processing, or use of the PMN substance in a manner that results in inhalation exposure; and

- No release of the PMN substance resulting in surface water concentrations that exceed 44 ppb.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity, pulmonary effects, neurotoxicity, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance.

PMN Numbers (Proposed CFR Citations): P-20-27 (40 CFR 721.11947) and P-20-28 (40 CFR 721.11948)

Chemical Names: Glycols, .alpha., .omega.-, C2-6, polymers with adipic acid, dodecanedioic acid, hydracrylic acid polyester, isophthalic acid, isophthalic acid, 1,1'-methylenebis[4-isocyanatobenzene], neopentyl glycol and terephthalic acid (generic) (P-20-27) and Glycols, .alpha., .omega.-, C2-6, polymers with adipic acid, aromatic polyester, dodecanedioic acid, hydracrylic acid polyester, isophthalic acid, 1,1'-methylenebis[4-isocyanatobenzene], neopentyl glycol and terephthalic acid (generic) (P-20-28).

CAS Numbers: Not available.

Basis for action: The PMNs state that the generic (non-confidential) use of the PMN substances will be as industrial adhesives. Based on the estimated physical/chemical properties of the PMN substances and comparison to structurally analogous chemical substances, EPA has identified concerns for irritation to the skin, eyes, and respiratory tract, dermal and respiratory sensitization, lung effects, and carcinogenicity if the new chemical substances are not used following the limitations noted. The conditions of use of the PMN substances as described in the PMNs include the following protective measures:

- No release of the PMN substances into the waters of the United States;
- No consumer use of the PMN substances; and
- No manufacturing, processing, or use of the PMN substances in a manner that results in inhalation exposure.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substances if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of skin irritation, eye damage, skin sensitization, specific target organ toxicity, pulmonary effects, genetic toxicity, and carcinogenicity testing may be potentially useful to characterize the health effects of the PMN substances.

PMN Number (Proposed CFR Citation): P-20-50 (40 CFR 721.11949)

Chemical Name: Benzenepentanol, alpha, gamma-dimethyl.

CAS Number: 72681-01-7.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as an additive in consumer products. Based on estimated physical/chemical properties of the PMN substance, submitted test data on the new chemical substance, and comparison to analogous neutral organic substances, EPA has identified concerns for systemic toxicity and aquatic toxicity if the new chemical substance is not used following the limitation noted. The conditions of use of the PMN substance as described in the PMN include the following protective measure:

- No release of the PMN substance resulting in surface water concentrations that exceed 71 ppb.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-20-54 (40 CFR 721.11950)

Chemical Name: Nitrile hydratase.

CAS Number: 82391-37-5.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as a catalyst used in a closed process. Based on estimated physical/chemical properties of the PMN substance, submitted test data on the new chemical substance, and comparison to structurally analogous chemical substances, EPA has

identified concerns for respiratory sensitization and/or allergic reactions and irritation to the eyes and respiratory tract if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN includes the following protective measure:

- No manufacturing, processing, or use of the PMN substance in a manner that results in inhalation exposure.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of eye irritation and sensitization testing may be potentially useful to characterize the health effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-20-56 (40 CFR 721.11951)

Chemical Name: Polyphosphoric acids, 2-[(alkyl-1-oxo-alkene-1-yl)oxy]alkyl esters, polymers with acrylic acid, alkyl acrylate, alkyl methacrylate, hydroxyalkyl methacrylate and carbomonocycle, 2,2'-(1,2-diazenediyl)bis[2,4-dialkylalkanenitrogensubstituted]-initiated (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as a pigment dispersant. Based on estimated physical/chemical properties of the PMN substance, comparison to analogous chemical substances, and comparison to analogous polyanionic polymers and monomers) and phosphate esters, EPA has identified concerns for developmental toxicity, delayed neurotoxicity, mutagenicity, and aquatic toxicity if the new chemical substance is not used following the limitation noted. The conditions of use of the PMN substance as described in the PMN include the following protective measure:

- No release of the PMN substance resulting in surface water concentrations that exceeds 1 ppb.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health and environmental effects of the PMN substance if a

manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of developmental toxicity, specific target organ toxicity, genetic toxicity, neurotoxicity, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-20-57 (40 CFR 721.11952)

Chemical Name: Arene, trimethoxysilyl-, hydrolyzed (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as a silane coupling agent used in silicone formulations. Based on estimated physical/chemical properties of the PMN substance and comparison to structurally analogous chemical substances, EPA has identified concerns for lung toxicity, irritation to the skin, eyes, and respiratory tract, systemic and reproductive effects, and neurological and developmental effects if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measure:

- No manufacturing, processing, or use of the PMN substance in a manner that results in inhalation exposure.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity, neurotoxicity, pulmonary effects, reproductive/developmental toxicity, developmental neurotoxicity, skin irritation and eye damage testing may be potentially useful to characterize the health effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-20-69 (40 CFR 721.11953)

Chemical Name: 2-Propenoic acid, 2-methyl-, polymer with 2-hydroxyethyl 2-methyl-2-propenoate phosphate and 2-propenoic acid salt, peroxydisulfuric acid [(HO)S(O)₂2O₂] sodium salt (1:2)- and sodium (disulfite) (2:1)-initiated (generic).

CAS Number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the PMN substance will be as a surface-active chemical. Based on the estimated physical/chemical properties of the PMN substance, submitted test data on the new chemical substance, comparison to analogous polyanionic polymers, and comparison to analogous chemical substances, EPA has identified concerns for developmental and systemic effects (*i.e.*, blood toxicity) and aquatic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN includes the following protective measure:

- Use of the PMN substance only for the confidential use described in the PMN.

The proposed SNUR would designate as a “significant new use” the absence of this protective measure.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of reproductive toxicity (developmental effects), specific target organ, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance.

PMN Number (Proposed CFR Citation): P-20-74 (40 CFR 721.11954)

Chemical Name: Oxirane, 2-methyl-, polymer with oxirane, monoundecyl ether, branched and linear.

CAS Number: 2222805-23-2.

Basis for action: The PMN states that the use of the PMN substance will be as a surfactant for use in the formulation of pesticide products. Based on estimated physical/chemical properties of the PMN substance, comparison to analogous nonionic surfactants, and comparison to structurally analogous chemical substances, EPA has identified concerns for irritation to the skin, eyes, and respiratory tract, systemic effects, developmental toxicity, and aquatic toxicity if the chemical substance is not used following the limitations noted. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

- No manufacturing, processing, or use of the PMN substance in a manner that results in inhalation exposure; and

- Use of the PMN substance only as a surfactant for use in the formulation of pesticide products.

The proposed SNUR would designate as a “significant new use” the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful to characterize the human health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of skin irritation, eye irritation/corrosion, reproductive toxicity (developmental effects), neurotoxicity, specific target organ toxicity, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance.

IV. Statutory and Executive Order Reviews

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

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

This action proposes to establish SNURs for new chemical substances that were the subject of PMNs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023).

B. Paperwork Reduction Act (PRA)

According to the PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to SNURs have already been approved by OMB pursuant to PRA under OMB control number 2070–0038 (EPA ICR No. 1188). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the

Agency, the annual burden is estimated to average between 30 and 170 hours per submission. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

EPA always welcomes your feedback on the burden estimates. Send any comments about the accuracy of the burden estimate, and any suggested methods for improving the collection instruments or instruction or minimizing respondent burden, including through the use of automated collection techniques.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a “significant new use.” Because these uses are “new,” based on all information currently available to EPA, EPA has concluded that no small or large entities presently engage in such activities.

A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA’s experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was 16 in Federal fiscal year (FY) FY2018, five in FY2019, seven in FY2020, 13 in FY2021, 11 in FY2022, and 15 in FY2023, and only a fraction of these submissions were from small businesses.

In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from \$37,000 to \$6,480. This lower fee reduces the total reporting and recordkeeping cost of submitting a SNUN to about \$14,500 per SNUN submission for qualifying small firms. Therefore, the potential economic impacts of complying with these proposed SNURs are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that SNURs are

not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more (in 1995 dollars) in any one year as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Based on EPA’s experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by SNURs, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by these SNURs. In addition, the estimated costs of this action to the private sector do not exceed \$183 million or more in any one year (the 1995 dollars are adjusted to 2023 dollars for inflation using the GDP implicit price deflator). The estimated costs for this action are discussed in Unit I.D.

E. Executive Order 13132: Federalism

This action will not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it is not expected to have a substantial direct effect on 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. Accordingly, the requirements of Executive Order 13132 do not apply to this action.

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

This action will not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it is not expected to have substantial direct effects on Indian Tribes, significantly or uniquely affect the communities of Indian Tribal governments and does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 do not apply to this action.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it does not concern an environmental health or safety risk. Since this action does not concern a

human health risk, EPA's 2021 Policy on Children's Health also does not apply. Although the establishment of these SNURs do not address an existing children's environmental health concern because the chemical uses involved are not ongoing uses, SNURs require that persons notify EPA at least 90 days before commencing manufacture (defined by statute to include import) or processing of any of these chemical substances for an activity that is designated as a significant new use by this rulemaking. This notification allows EPA to assess the intended uses to identify potential risks and take appropriate actions before the activities commence.

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

This action is not a "significant energy action" as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards subject to NTTAA section 12(d) (15 U.S.C. 272 note).

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

This action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to the potential for disproportionate impacts on non-white and low-income populations in accordance with Executive Order 12898 (59 FR 7629, February 16, 1994) and Executive Order 14096 (88 FR 25251, April 26, 2023). Although this action does not concern human health or environmental conditions, the premanufacture notifications required by these SNURs allows EPA to assess the intended uses to identify potential disproportionate risks and take appropriate actions before the activities commence.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 23, 2024.

Mary Elissa Reeves,

Director, Office of Pollution Prevention and Toxics.

Therefore, for the reasons stated in the preamble, EPA proposes to amend 40 CFR chapter I as follows:

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Add §§ 721.11925 through 721.11954 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

Sec.

* * * * *

- 721.11925 1(2H)-Naphthalenone,4-ethyl-octahydro-8-methyl.
- 721.11926 Propanoic acid, 2,2-dimethyl-, 1-methyl-2-(1-methylethoxy)-2-oxoethyl ester.
- 721.11927 1,3-Propanediol, 2-methylene-, substituted (generic).
- 721.11928 Alkyl oil, polymer with 1,4-cyclohexanedimethanol, dehydrated Alkyl oil, hydrogenated rosin, phthalic anhydride and trimethylolpropane (generic).
- 721.11929 Polyphosphoric acids, polymers with (alkoxyalkoxy)alkanol and substituted heteromonocycle (generic).
- 721.11930 Tertiary amine, compounds with amino sulfonic acid blocked aliphatic isocyanate homopolymer (generic).
- 721.11931 Carboxylic acid-polyamine condensate (generic).
- 721.11932 Alkanamine, (aminoalkyl)-, polymer with aziridine and 1,6-diisocyanatohexane, polyethylene glycol alkyl ether- and polyethylene-polypropylene glycol aminoalkyl alkyl ether- and alkenyl benzenated polyethylene glycol Ph ether (generic).
- 721.11933 Branched alkanolic acid, epoxy ester, reaction products with monocyclic dialkylamine and polycyclic alcohol epoxy polymer (generic).
- 721.11934 Branched alkanolic acid, epoxy ester, reaction products with monocyclicdialkanamine and polycyclic dialkanol ether polymer (generic).
- 721.11935 Branched alkanolic acid, epoxy ester, reaction products with monocyclicalkanolamine, polycyclic alcohol ether homopolymer, and polycyclic alcohol epoxy polymer (generic).
- 721.11936 Thiosulfuric acid, aminoalkyl ester (generic).
- 721.11937 Butanoic acid ethyl amine (generic).
- 721.11938 Alkenoic acid, alkyl-substituted, epoxy ester, polymer with alkyl alkenoate, alkene, and polylactide (generic).

- 721.11939 Alkenoic acid, alkyl, polymer with carbomonocycle alkyl propenoate and substituted alkyl alkenoate, ester with substituted alkyl alkenoate, tertbutyl substituted peroxyoate-initiated (generic).
- 721.11940 [5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane], [Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-hydro-.omega.-hydroxy-, polymer with 1,6-diisocyanatohexane], polymer with [Poly[oxy-1,4-butanediyl)], .alpha.-hydro-.omega.-hydroxy-], [Cyclic amine—ketone adduct, reduced], and [1,3-Propanediol, 2-ethyl-2-(hydroxymethyl)-] (generic).
- 721.11941 Alkanol amine salt mixture (generic).
- 721.11942 Heteroatom-substituted alkyl triethoxysilane, reaction products with methylated formaldehyde-melamine polymer (generic).
- 721.11943 Fatty acids, polymers with alkanediol and 1,1'-methylenebis[4-isocyanatobenzene] (generic).
- 721.11944 7-Heteropolycyclicsulfonic acid, 2-[4-[2-[1-[(2-methoxy-5-methyl-4-sulfonyl)amino]carbonyl]-2-oxopropyl]diazene]phenyl]-6-methyl-, compd. with (alkylamino)alkanol and (hydroxyalkyl)amine (generic).
- 721.11945 Polyol, polymer with alkyl diisocyanate, alkyl substituted heterocycle blocked (generic).
- 721.11946 Polyalkoxycarbopolycycle hydroxy (generic).
- 721.11947 Glycols, .alpha., .omega.-, C2-6, polymers with adipic acid, dodecanedioic acid, hydracrylic acid polyester, isophthalic acid, isophthalic acid, 1,1'-methylenebis[4-isocyanatobenzene], neopentyl glycol and terephthalic acid (generic).
- 721.11948 Glycols, .alpha., .omega.-, C2-6, polymers with adipic acid, aromatic polyester, dodecanedioic acid, hydracrylic acid polyester, isophthalic acid, 1,1'-methylenebis[4-isocyanatobenzene], neopentyl glycol and terephthalic acid (generic).
- 721.11949 Benzenepentanol, alpha, gamma-dimethyl.
- 721.11950 Nitrile hydratase.
- 721.11951 Polyphosphoric acids, 2-[(alkyl-1-oxo-alkene-1-yl)oxy]alkyl esters, polymers with acrylic acid, alkyl acrylate, alkyl methacrylate, hydroxyalkyl methacrylate and carbomonocycle, 2,2'-(1,2-diazenediyl)bis[2,4-dialkylalkanenitrogensubstituted]-initiated (generic).
- 721.11952 Arene, trimethoxysilyl-, hydrolyzed (generic).
- 721.11953 2-Propenoic acid, 2-methyl-, polymer with 2-hydroxyethyl 2-methyl-2-propenoate phosphate and 2-propenoic acid salt, peroxydisulfuric acid [(HO)S(O)2]2O2 sodium salt (1:2)- and sodium (disulfite) (2:1)-initiated (generic).
- 721.11954 Oxirane, 2-methyl-, polymer with oxirane, monoundecyl ether, branched and linear.

* * * * *

§ 721.11925 1(2H)-Naphthalenone,4-ethyloctahydro-8-methyl.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as 1(2H)-naphthalenone,4-ethyloctahydro-8-methyl (PMN P-15-633; CAS No. 870515-09-6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=43.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11926 Propanoic acid, 2,2-dimethyl-, 1-methyl-2-(1-methylethoxy)-2-oxoethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as propanoic acid, 2,2-dimethyl-, 1-methyl-2-(1-methylethoxy)-2-oxoethyl ester (PMN P-16-326; CAS No. 1821051-37-9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to process the substance above 1% in formulation for consumer products.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11927 1,3-Propanediol,2-methylene-, substituted (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified

generically as 1,3-propanediol,2-methylene-, substituted (PMN P-17-195) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11928 Alkyl oil, polymer with 1,4-cyclohexanedimethanol, dehydrated Alkyl oil, hydrogenated rosin, phthalic anhydride and trimethylolpropane (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as alkyl oil, polymer with 1,4-cyclohexanedimethanol, dehydrated alkyl oil, hydrogenated rosin, phthalic anhydride and trimethylolpropane (PMN P-17-389) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in a manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=39.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11929 Polyphosphoric acids, polymers with (alkoxyalkoxy)alkanol and substituted heteromonocycle (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as polyphosphoric acids,

polymers with (alkoxyalkoxy)alkanol and substituted heteromonocycle (PMN P-18-98) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to process the substance to greater than 5% by weight in the final formulated product for any use.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=16.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11930 Tertiary amine, compounds with amino sulfonic acid blocked aliphatic isocyanate homopolymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as tertiary amine, compounds with amino sulfonic acid blocked aliphatic isocyanate homopolymer (PMN P-18-150) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(4) and (5), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (e.g., enclosure of confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible). For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (j).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in

§ 721.125(a) through (d), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11931 Carboxylic acid-polyamine condensate (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as carboxylic acid-polyamine condensate (PMN P-18-187) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in a manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11932 Alkanamine, (aminoalkyl)-, polymer with aziridine and 1,6-diisocyanatohexane, polyethylene glycol alkyl ether- and polyethylene-polypropylene glycol aminoalkyl alkyl ether- and alkenyl benzenated polyethylene glycol Ph ether (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as alkanamine, (aminoalkyl)-, polymer with aziridine and 1,6-diisocyanatohexane, polyethylene glycol alkyl ether- and polyethylene-polypropylene glycol aminoalkyl alkyl ether- and alkenyl benzenated polyethylene glycol Ph ether (PMN P-18-211) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to use the substance in spray applications.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=16.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11933 Branched alkanolic acid, epoxy ester, reaction products with monocyclic dialkylamine and polycyclic alcohol epoxy polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as branched alkanolic acid, epoxy ester, reaction products with monocyclic dialkylamine and polycyclic alcohol epoxy polymer (PMN P-18-267) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to use the substance in a spray application method where more than 1% of particles are less than 10 microns in diameter.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11934 Branched alkanolic acid, epoxy ester, reaction products with monocyclicdialkanamine and polycyclic dialkanol ether polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as branched alkanolic acid, epoxy ester, reaction products with monocyclicdialkanamine and polycyclic dialkanol ether polymer (PMN P-18-268) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to use the substance in a spray application method where more than 1% of particles are less than 10 microns in diameter.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11935 Branched alkanolic acid, epoxy ester, reaction products with monocyclicalkanamine, polycyclic alcohol ether homopolymer, and polycyclic alcohol epoxy polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as branched alkanolic acid, epoxy ester, reaction products with monocyclicalkanamine, polycyclic alcohol ether homopolymer, and polycyclic alcohol epoxy polymer (PMN P-18-269) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to use the substance in a spray application where more than 1% of particles are less than 10 microns in diameter.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11936 Thiosulfuric acid, aminoalkyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as thiosulfuric acid, aminoalkyl ester (PMN P-18-376) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to use the substance other than for incorporating into rubber products.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11937 Butanoic acid ethyl amine (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as butanoic acid ethyl amine (PMN P-18-380) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to import the substance other than in the confidential form described in the PMN. It is a significant new use to process the substance in end use formulations greater than the confidential concentration percentage identified in the PMN.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11938 Alkenoic acid, alkyl-substituted, epoxy ester, polymer with alkyl alkenoate, alkene, and polylactide (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as alkenoic acid, alkyl-substituted, epoxy ester, polymer with alkyl alkenoate, alkene, and polylactide (PMN P-18-389) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in a manner that results in inhalation exposure.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11939 Alkenoic acid, alkyl, polymer with carbomonocycle alkyl propenoate and substituted alkyl alkenoate, ester with substituted alkyl alkenoate, tertbutyl substituted peroxyate-initiated (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as alkenoic acid, alkyl, polymer with carbomonocycle alkyl propenoate and substituted alkyl alkenoate, ester with substituted alkyl alkenoate, tertbutyl substituted peroxyate-initiated (PMN P-18-396) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) and (o).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11940 [5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane], [poly[oxy(methyl-1,2-ethanediyl)], .alpha.-hydro.-omega.-hydroxy-, polymer with 1,6-diisocyanatohexane], polymer with [poly(oxy-1,4-butanediyl)], .alpha.-hydro.-omega.-hydroxy-], [cyclic amine—ketone adduct, reduced], and [1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-] (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified

generically as [5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane], [poly[oxy(methyl-1,2-ethanediyl)], .alpha.-hydro.-omega.-hydroxy-, polymer with 1,6-diisocyanatohexane], polymer with [poly(oxy-1,4-butanediyl)], .alpha.-hydro.-omega.-hydroxy-], [cyclic amine—ketone adduct, reduced], and [1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-] (PMN P-19-134) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11941 Alkanol amine salt mixture (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as alkanol amine salt mixture (PMN P-19-161) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11942 Heteroatom-substituted alkyl triethoxysilane, reaction products with methylated formaldehyde-melamine polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified

generically as heteroatom-substituted alkyl triethoxysilane, reaction products with methylated formaldehyde-melamine polymer (PMN P-19-170) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in a manner that results in inhalation exposure. It is a significant new use to use the substance other than as a coupling agent in elastomer-based formulations that will be used in molding operations to manufacture different types of rubber articles including but not limited to rubber tires.

(ii) *Releases to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11943 Fatty acids, polymers with alkanediol and 1,1'-methylenebis[4-isocyanatobenzene] (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as fatty acids, polymers with alkanediol and 1,1'-methylenebis[4-isocyanatobenzene] (PMN P-19-189) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to use the substance other than as a reactive polymer for use in adhesives and sealants. It is a significant new use to manufacture, process, or use the substance in a manner that results in inhalation exposure.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

§ 721.11944 7-Heteropolycyclicsulfonic acid, 2-[4-[2-[1-[(2-methoxy-5-methyl-4-sulfophenyl)amino]carbonyl]-2-oxopropyl]diazenyl]phenyl]-6-methyl-, compd. with (alkylamino)alkanol and (hydroxyalkyl)amine (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as 7-heteropolycyclicsulfonic acid, 2-[4-[2-[1-[(2-methoxy-5-methyl-4-sulfophenyl)amino]carbonyl]-2-oxopropyl]diazenyl]phenyl]-6-methyl-, compd. with (alkylamino)alkanol and (hydroxyalkyl)amine (PMN P-20-8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to use the substance other than as a dye for use with paper, paper products, and nonwoven products produced from paper.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11945 Polyol, polymer with alkyl diisocyanate, alkyl substituted heterocycle blocked (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as polyol, polymer with alkyl diisocyanate, alkyl substituted heterocycle blocked (PMN P-20-12) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=5.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (k) are

applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11946 Polyalkoxycarbopolycycle hydroxy (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as polyalkoxycarbopolycycle hydroxy (PMN P-20-22) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in a manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=44.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11947 Glycols, .alpha.,.omega.-, C2-6, polymers with adipic acid, dodecanedioic acid, hydracrylic acid polyester, isophthalic acid, isophthalic acid, 1,1'-methylenebis[4-isocyanatobenzene], neopentyl glycol and terephthalic acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as glycols, .alpha.,.omega.-, C2-6, polymers with adipic acid, dodecanedioic acid, hydracrylic acid polyester, isophthalic acid, isophthalic acid, 1,1'-methylenebis[4-isocyanatobenzene], neopentyl glycol and terephthalic acid (PMN P-20-27) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in a manner that results in inhalation exposure.

(ii) *Releases to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11948 Glycols, .alpha.,.omega.-, C2-6, polymers with adipic acid, aromatic polyester, dodecanedioic acid, hydracrylic acid polyester, isophthalic acid, 1,1'-methylenebis[4-isocyanatobenzene], neopentyl glycol and terephthalic acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as glycols, .alpha.,.omega.-, C2-6, polymers with adipic acid, aromatic polyester, dodecanedioic acid, hydracrylic acid polyester, isophthalic acid, 1,1'-methylenebis[4-isocyanatobenzene], neopentyl glycol and terephthalic acid (PMN P-20-28) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in a manner that results in inhalation exposure.

(ii) *Releases to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11949 Benzenepentanol, alpha, gamma-dimethyl.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as benzenepentanol, alpha, gamma-dimethyl (PMN P-20-50; CAS No. 72681-01-7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=71.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11950 Nitrile hydratase.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as nitrile hydratase (PMN P-20-54, CAS No. 82391-37-5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in a manner that results in inhalation exposure.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11951 Polyphosphoric acids, 2-[(alkyl-1-oxo-alkene-1-yl)oxy]alkyl esters, polymers with acrylic acid, alkyl acrylate, alkyl methacrylate, hydroxyalkyl methacrylate and carbomonocycle, 2,2'-(1,2-diazenediyl)bis[2,4-dialkylalkanenitrogensubstituted]-initiated (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as polyphosphoric acids, 2-[(alkyl-1-oxo-alkene-1-yl)oxy]alkyl esters, polymers with acrylic acid, alkyl acrylate, alkyl methacrylate, hydroxyalkyl methacrylate and carbomonocycle, 2,2'-(1,2-diazenediyl)bis[2,4-dialkylalkanenitrogensubstituted]-initiated (PMN P-20-56) is subject to reporting under this section for the

significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=1.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11952 Arene, trimethoxysilyl-, hydrolyzed (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as arene, trimethoxysilyl-, hydrolyzed (PMN P-20-57) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the PMN substance in a manner that results in inhalation exposure.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11953 2-Propenoic acid, 2-methyl-, polymer with 2-hydroxyethyl 2-methyl-2-propenoate phosphate and 2-propenoic acid salt, peroxydisulfuric acid (((HO)S(O)2)2O2) sodium salt (1:2)- and sodium (disulfite) (2:1)-initiated (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as 2-propenoic acid, 2-methyl-, polymer with 2-hydroxyethyl 2-methyl-2-propenoate phosphate and 2-propenoic acid salt, peroxydisulfuric acid (((HO)S(O)2)2O2) sodium salt (1:2)- and sodium (disulfite) (2:1)-initiated (PMN P-20-69) is subject to reporting under this section for the significant

new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11954 Oxirane, 2-methyl-, polymer with oxirane, monoundecyl ether, branched and linear.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as oxirane, 2-methyl-, polymer with oxirane, monoundecyl ether, branched and linear (PMN P-20-74; CAS No. 2222805-23-2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to use the substance other than as a surfactant for use in the formulation of pesticide products. It is a significant new use to manufacture, process, or use the substance in a manner that results in inhalation exposure.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

* * * * *

[FR Doc. 2024-22168 Filed 9-26-24; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 240919-0244]

RIN 0648-BN06

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Amendment 3

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Amendment 3 to the Fishery Management Plans (FMPs) for Puerto Rico, St. Croix, and St. Thomas and St. John, as prepared by the Caribbean Fishery Management Council (Council) (Amendment 3). If implemented, this proposed rule would establish new management measures for dolphinfish (*Coryphaena hippurus*) and wahoo (*Acanthocybium solandri*) in U.S. Caribbean Federal waters, including commercial and recreational minimum size limits and recreational bag and possession limits. The purpose of this proposed rule and Amendment 3 is to develop management measures to ensure dolphinfish and wahoo have adequate time to mature and reproduce and to take a precautionary approach to management to protect against overfishing.

DATES: Written comments must be received no later than October 28, 2024.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0070>. You may submit comments on this document, identified by “NOAA-NMFS-2024-0070” by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type “NOAA-NMFS-2024-0070” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Sarah Stephenson, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

An electronic copy of Amendment 3, which includes a fishery impact statement, an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/amendment-3-puerto-rico-st-croix-and-st-thomas-and-st-john-fishery-management-plans>.

FOR FURTHER INFORMATION CONTACT:

Sarah Stephenson, 727-824-5305, sarah.stephenson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS, with the advice of the Council, manages the Puerto Rico, St. Croix, and St. Thomas and St. John fisheries in U.S. Caribbean Federal waters under the Puerto Rico, St. Croix, and St. Thomas and St. John FMPs. The Council prepared the FMPs, which the Secretary of Commerce approved, and NMFS implements the FMPs through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and the regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

On September 22, 2020, the Secretary of Commerce approved the Puerto Rico, St. Croix, and St. Thomas and St. John FMPs under section 304(a)(3) of the Magnuson-Stevens Act. The FMPs took effect on October 13, 2022, after NMFS published the final rule to implement the FMPs (87 FR 56204, September 13, 2022). Each FMP contains management

measures applicable for Federal waters off the respective island management area. Federal regulations at 50 CFR part 622 subpart S, subpart T, and subpart U describe management measures for Puerto Rico, St. Croix, and St. Thomas and St. John, respectively. Federal waters around Puerto Rico extend seaward from 9 nautical miles (nmi) or 16.7 kilometers (km) from shore to the offshore boundary of the U.S. Caribbean exclusive economic zone (EEZ). Federal waters around St. Croix, and St. Thomas and St. John extend seaward from 3 nmi (5.6 km) from shore to the offshore boundary of the U.S. Caribbean EEZ.

Prior to implementation of the Puerto Rico, St. Croix, and St. Thomas and St. John FMPs, dolphinfinch and wahoo were not federally managed in Federal waters in the U.S. Caribbean. Because of the economic importance of these fast-growing, short-lived pelagic species to the region, they were included for management under each of the Puerto Rico, St. Croix, and St. Thomas and St. John FMPs, even though, given their migratory nature, they are exposed to harvest pressure across a wide area of the Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea. While each FMP established annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures for dolphinfinch and wahoo, the FMPs did not establish other management measures often used to limit harvest or effort such as minimum size limits, recreational bag and possession limits, or commercial trip limits.

At its December 2021 meeting, the Council began discussions on management measures that could be used to address the increasing opportunity for the overharvest of juvenile dolphinfinch as a result of the increasing influx and presence of *Sargassum* in the region. *Sargassum* is a type of floating brown algae that provides food, protection, and habitat for many marine species. The *Sargassum* mats are natural fish aggregating devices for dolphinfinch and wahoo, including juveniles of each species, making them easier to locate and catch by fishermen. In addition, the lack of information available on the recreational harvest of dolphinfinch and wahoo and the potential for excess harvest of the species to occur during recreational fishing trips is a concern.

The Puerto Rico, St. Croix, and St. Thomas and St. John FMPs and implementing island-based management rule did not include minimum size limits for dolphinfinch or wahoo because these species were new to Federal management in the U.S. Caribbean. This proposed rule would establish

minimum size limits for dolphinfinch and wahoo for all fishing in U.S. Caribbean Federal waters (commercial and recreational sectors) to address the potential for small-sized (*i.e.*, juvenile) individuals of these species to be caught year-round. Dolphinfinch and wahoo are usually seasonally-caught species, but the annual influx of *Sargassum* to the region increases the likelihood that smaller fish could easily be harvested. Although there currently is not a large market for smaller-sized dolphinfinch or wahoo, such a fishery could develop in the future and the Council recommends being proactive in the management of these species. Protecting smaller-sized dolphinfinch and wahoo increases the potential that they have enough time to reproduce before being harvested.

Currently, there are no recreational bag or possession limits for dolphinfinch or wahoo for the same reasons noted above. The proposed rule would establish recreational bag and possession limits for dolphinfinch and wahoo to help regulate their harvest in U.S. Caribbean Federal waters by the recreational sector. While the Puerto Rico FMP established recreational sector ACLs and ACTs for dolphinfinch and wahoo, the Marine Recreational Information Program that collected recreational data for Puerto Rico was suspended in 2017 and has not resumed to date. Recreational data were not collected for St. Croix or St. Thomas and St. John. As a result, neither the St. Croix FMP nor the St. Thomas and St. John FMP established sector-specific ACLs and ACTs for dolphinfinch and wahoo. Though some catch information is available from recreational fishing tournaments that occur in Puerto Rico and the U.S. Virgin Islands (USVI), that information likely underrepresents the total number of dolphinfinch or wahoo caught each year by the recreational sector. Thus, the number of recreational fishermen and the amount of dolphinfinch or wahoo removed by the sector are largely unknown for the region. Setting recreational bag and possession limits for the recreational sector in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John could reduce the chance of overfishing the resource, while allowing fishermen access to the species.

The proposed recreational bag and possession limits for dolphinfinch would be more conservative than the recreational bag and possession limits that apply in Puerto Rico territorial waters, but consistent with the recreational bag and possession limits that apply in St. Croix, St. Thomas and St. John territorial waters. With respect to wahoo, the proposed recreational bag

and possession limits would be consistent with the recreational bag and possession limits that apply in Puerto Rico territorial waters, but more conservative than the recreational bag and possession limits that apply in St. Croix, St. Thomas and St. John territorial waters. Compatible regulations make it easier for fishermen to comply with the regulations and for law enforcement to monitor compliance to the regulations.

Because the commercial landings of dolphinfinch and wahoo in each island management area have been less than the corresponding ACLs, additional harvest constraints for the commercial sector are not needed at this time.

Management Measures Contained in This Proposed Rule

For dolphinfinch and wahoo, this proposed rule would establish commercial and recreational minimum size limits and recreational bag and possession limits in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John.

Minimum Size Limits

Currently, no minimum size limits are in place for dolphinfinch or wahoo in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. All sizes of dolphinfinch or wahoo that are caught by commercial or recreational fishermen can be retained, though subject to the applicable ACLs and ACTs. For commercial and recreational fishing in the Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John, this proposed rule would establish a 24 inches (61.0 centimeters (cm)) fork length (FL), minimum size limit for dolphinfinch and a 32 inches (81.3 cm) FL, minimum size limit for wahoo. As described in Amendment 3, these minimum size limits are based on size at maturity information reported for each species in the U.S. Caribbean.

Recreational Bag and Possession Limits

Currently, no recreational bag or possession limits are in place for dolphinfinch or wahoo in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. All dolphinfinch or wahoo that are caught by recreational fishermen in U.S. Caribbean Federal waters during a recreational fishing trip can be retained, though subject to the applicable ACLs and ACTs. For Federal waters around Puerto Rico, this proposed rule would establish a recreational bag and possession limit of 5 dolphinfinch per person per day, not to exceed 15 dolphinfinch per vessel per day, whichever is less and a recreational bag and possession limit of 5 wahoo per

person per day, not to exceed 10 wahoo per vessel per day, whichever is less. For Federal waters around St. Croix and St. Thomas and St. John, this proposed rule would establish recreational bag and possession limits of 10 dolphinfish per person per day, not to exceed 32 dolphinfish per vessel per day, whichever is less and recreational bag and possession limits of 2 wahoo per person per day, not to exceed 10 wahoo per vessel per day, whichever is less. As described in Amendment 3, these recreational bag and possession limits proposed for Federal waters are either consistent with, or more conservative than, current territorial bag limit regulations for dolphinfish and wahoo.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 3, the FMPs for Puerto Rico, St. Croix, and St. Thomas and St. John, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the RFA. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of the full analysis is included in Amendment 3, which is available from the Southeast Regional Office website (see **ADDRESSES** section). A summary of the analysis follows.

Section 603(b)(1) requires Agencies to describe the reasons why the proposed rule is being considered. This proposed rule is being considered to develop conservation and management measures for dolphinfish and wahoo, which are recently added stocks to Federal management in the U.S. Caribbean. This proposed rule takes a precautionary approach to management to protect against overfishing of an unmanaged resource.

Section 603(b)(2) of the RFA requires agencies to state the objective of, and legal basis for the proposed action. The objective of this proposed rule is to establish size limits and recreational bag limits for dolphinfish and wahoo under the Puerto Rico FMP, the St. Croix FMP, and the St. Thomas/St. John FMP. These size limits would ensure proactive management of these species and increase the potential for these fish to enter the fishery and have time to reproduce. The Magnuson-Stevens Act

provides the legal basis for this proposed rule.

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, record-keeping and other compliance requirements. No new reporting and record-keeping requirements are introduced by this proposed rule.

Under section 603(b)(5) of the RFA, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed action. Relevant Federal rules include, but are not limited to, the Magnuson-Stevens Act, the Atlantic Tunas Convention Act, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, and the Coastal Zone Management Act. This proposed rule has been determined not to duplicate, overlap, or conflict with any Federal rules.

The proposed action, if implemented, would directly affect both anglers (recreational fishers) and commercial fishing businesses that harvest dolphinfish and wahoo in Federal waters around Puerto Rico and the USVI. Anglers, however, are not considered small entities as that term is defined in 5 U.S.C. 601(6), whether fishing from charter vessel or headboat (for-hire) fishing, privately owned, or leased vessels. Therefore, neither estimates of the number of anglers nor the impacts on them are required or provided in this analysis.

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) authorizes an agency to develop its own industry-specific size standards after consultation with the SBA Office of Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily involved in commercial fishing (North American Industry Classification System 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$11 million for all of its affiliated operations worldwide. All of the following figures are expressed in 2021 dollars and all weights described in this proposed rule are in round weight.

From 2017 through 2021, an annual average of 706 Puerto Rico commercial

fishermen were actively fishing, and each of these fishermen is expected to represent a unique commercial fishing business. On average, they collectively landed approximately 1.87 million pounds (lb) or 848,217.7 kilograms (kg) of marine resources with a direct value (revenue) of about \$9.16 million from all waters. The highest annual landings and direct value from their combined landings during the 5-year period were in 2019: 2.47 million lb (1,120,373.2 kg) with a direct value of almost \$12.03 million. The average commercial fisherman during this 5-year period had annual revenue from all landings of \$12,975. None of the fishermen had annual revenue from fishing that was close to the small business standard size limit. From the above, NMFS concludes that all commercial fishing businesses in Puerto Rico are small.

Because price data are not available after 2019 in the USVI, estimates of the numbers of small commercial fishing businesses directly affected by the proposed rule and its impacts on them are generated using 2015 through 2019 data. From 2015 through 2019, an annual average of 127 commercial fishermen (59 in St. Croix and 68 in St. Thomas and St. John) were actively fishing and collectively they generated average annual direct revenues of \$4.71 million (St. Croix \$1.93 million and St. Thomas and St. John \$2.78 million). Each of these commercial fishermen is expected to represent a unique business. Therefore, NMFS concludes that all commercial fishing businesses in St. Croix, St. Thomas and St. John are small.

Not all of the above active small commercial fishing businesses harvest dolphinfish or wahoo from Federal waters. On average, 94 (13.3 percent) of Puerto Rico's 706 small businesses land dolphinfish or wahoo annually from Federal and unknown waters. For this proposed rule, "unknown waters" represent an area around each island or island group for which the jurisdiction, Federal or territorial, was not reported on the commercial catch report form. Note that these figures include small businesses that land dolphinfish or wahoo from unknown waters, and, as such, may result in overestimates of both the numbers of small businesses directly affected and the impacts on them. Likewise, 15 (25.4 percent) of St. Croix's 59 small businesses land dolphinfish or wahoo annually from Federal and unknown waters: 14 land dolphinfish and 10 land wahoo. Twelve (17.7 percent) of St. Thomas and St. John's 68 small businesses land dolphinfish or wahoo annually from

Federal and unknown waters: all land dolphinfish and 8 land wahoo.

The proposed action would establish a 24 inches (61.0 cm) FL, minimum size limit for all fishing for dolphinfish in Federal waters off Puerto Rico, St. Croix, and St. Thomas and St. John. It would also establish a 32 inches (81.3 cm) FL, minimum size limit for all fishing for wahoo in Federal waters off Puerto Rico, St. Croix, and St. Thomas and St. John. These minimum size limits are based on size at maturity information reported for each species in the U.S. Caribbean. There are currently no minimum size limits for either dolphinfish or wahoo in Federal waters.

Puerto Rico

An annual average of 45,016 lb (20,418.9 kg) of dolphinfish and 8,525 lb (3,866.9 kg) of wahoo are harvested from Federal and unknown waters by 94 small businesses annually. Forty-two (44.7 percent) of these small businesses land both dolphinfish and wahoo and they collectively account for 70.7 percent of dolphinfish landings and 89.5 percent of wahoo landings by weight. Forty-six (48.9 percent) account for the remainder (29.3 percent) of dolphinfish landings and six (6.4 percent) account for the remainder (10.5 percent) of wahoo landings. NMFS estimates that the proposed action would reduce commercial landings (by weight) of dolphinfish by less than 1 percent and wahoo by 11.9 percent annually.

On average, each of the 42 small businesses that land both dolphinfish and wahoo from Federal and unknown waters would have annual reductions of dolphinfish landings of less than 8 lb (3.6 kg) and annual reductions of wahoo landings of 22 lb (10.0 kg). At 2021 prices, the 42 small businesses that land both dolphinfish and wahoo would experience annual revenue decreases of less than \$130 (less than \$33 from dolphinfish and \$97 from wahoo). The combined loss represents less than 0.6 percent of the average annual revenue from all landings for these 42 small businesses.

The 48 small businesses that land dolphinfish and not wahoo from Federal and unknown waters would each have an annual reduction in dolphinfish landings less than 3 lb (1.4 kg) and \$13. The loss of dolphinfish revenue represents less than 0.1 percent of the average annual revenue of these 46 small businesses.

The 6 small businesses that land wahoo and not dolphinfish from Federal and unknown waters would each have an annual reduction in wahoo landings of 18 lb (8.2 kg) and \$78. The loss of

wahoo revenue represents 0.6 percent of the average annual revenue of these six small businesses.

Two alternatives to the 24 inches (61.0 cm) FL, minimum size limit for dolphinfish were considered but not recommended by the Council. The first, the no-action alternative, would have no adverse impact on small businesses but would not support proactive species management. The second would have a smaller minimum size limit (20 inches; 50.8 cm FL), and, like the recommended alternative, it would reduce annual commercial landings of dolphinfish by less than 1 percent. This smaller size limit corresponds with only 50 percent of females being capable of reproduction as opposed to the 24 inches FL, which corresponds with approximately all females being mature. As such, the 24 inches FL is preferable to reduce fishing pressures and allow more females to reach maturity.

Two alternatives to the 32 inches (81.3 cm) FL, minimum size limit for wahoo were considered but not recommended by the Council. The first, the no-action alternative, would have no adverse impact on small businesses but would not support proactive species management. The second, would establish a larger minimum size limit (40 inches; 101.6 cm, FL) and would reduce landings of wahoo by 37.7 percent instead of the 11.9 percent reduction caused by the recommended alternative. This alternative is not preferable as it would have a greater adverse impact on small businesses than the 32 inches FL minimum size limit.

St. Croix

An annual average of 15 small businesses harvest dolphinfish or wahoo from Federal and unknown waters. To avoid potential disclosure of priority information, a comparison of the small businesses that land both dolphinfish and wahoo and impacts on them to businesses that land one of the species is not provided. An annual average of 14 small businesses in St. Croix land dolphinfish from Federal and unknown waters. The top 7 account for 95.4 percent of dolphinfish landings, while the bottom 7 account for the remaining 4.6 percent. On average, these 14 small businesses collectively land 34,038 lb (15,439.4 kg) of dolphinfish annually. The average of the top 7 small businesses lands 4,640 lb (2,104.7 kg) of dolphinfish and has annual revenue from all landings of \$98,803 annually. The average of the bottom 7 small businesses lands 225 lb (102.1 kg) of dolphinfish and has annual revenue from all landings of \$8,711 annually.

NMFS estimates that the action would reduce annual commercial landings of dolphinfish in St. Croix by 5 percent. On average, each of the top 7 of the small businesses that land dolphinfish from Federal and unknown waters would have an annual reduction in dolphinfish landings of 234 lb (106.1 kg) and \$1,491, which represents 1.5 percent of their average annual revenue from all landings. Each of the bottom 7 that land dolphinfish from Federal and unknown waters would have an average annual reduction in landings of about 9 lb (4.1 kg) and \$57, which represents 0.7 percent of their average annual revenue from all landings.

An annual average of 10 small businesses in St. Croix land wahoo from Federal and unknown waters. The top 5 account for 95.4 percent of wahoo landings, while the bottom 5 account for the remaining 4.6 percent. On average, these 10 small businesses collectively land 17,966 lb (8,149.2 kg) of wahoo annually. The average of the top 5 small businesses lands 3,692 lb (1,674.7 kg) of wahoo and has annual revenue from all landings of \$129,686 annually. The average of the bottom 5 small businesses lands 140 lb (63.5 kg) of wahoo and has annual revenue from all landings of \$19,373 annually.

NMFS estimates that the action would reduce annual commercial landings of wahoo in St. Croix by 2.2 percent. On average, each of the top 5 of the 10 small businesses that land wahoo from Federal and unknown waters would have an annual reduction in wahoo landings of 76 lb (34.5 kg) and \$502, which represents 0.4 percent of their average annual revenue from all landings. Each of the bottom 5 that land wahoo from Federal and unknown waters would have an average annual reduction in landings of 4 lb (1.8 kg) and \$26, which represents 0.1 percent of their average annual revenue from all landings.

Two alternatives to the 24 inches (61.0 cm) FL, minimum size limit for dolphinfish were considered but not recommended by the Council. The first, the no-action alternative, would have no adverse impact on small businesses but would not support proactive species management. The second would have a smaller minimum size limit (20 inches; 50.8 cm, FL), and it would reduce dolphinfish landings by 3.9 percent as opposed to the 5.0 percent that would be caused by the recommended alternative. However, this smaller minimum size limit would not be as effective for reducing fishing pressures on the species.

Two alternatives to the 32 inches (81.3 cm) FL, minimum size limit for

wahoo were considered but not recommended. The first, the no-action alternative, would have no adverse impact on small businesses but would not support proactive species management. The second, would establish a larger minimum size limit (40 inches; 101.6 cm, FL) and would reduce annual wahoo landings by 44.6 percent as opposed to the 2.2 percent reduction that would be caused by the recommended alternative. As such, this alternative is not preferable as it would have a greater adverse impact on small businesses than the 32 inches FL minimum size limit.

St. Thomas and St. John

An annual average of 12 small businesses in St. Thomas and St. John land dolphinfish from Federal and unknown waters. The top 6 account for 97.2 percent of dolphinfish landings, while the bottom 6 account for the remaining 2.8 percent. On average, these 12 small businesses collectively land 8,889 lb (4,032.0 kg) of dolphinfish annually. The average of the top 6 small businesses lands 1,440 lb (653.2 kg) of dolphinfish and has annual revenue from all landings of \$27,311 annually. The average of the bottom 6 small businesses lands 41 lb (18.6 kg) of dolphinfish and has annual revenue from all landings of \$25,031 annually.

NMFS estimates that the action would reduce annual commercial landings of dolphinfish in St. Thomas and St. John by 1 percent. On average, each of the top 6 of the 12 small businesses that land dolphinfish from Federal and unknown waters would have an annual reduction in dolphinfish landings of about 15 lb (6.8 kg) and \$554, which represents 2.0 percent of their average annual revenue from all landings. Each of the bottom 6 that land dolphinfish from Federal and unknown waters would have an average annual reduction in landings of less than 1 lb (0.5 kg) and \$3, which represents less than 0.1 percent of their average annual revenue from all landings.

An annual average of 8 small businesses in St. Thomas and St. John land wahoo from Federal and unknown waters. The top 4 account for 89.6 percent of wahoo landings, while the bottom 4 account for the remaining 10.4 percent. On average, these 8 small businesses collectively land 3,058 lb (1,387.1 kg) of wahoo annually. The average of the top 4 small businesses lands about 685 lb (310.7 kg) of wahoo and has annual revenue from all landings of \$31,792 annually. The average of the bottom 4 small businesses lands about 80 lb (36.3 kg) of wahoo and

has annual revenue from all landings of \$15,659 annually.

It is estimated that the recommended minimum size limit for wahoo would reduce commercial landings of wahoo in St. Thomas and St. John by 12 percent, which would be a reduction of 367 lb (166.5 kg) annually. The average of the top 4 small businesses would have an annual decrease in wahoo landings of 82 lb (37.2 kg) and revenues of \$622, which represents about 2 percent of their annual revenue from all landings. The average of the bottom 4 small businesses would have an annual decrease of wahoo landings by 10 lb (4.4 kg) and revenue of about \$76, which represents about 0.5 percent of annual revenue from all landings.

Two alternatives to the 24 inches (61.0 cm) FL, minimum size limit for dolphinfish were considered but not recommended by the Council. The first, the no-action alternative, would have no adverse impact on small businesses but would not support proactive species management. The second would have a smaller minimum size limit (20 inches; 50.8 cm, FL), and it would reduce dolphinfish landings by less than 1 percent which is the same annual reduction in landings as the recommended alternative. This smaller minimum size limit corresponds to the size at which only approximately 50 percent of females are mature. As such, the larger minimum size limit is preferable to reduce fishing pressures by allowing more females to reach maturity.

Two alternatives to the 32 inches (81.3 cm) FL, minimum size limit for wahoo were considered but not recommended by the Council. The first, the no-action alternative, would have no adverse impact on small businesses. The second, would establish a larger minimum size limit (40 inches; 101.6 cm, FL), which would reduce wahoo landings by a larger percentage than the recommended alternative.

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

List of Subjects in 50 CFR Part 622

Caribbean, Dolphinfish, Fisheries, Fishing, Wahoo.

Dated: September 24, 2024.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 622 as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.441, add paragraph (b) to read as follows:

§ 622.441 Size limits.

* * * * *

(b) *Pelagic fish.* (1) Dolphinfish—24 inches (61.0 cm), FL.

(2) Wahoo—32 inches (81.3 cm), FL.

* * * * *

■ 3. In § 622.444, add paragraph (b) to read as follows:

§ 622.444 Bag and possession limits.

* * * * *

(b) *Pelagic fish.* (1) Dolphinfish—5 per person per day, not to exceed 15 per vessel per day, whichever is less.

(2) Wahoo—5 per person per day, not to exceed 10 per vessel per day, whichever is less.

* * * * *

■ 4. In § 622.481, add paragraph (b) to read as follows:

§ 622.481 Size limits.

* * * * *

(b) *Pelagic fish.* (1) Dolphinfish—24 inches (61.0 cm), FL.

(2) Wahoo—32 inches (81.3 cm), FL.

* * * * *

■ 5. In § 622.484, add paragraph (b) to read as follows:

§ 622.484 Bag and possession limits.

* * * * *

(b) *Pelagic fish.* (1) Dolphinfish—10 per person per day, not to exceed 32 per vessel per day, whichever is less.

(2) Wahoo—2 per person per day, not to exceed 10 per vessel per day, whichever is less.

* * * * *

■ 6. In § 622.516, add paragraph (b) to read as follows:

§ 622.516 Size limits.

* * * * *

(b) *Pelagic fish.* (1) Dolphinfish—24 inches (61.0 cm), FL.

(2) Wahoo—32 inches (81.3 cm), FL.

* * * * *

■ 7. In § 622.519, add paragraph (b) to read as follows:

§ 622.519 Bag and possession limits.

* * * * *

(b) *Pelagic fish*. (1) Dolphin—10 per person per day, not to exceed 32 per vessel per day, whichever is less.

(2) Wahoo—2 per person per day, not to exceed 10 per vessel per day, whichever is less.

* * * * *

[FR Doc. 2024–22242 Filed 9–26–24; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 89, No. 188

Friday, September 27, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Proposed Revision of AID 114–2 Anti-Harassment Intake Summary Sheet

Correction

In notice document 2024–19314 appearing on page 68849 in the issue of Wednesday, August 28, 2024, make the following correction:

In the second column, under **FOR FURTHER INFORMATION CONTACT:**, in the first line “9Tanya Shorter” should read “Tanya Shorter”.

[FR Doc. C1–2024–19314 Filed 9–26–24; 8:45 am]

BILLING CODE 0099–10–D

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding these information collections are best assured of having their full effect if received by

October 28, 2024. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service (NASS)

Title: Egg, Chicken, and Turkey Surveys.

OMB Control Number: 0535–0004.

Summary of Collection: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare and issue State and national estimates of crop and livestock production, prices, and disposition; as well as economic statistics, environmental statistics related to agriculture and also to conduct the Census of Agriculture.

The Egg, Chicken, and Turkey Surveys obtain basic poultry statistics from voluntary cooperators throughout the Nation. Statistics are published on placement of pullet chicks for hatchery supply flocks; hatching reports for broiler-type, egg-type, and turkey eggs; number of layers on hand; total table egg production; and production and value estimates for eggs, chickens, and turkeys. The frequencies of the surveys being conducted include weekly, monthly, and annually. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204.

Need and Use of the Information: This information is used by producers, processors, feed dealers, and others in marketing and supply channels as a basis for production and marketing decisions. Government agencies use these estimates to evaluate poultry product supplies. The information is an important consideration in government

purchases for the National School Lunch Program and in formulation of export-import policy.

Description of Respondents: Farmers, ranchers, farm managers, and farm contractors.

Number of Respondents: 2,587.

Frequency of Responses: Various from weekly to annually.

Total Burden Hours: 3,900.

National Agricultural Statistics Service (NASS)

Title: Mink Survey.

OMB Control Number: 0535–0212.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. The mink program consists of two surveys: an annual census of all known mink producers in the 50 states (the Mink Survey) and an annual survey of two prominent mink pelt auction houses (the Mink Price Survey). Statistics on mink production are published for the 10 major states that account for over 90 percent of the total U.S. pelt production. There is no other source for this type of information. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204.

Need and Use of the Information: NASS collects information on mink pelts produced by color, number of females bred to produce kits the following year, number of mink farms, average marketing price, and the value of pelts produced. The data is disseminated by NASS in the Mink Report and is used by the U.S. government and other groups.

Description of Respondents: Farms; Businesses or other for-profits.

Number of Respondents: 152.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 42.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–22192 Filed 9–26–24; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service**

[Docket No. APHIS–2022–0038]

Notice of Decision To Authorize the Importation of Fresh Table Beet Root for Consumption From the United Kingdom Into the Continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands**AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Notice.

SUMMARY: We are advising the public of our decision to authorize the importation of fresh table beet root (*Beta vulgaris* L.) for consumption from the United Kingdom into the continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands. Based on findings of a pest risk analysis, which we made available to the public for review and comment through a previous notice, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh table beet root from the United Kingdom.

DATES: Imports may be authorized beginning September 27, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, PPQ, APHIS, USDA, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 851–2352; Claudia.Ferguson@usda.gov.

SUPPLEMENTARY INFORMATION:**Background**

Under the regulations in “Subpart L—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. Under that process, APHIS proposes to authorize the importation of a fruit or vegetable into the United States if, based

on findings of a pest risk analysis, we determine that the measures can mitigate the plant pest risk associated with the importation of that fruit or vegetable. APHIS then publishes a notice in the **Federal Register** announcing the availability of the pest risk analysis that evaluates the risks associated with the importation of a particular fruit or vegetable. Following the close of the 60-day comment period, APHIS will issue a subsequent **Federal Register** notice announcing whether or not we will authorize the importation of the fruit or vegetable subject to the phytosanitary measures specified in the notice.

In accordance with that process, we published a notice¹ in the **Federal Register** on August 23, 2023 (88 FR 57409–57410, Docket No. APHIS–2022–0038) in which we announced the availability, for review and comment, of a pest risk analysis that evaluated the risks associated with the importation of fresh table beet root (*Beta vulgaris* L.) for consumption from the United Kingdom into the continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands. The pest risk analysis consisted of a risk assessment identifying pests of quarantine significance that could follow the pathway of the importation of fresh table beet root into the continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands from the United Kingdom and a risk management document (RMD) identifying phytosanitary measures to be applied to that commodity to mitigate the pest risk.

We solicited comments on the notice for 60 days, ending on October 23, 2023. We received no comments by that date.

Therefore, in accordance with § 319.56–4(c)(3)(iii), we are announcing our decision to authorize the importation into the continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands of fresh table beet root (*Beta vulgaris* L.) for consumption from the United Kingdom subject to the phytosanitary measures identified in the RMD that accompanied the initial notice.

These conditions will be listed in the U.S. Department of Agriculture’s, APHIS Agricultural Commodity Import Requirements (ACIR) database (<https://acir.aphis.usda.gov/s/>).² In addition to these specific measures, each shipment must be subject to the general requirements listed in § 319.56–3 that

¹ To view the notice and the supporting documents, go to www.regulations.gov. Enter APHIS–2022–0038 in the Search field.

² On September 30, 2022, the APHIS Fruits and Vegetables Import Requirements (FAVIR) database was replaced by the ACIR database.

are applicable to the importation of all fruits and vegetables.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the recordkeeping and burden requirements associated with this action are included under the Office of Management and Budget control number 0579–0049.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance 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. For information pertinent to E-Government Act compliance related to this notice, please contact Mr. Joseph Moxey, APHIS’ Paperwork Reduction Act Coordinator, at (301) 851–2533.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 25th day of September 2024.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2024–22396 Filed 9–26–24; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE**Forest Service****Dakota Prairie Grasslands; North Dakota; Withdrawal of the Notice of Intent for Dakota Prairie Grasslands Land and Resource Plan Amendment and Site-Specific Projects for the Elkhorn Ranchlands**

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; withdrawal.

The Dakota Prairie Grasslands is withdrawing its notice of intent to prepare an environmental impact statement for the Dakota Prairie Grasslands Land and Resource Management Plan amendment and site-specific projects for the Elkhorn Ranchlands acquired lands. The original notice of intent was published in the **Federal Register** on October 8, 2008, document number E8–23812. The Dakota Prairie Grasslands will assign management area allocations for these lands with a land management plan administrative change as described in the land exchange regulations at 36 CFR

254.3 and planning regulations at 36 CFR 219.13.

FOR FURTHER INFORMATION CONTACT:

Questions concerning this notice should be directed to LeAnn Colburn via U.S. postal mail at Dakota Prairie Grasslands Supervisors Office, 2000 Miriam Circle, Bismarck, ND 58501; via telephone at 701-989-7304; or via email at leann.colburn@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.

Keith Lannom,

Associate Deputy Chief, National Forest System.

[FR Doc. 2024-22153 Filed 9-26-24; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Forest Service

Adoption of Categorical Exclusions Under Section 109 of the National Environmental Policy Act

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of adoption of multiple categorical exclusions from the Department of the Interior, United States Geological Survey.

SUMMARY: The U.S. Department of Agriculture, Forest Service, is adopting multiple categorical exclusions from the Department of the Interior, United States Geological Survey (USGS) listed at 516 Departmental Manual 9.5 B, G, H, I, K, and P pursuant to section 109 of the National Environmental Policy Act for future application to Forest Service decisions concerning land management activities that are similar in nature. This notice describes the categories and consultation between the agencies.

DATES: The categorical exclusion adoptions take effect on September 27, 2024.

FOR FURTHER INFORMATION CONTACT:

Andrea Pahlevanpour, Assistant Director, Forest Service, Ecosystem Management Coordination, by phone at 771-216-0229 or via email to andrea.pahlevanpour@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:

I. National Environmental Policy Act and Categorical Exclusions

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4347), as amended, requires all Federal agencies to consider the environmental impact of their proposed actions before deciding whether and how to proceed (42 U.S.C. 4321, 4332). The aims of NEPA are to ensure that agencies consider the potential environmental effects of their proposed actions in their decision-making processes and inform and involve the public in that process (42 U.S.C. 4332). NEPA created the Council on Environmental Quality, which promulgated NEPA implementing regulations at 40 Code of Federal Regulations (CFR) parts 1500 through 1508 (Council on Environmental Quality regulations).

To comply with NEPA, agencies determine the appropriate level of review for a proposed action. Where required, these levels of review may be documented in an environmental impact statement (EIS), an environmental assessment (EA), or by reliance on a categorical exclusion (CE) (40 CFR 1501.3). If a proposed action is likely to have significant environmental effects, the agency will prepare an EIS and document its decision in a record of decision (40 CFR 1502, 1505.2). If the proposed action is not likely to have significant environmental effects or where the level of significance is unknown, the agency will prepare an EA, which involves a more concise analysis and process than an EIS (40 CFR 1501.5). Following preparation of an EA, the agency may reach a finding of no significant impact if the analysis shows that the action will have no significant effects (40 CFR 1501.6). If, following preparation of an EA, the agency finds that the proposed action will have significant effects, it will prepare an EIS before issuing any decision to authorize the action (40 CFR 1501.6(a)(3)).

Under NEPA and the Council on Environmental Quality's implementing regulations, a Federal agency can establish CEs—categories of actions that the agency has determined normally do not significantly affect the quality of the human environment—in its agency NEPA procedures 42 U.S.C. 4336(e)(1); 40 CFR 1501.4, 1507.3(e)(2)(ii), 1508.1(d). If an agency determines that a CE covers a proposed action, the agency then evaluates the proposed action for any extraordinary circumstances in which a normally excluded action may have a significant effect (40 CFR 1501.4(b)). Responsible officials in the Forest Service evaluate

proposed actions for extraordinary circumstances in accordance with the Forest Service's NEPA implementing regulations at 36 CFR 220.6. If no extraordinary circumstances are found or if further analysis determines that the extraordinary circumstances do not involve the potential for significant environmental impacts, the agency may rely on the CE to approve the proposed action without preparing an EA or an EIS (42 U.S.C. 4336(a)(2); 40 CFR 1501.4). If extraordinary circumstances exist, the agency may nonetheless categorically exclude the proposed action if it determines that there are means to avoid the impacts or otherwise modify the action sufficient to avoid significant effects (40 CFR 1501.4(b)(1)).

Section 109 of NEPA, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to “adopt a categorical exclusion listed in another agency's NEPA procedures for a category of proposed agency actions for which the categorical exclusion was established” (42 U.S.C. 4336c). To adopt another agency's categorical exclusion under section 109, the adopting agency: (1) identifies the relevant categorical exclusion listed in another agency's (“establishing agency”) NEPA procedures “that covers a category of proposed actions or related actions”; (2) consults with the establishing agency “to ensure that the proposed adoption of the categorical exclusion for a category of actions is appropriate”; (3) “identifies to the public the categorical exclusion that the [adopting] agency plans to use for its proposed actions”; and (4) “documents adoption of the categorical exclusion” (see 42 U.S.C. 4336c).

The Forest Service's NEPA procedures are found at 36 CFR 220. These procedures address compliance with NEPA. The Forest Service maintains a list of categorical exclusions available at 36 CFR 220.6. Additional NEPA policy is found in the Forest Service Handbook 1909.15, chapter 10.

This notice documents the Forest Service's adoption of the USGS categorical exclusions 516 Departmental Manual 9.5 B, G, H, I, K, and P.

II. Additional Considerations Related to Forest Service Categorical Exclusions

1. Decision Memo

The Forest Service requires at 36 CFR 220.6(e) that, “A supporting record is required and the decision to proceed must be documented in a decision memo for the categories of action in paragraphs (e)(1) through (25) of this section.” For all the categorical exclusions (CEs) adopted in this notice, the Forest Service will require a

decision memo even if the originating agency's NEPA procedures do not require it.

2. Extraordinary Circumstances

Forest Service NEPA regulations state that a CE may only be applied "if there are no extraordinary circumstances related to the proposed action" and if the proposed action is within a CE listed within a category as specified in regulations (36 CFR 220.6(a)). Forest Service NEPA regulations list seven resource conditions that "should be considered in determining whether extraordinary circumstances related to a proposed action warrant further analysis and documentation in an EA or an EIS" (36 CFR 220.6(b)).

For the CEs adopted from USGS and described in this notice, the Forest Service will also apply the Department of the Interior's extraordinary circumstances criteria set forth in 43 CFR 46.215(a) through (l), which are slightly different from the Forest Service's resource conditions that should be considered in evaluating extraordinary circumstances.

III. Consultation With USGS on Categorical Exclusion Adoption

In June 2024 the Forest Service conducted consultation with the USGS on adoption of their CEs 516 Departmental Manual 9.5 B, G, H, I, K, and P. The USGS and Forest Service consultation included a review of USGS experience developing and applying the CEs, as well as the types of actions for which Forest Service plans to utilize the CEs. The Forest Service actions would be similar to the type of projects for which USGS has applied the CEs and therefore the effects of Forest Service projects will be similar to the effects of USGS projects, which are not significant, absent extraordinary circumstances. Therefore, the Forest Service has determined that its proposed use of USGS CEs as described in this notice is appropriate.

IV. Identification of USGS Categorical Exclusions

B. Collection of data and samples for geologic, palaeontologic, hydrologic, mineralogic, geochemical and surface or subsurface geophysical investigations, and resource evaluation, including contracts therefor.

G. Test or exploration drilling and downhole testing, including contracts therefor.

H. Establishment of survey marks, placement and operation of field instruments, and installation of any research/monitoring devices.

I. Digging and subsequent site restoration of exploratory trenches not to exceed one acre of surface disturbance.

K. Off-road travel to drilling, data collection or observation sites which does not impact ecologically sensitive areas such as wilderness areas, wetlands, or areas of critical habitat for listed endangered or threatened species.

P. Minor activities required to gain or prepare access to sites selected for completion of exploration drilling operations or construction of stations for hydrologic, geologic, or geophysical data collection.

Dated: September 23, 2024.

Jacqueline Emanuel,

Associate Deputy Chief, National Forest System.

[FR Doc. 2024-22154 Filed 9-26-24; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No.: RHS-24-MFH-0006]

Notice of Funds Availability (NOFA) for the Multifamily Housing Preservation and Revitalization Demonstration Program (MPR) and for Section 515 Subsequent Loans for Preservation Activities for the Fiscal Year (FY) 2024

AGENCY: Rural Housing Service, United States Department of Agriculture (USDA).

ACTION: Notice of Funds Availability (NOFA).

SUMMARY: The Rural Housing Service (RHS or Agency), a Rural Development (RD) agency of the United States Department of Agriculture, announces that it is inviting applications for the Multifamily Housing Preservation and Revitalization Demonstration Program (MPR) and Section 515 Loan Program. These loan and grant funds will be made available to qualified applicants which may be used to preserve and improve existing Rural Rental Housing (RRH) and Off-Farm Labor Housing (OFF-FLH) projects to extend their affordable use.

DATES: Electronic submissions must be received no later than December 26, 2024, 11:59 p.m. Eastern Time (ET), to be eligible for funding under this Notice. The applicant must send an email message by 12 p.m. ET (noon) on December 16, 2024, to the RHS Production and Preservation Division (see the **ADDRESSES** section for additional information).

ADDRESSES: All applications made in response to this Notice must be submitted electronically to the RHS Production and Preservation Division, Processing and Report Review (PRR) Branch using the following process: The applicant must send an email message by the date and time provided in the **DATES** section to the RHS Production and Preservation Division at RD.MPR@usda.gov. The email message must contain the following information:

Subject line: MPR NOFA Submission.

Body of email: Applicant Name, Project State, Project Name, Project City and complete Applicant Contact Information (including address, phone number, email address to receive application submission information).

Request language: Please provide application submission instructions so that we may submit our MPR application documents.

Application submission instructions will be emailed to all interested respondents supplying valid email addresses within two (2) business days from the date the email of interest is received by the Agency.

FOR FURTHER INFORMATION CONTACT:

Jonathan Bell, Director, Processing and Report Review Branches, Production and Preservation Division, MFH, RD, USDA, via email: MFHprocessing1@usda.gov or telephone: (202) 205-9217 for additional information on this Notice.

Persons with disabilities that require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language) may contact the Agency or staff office; or the 711 Relay Service.

SUPPLEMENTARY INFORMATION: Late or incomplete applications will not be eligible for funding under this Notice. Paper applications will not be accepted. Applications that are deemed eligible but are not selected for further processing due to lack of funding will be withdrawn from processing.

Authority

The Consolidated Appropriations Act, 2024, Public Law 118-42, authorized USDA to conduct a demonstration program (i.e., the Multifamily Housing Preservation and Revitalization (MPR) Demonstration Program) for the preservation and revitalization of sections 515 (rural rental housing) (RRH) and 514 and 516 (off-farm labor housing) properties to restructure existing USDA multi-family housing (MFH) loans expressly to ensure the project has sufficient resources to provide safe and affordable housing for low-income residents and farm laborers

under the programs authorized by the Housing Act of 1949, as amended (42 U.S.C. 1484, 1485 and 1486). The MPR Demonstration Program is implemented under 7 CFR part 3560 and the requirements set forth in this Notice. Title V of the Housing Act of 1949; 42 U.S.C. 1480; implemented under 7 CFR part 3560 authorizes the Section 515 Direct Loan program. The section 515 RRH direct loan program provides competitive financing for affordable multi-family rental housing for low-income, elderly, or disabled individuals and families in eligible rural areas.

Rural Development Key Priorities

RD will continue to support and promote activities and investments that will achieve the following:

1. *Creating More and Better Markets:* Assisting rural communities to recover economically through more and better market opportunities through improved infrastructure.

2. *Addressing Climate Change and Environmental Justice:* Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

3. *Advancing Racial Justice, Place-Based Equity, and Opportunity:* Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects.

For further information, visit <https://www.rd.usda.gov/priority-points>.

Overview

Federal Awarding Agency Name: The Rural Housing Service's (RHS) Multifamily Housing Program (MFH).

Funding Opportunity Title: Notice of Funds Availability (NOFA) for the Multifamily Housing Preservation and Revitalization (MPR) Demonstration Program and Section 515 Rural Rental Housing Subsequent Loans for Preservation Activities for Fiscal Year (FY) 2024.

Announcement Type: Notice of Funds Availability (NOFA).

Assistance Listing:

(1) 10.447—Rural Multifamily Housing Revitalization Demonstration Program (MPR).

(2) 10.415—Section 515 Rural Rental Housing Subsequent Loans

A. Program Descriptions

1. Purpose of the Programs

The MPR Demonstration Program restructures loans and provides additional financing for existing Section 515 Rural Rental Housing (RRH) and Section 514/516 Off-Farm Labor Housing (Off-FLH) projects to help improve and preserve the availability of

safe affordable rental housing for low-income residents. The Section 515 RRH Subsequent Loan program provides additional financing for existing Section 515 RRH projects to help improve and preserve the affordability of safe affordable rental housing for low-income residents. MPR and the Section 515 RRH Program are being combined in this Notice to gain efficiencies in the announcement of funding opportunities, application, and selection process, as both programs are eligible preservation resources. Although Section 515 Subsequent Loans, as described under 7 CFR 3560.73 are not required to be awarded under a NOFA, including these funds in this NOFA will enhance program transparency for the public and allow for fair and equitable competition for the resource.

Both programs are designed to address preservation needs in Rural Development's Multifamily Housing portfolio. Funds may be used to address health, safety and accessibility needs and to repair or renovate existing project items identified in the Capital Needs Assessment (CNA). Additional items may be added to the scope of work, if practical and feasible, at the sole discretion of the RHS. Proposals to develop or construct additional units within the existing building envelope, only if needed to comply with accessibility requirements, will be considered and are eligible under this Notice. To be considered for funding, all applicants are required to meet both the general threshold requirements, as well as the program-specific requirements as outlined in this Notice. The CNA Template and CNA Process Addendum are provided at the Multifamily Housing Direct Loans website, click on the "To Apply" tab; <https://www.rd.usda.gov/programs-services/multifamily-housing-programs/multifamily-housing-direct-loans#to-apply>. Questions regarding the CNA Template and CNA Process Addendum or assistance with accessing the CNA documents should be directed to Jonathan Bell, Director, Processing and Report Review Branches, Production and Preservation Division, MFH, RD, USDA, via email: MFHprocessing1@usda.gov or telephone: (202) 205-9217.

RHS will hold workshops to provide general guidance and assistance regarding this NOFA prior to the application deadline. These workshops will be announced via GovDelivery notice and will also be posted on the MFH Programs website (<https://www.rd.usda.gov/programs-services/multi-family-housing-programs>). Sign up for GovDelivery notifications by visiting the GovDelivery website

(<https://public.govdelivery.com/accounts/USDARD/signup/10420>). Additional information and guidance outlining applicant, property, and tenant eligibility requirements; factors for scoring and ranking applications and making awards; and any requirements and/or limitations specific to each program application opportunity can be found in this Notice. Prospective applicants are encouraged to read this entire Notice thoroughly and attend the informational workshops for more information and clarification prior to submitting applications for funding.

All applications must follow the applicable Agency regulations in 7 CFR part 3560. The MPR Program and the Section 515 RRH Program are subject to title V of the Housing Act of 1949; 7 CFR part 3560; and the requirements set forth in this Notice.

2. Applicant Eligibility

To be eligible for funding under this NOFA, applicants must meet all statutory and regulatory requirements applicable to the MPR and/or Section 515 RRH program funding. Program regulations may be found at the following link: <https://www.rd.usda.gov/page/regulations-and-guidance>.

3. Definitions

The definitions applicable to this Notice are published at 7 CFR 3560.11 which can be found on the following website: <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-XXXV/part-3560>.

4. Application of Awards

Awards under the MPR Demonstration Program and Section 515 RRH Program will be made using the specific selection criteria contained in this Notice.

The Agency will review, evaluate, and score applications received in response to this Notice based on the provisions found in 7 CFR part 3560 (<https://www.ecfr.gov/current/title-7/part-3560>), and as indicated in this Notice. The Agency advises all interested parties that the applicant bears the full burden in preparing and submitting applications in response to this Notice for this Program in FY 2024.

B. Federal Award Information

Type of Award: Loans and grants (MPR) and loans (Section 515).

Fiscal Year Funds: FY 24 (MPR and Section 515) and carryover funds (MPR).

Available Funds: The Agency will make available the following funds in this NOFA: MPR: \$80,491,882 and Section 515: \$27,000,000. Available

loan and grant funding for the MPR program and Section 515 RRH program for FY 2024 will also be announced via GovDelivery Notice. Sign up for GovDelivery notifications by visiting the GovDelivery website at: <https://public.govdelivery.com/accounts/USDARD/signup/10420>. Funding amounts will also be posted on the RHS MFH website at: <https://www.rd.usda.gov/programs-services/multifamily-housing-programs/multifamily-preservation-and-revitalization-mpr#to-apply>. Funding awards will be posted to the RHS website as funding is obligated. RHS reserves the right to post all information submitted as part of the application package that is not protected under the Privacy Act on a public website with free and open access to any member of the public.

Award Amounts: The Agency anticipates a maximum per unit award amount of \$60,000 and no minimum award amount. The Agency reserves the right to reduce requested funding amounts based on funding availability.

Supplemental Awards: With the submission of a new application, projects that have previously received Agency funding are eligible to apply for supplemental funding.

Type of Assistance Instrument: Grant Agreement, Direct Loan.

C. Eligibility Information

1. Eligible Applicants

Eligibility for MPR and section 515 funding under this NOFA includes current RD borrowers that have received a loan from the Agency and eligible applicants under 7 CFR part 3560 who are applying to assume ownership and the associated outstanding RD loans on RD-financed MFH properties. Eligible applicants for the MPR and Section 515 programs include individuals, partnerships or limited partnerships, consumer cooperatives, trusts, State or local public agencies, corporations, limited liability companies, non-profit organizations, Indian Tribes, associations, or other entities that own or will be the owner of the project for which an application for transfer of ownership by the Agency is submitted. Applicants must be eligible entities and not currently debarred, suspended, or delinquent on any Federal debt. Agency regulations for the Section 515 MFH program and the Sections 514/516 Farm

Labor Housing (FLH) program are published at 7 CFR part 3560.

2. Eligible Projects

Projects must meet at least one of the following requirements to be eligible to receive funding:

(a) All Agency loans on the project will reach mortgage maturity prior to January 1, 2027. If a consolidation of two or more projects into a single project is proposed, all loans on the consolidated project must reach maturity prior to January 1, 2028.

(b) The project has an existing MPR debt deferral that expires prior to January 1, 2028.

(c) The project sustained damage due to a storm, fire, flood, wind, or other man-made or natural disaster and necessary repairs as a result of the damage are incomplete and/or units are uninhabitable due to inadequate insurance proceeds.

(d) The project has been approved under the Agency's Simple Transfer Pilot Program, published in the **Federal Register** on December 9, 2022 (87 FR 75457), and has an Agency-required rehabilitation plan that lacks full funding.

(e) A purchase and sale agreement has been approved for the project under the Agency's sale to nonprofit process in 7 CFR 3560.659 and the project requires additional funding to complete a transfer of ownership to the new buyer.

(f) Loan(s) on the project were reamortized at the request of the owner to avoid payoff and program exit prior to imminent loan maturity ("reamortization lite") and the project requires funding to address unmet rehabilitation needs.

(g) Repairs or modifications are needed to address health and safety findings or violations and/or accessibility modifications identified in the property's Capital Needs Assessment (CNA) submitted with the application. The combined amount of the health, safety, and accessibility repairs or modifications identified in the CNA must exceed an average cost of \$4,000 per unit to meet the project eligibility criteria.

3. Threshold Eligibility Requirements

All applications must meet all threshold eligibility requirements as follows:

(a) Applications must be complete as specified by this Notice;

(b) Applications must be submitted electronically;

(c) Complete applications must be received by 12 p.m., Eastern Time December 26, 2024;

4. Determination of Initial Eligibility

The determination of initial eligibility for any application will be determined as of the application submission deadline date. The RHS reserves the right to discontinue the processing of any application due to material changes in the applicant's status occurring any time after the initial eligibility determination.

D. Program Funding

1. Cost Sharing or Matching

There are no cost sharing or matching requirements to receive program funding.

2. Funding Priority for Areas of Persistent Poverty

To focus investments in areas where the need for increased prosperity is greatest, RHS will set aside 10 percent of the available funds for applications that will serve persistent poverty counties. The term "persistent poverty counties" means any county that has had 20 percent or more of its population living in poverty over the last 30 years, using the 2020 Decennial Census data and the 2017–2021 American Community Survey five-year average), or any territory or possession of the United States. Information on which counties are considered persistent poverty counties can be found through using the following link: <https://ruraldevelopment.maps.arcgis.com/apps/webappviewer/index.html?id=a0bcd25194434ac784493fd5dc7f8191>.

3. Funding Priority for REAP Zones

To address issues of geographic isolation of communities separated by long distances, absence of large metropolitan centers, low-density settlement patterns, historic dependence on agriculture, continued population loss, outmigration, and economic upheaval or economic distress, the Agency will provide a set aside under this announcement for applications in Rural Economic Area Partnership (REAP) Zones. REAP Zones locations are as follows:

Zone	State	Counties
CONAC	ND	McHenry, Bottineau, Rolette, Towner, Pierce and Benson; and the Indian reservations of the Turtle Mountain Chippewa and Spirit Lake Sioux.
Southwest	ND	Dunn, Stark, Hettinger, Adams, Bowman, Slope, Golden Valley, Billings, and part of the Fort Berthold Indian Reservation.

Zone	State	Counties
Sullivan-Wawarsing	NY	Sullivan and the Town of Wawarsing.
Tioga	NY	Tioga.
Northeast Kingdom	VT	Caledonia, Essex, Orleans.

4. Geographic Distribution of Funding

The Agency has an interest in supporting a broad geographic distribution of program funds. Projects will be scored without regard to State location. However, if five projects in a State have received program funding obligations, no further obligations will be made to projects in that State until a funding decision has been made on all projects that have met the minimum scoring requirements as described in the Scoring section of this Notice. When all other funding decisions have been made, the Agency may provide additional awards in States that have already received five awards. Projects located on tribal lands will not count against the five-project State limit.

E. Additional Program Requirements

1. Loan Requirements

Each loan made by the Agency will be secured in a manner that adequately protects the financial interest of the Federal Government throughout the period of the loan in accordance with 7 CFR 3560.61. The Agency will not make any loans without adequate security. The following limitations will be set on loan amounts:

(a) For all loan applicants who will receive benefits from the low-income housing tax credit (LIHTC) program, the amount of Agency financing for the housing will not exceed 95 percent of the security value available for the Agency loan.

(b) For all loan applicants who will not receive LIHTC benefits and who are comprised solely of nonprofit organizations, consumer cooperatives, or State or local public agencies, the amount of the loan will be limited to the security value available for the Agency loan, plus the 2 percent initial operating capital and any necessary relocation costs incurred.

(c) For all other loan applicants who will not receive LIHTC benefits, the loan amount will be limited to no more than 97 percent of the security value available for the Agency loan.

2. Equity Contribution Requirements

Loan applicants, with the exception of nonprofit organizations, consumer cooperatives, or State or local public agencies who will not be receiving LIHTC benefits, must make an equity

contribution from their own resources as follows:

(a) Loan applicants who will receive LIHTC benefits must make an equity contribution in the amount of 5 percent of the Agency loan. The maximum Agency loan will be determined in accordance with 7 CFR 3560.63(c).

(b) Loan applicants who will not receive LIHTC benefits and are not nonprofit organizations, consumer cooperatives, or state or local public agencies must make an equity contribution in the amount of 3 percent of the Agency loan. The maximum Agency loan will be determined in accordance with 7 CFR 3560.63(c).

3. Grant Requirements

Grant awards are subject to the requirements outlined in 2 CFR parts 200 and 400.

4. Security Requirements

The total of all liens against the project, with the exception of Agency deferred debt, cannot exceed the Agency-approved security value of the project, except as permitted by 7 CFR 3560.63(b)(2). All Agency debt, either in first lien position or in a subordinated lien position, must be secured by the project, except deferred debt, which is not included in the Agency's total lien position for computation of the Agency's security value in the MPR program. Payment of any deferred debt will not be required from normal project operations income during the term of the debt deferral. Upon expiration of the deferral, if no further deferral is approved, the remaining balance will be reamortized.

5. Transfers, Consolidations and Portfolios

Transfers and consolidations may be approved as part of the transaction for the selected applicants in accordance with 7 CFR part 3560 and the following:

(a) If a transfer is part of the transaction, and the transfer includes a seller payment and/or an increase in the allowable Return to Owner (RTO), the transfer must first be underwritten to meet the requirements of 7 CFR 3560.406 to establish the maximum RTO amount RD will recognize for the buyer and seller before the transaction is underwritten.

(b) If a consolidation of existing properties is simultaneously proposed,

all projects being consolidated must be submitted in one application that identifies each project. Each property in the proposed consolidated project must be located in the same market area. Market area is defined in 7 CFR 3560.11 as the geographic or locational delineation for a specific project, including outlying areas that will be impacted by the project including the area in which alternative, similar properties effectively compete with the subject property.

(c) Applicants should discuss proposed consolidations with the assigned Servicing Specialist prior to filing their application under this NOFA. RD may permit two or more properties to be consolidated as defined in 7 CFR 3560.410 when it is in the best interests of the Government. The applicant should consult with the RD loan official before engaging the CNA Provider in any case where the CNA intends to encompass more than a single existing RD property to determine if a consolidated CNA may be acceptable for RD underwriting.

(d) If the preservation proposal involves a portfolio transaction (sale or stay-in owner), a separate application for each project in the portfolio is required and each application must identify all projects included in the portfolio transaction. Eligibility determinations will be conducted on each application associated with the portfolio.

6. Occupancy Standards

(a) For Section 515 RRH projects, the average physical vacancy rate for the 12 months preceding this Notice's application submission date can be no more than 10 percent for projects consisting of 16 or more revenue units and no more than 15 percent for projects less than 16 revenue units. If the average physical vacancy rate exceeds those limits, the applicant must provide current market data (defined as no more than 6 months old at time of filing) that demonstrates there is a need for the project evidenced by waiting lists and a housing shortage confirmed by local housing agencies and realtors. The data demonstrating a need and housing shortage must be accepted by the Agency. The market data must show a clear need and demand for the project once the transaction is completed. The results of the survey of existing or

proposed rental or labor housing, including complex name, location, number of units, bedroom mix, family or elderly type, year built, and rent charges, must be provided, as well as the existing vacancy rate of all available rental units in the community, their waiting lists and amenities, and the availability of Rental Assistance (RA) or other subsidies. The Agency will determine if the proposal has market feasibility based on the data provided by the applicant. Any costs associated with compiling the market data is NOT an eligible program project expense. If the information provided by the applicant is inadequate, the Agency may require additional information, which may include a current market study, to assess the need of the project and its continued financial feasibility. If a project consolidation is involved, the consolidation will remain eligible so long as the average vacancy rate for each individual project meets the occupancy standard noted in this paragraph. Any individual project submitted as a portfolio application that does not continue to meet the occupancy threshold, regardless of reason, may be withdrawn by the owner or the Agency without jeopardizing the formal portfolio application so long as the application continues to meet the eligibility conditions otherwise described in this Notice.

(b) For Sections 514/516 FLH projects, rather than an average physical vacancy rate, a positive cash flow for the previous full three (3) years of operation is required unless the applicant has an Agency approved workout agreement and is in compliance with the provisions of the workout agreement for a minimum of six (6) consecutive months.

7. Funding Restrictions

Funds under this NOFA cannot be used to add additional housing units, build community rooms, or add additional parking areas, playgrounds, or laundry rooms unless these improvements are needed to address accessibility requirements.

F. Available Funding Tools

Applicants must propose a funding plan for the project and request specific tools as part of the funding plan. For loans, the applicant must specify the type of loan requested and the amount of funding requested. For grants, the applicant must specify the amount of funding requested. For debt deferrals, the applicants must specify all loans requested for deferral and provide an estimate of the current outstanding loan balance.

(1) *Debt deferral*: Deferral of loan principal and interest payments for up to 20 years for presently outstanding Section 514 or Section 515 loans. The applicant's proposal should describe how the cash flow from the deferred RD direct loan principal and interest payments will be deposited to the project's reserve account and/or used to help meet the project's future physical needs, support new debt, reduce rents, or otherwise be directed to be in the best interests of the tenants and Government.

(a) If an applicant requests a debt deferral and the term of any existing Section 514 or Section 515 loans is less than 20 years, the Agency requires a re-amortization of the existing loans and extending the term up to 20 years.

(b) All terms and conditions of the deferral will be described in the MPR Debt Deferral Agreement. A balloon payment of principal and accrued interest (deferral balloon) will be due at the end of the deferral period, or upon default pursuant to the terms contained therein. Interest will accrue at the promissory note rate and, if applicable, the subsidy will be applied as set out in the Agency's "Multiple Family Housing Interest Credit Agreement," Form RD 3560-9.

(c) At the time of the deferral balloon, borrowers may request any available servicing tools to preserve any needed projects as affordable rental housing.

(2) *MPR Grant*. Grant funding is limited to non-profit or public housing agency applicants/borrowers only. The grant use will be limited to the cost of correcting health and safety violations of a project, including accessibility requirements identified by a CNA accepted by the Agency.

(3) *MPR Zero Percent Loan*. An amortizing loan offered at zero percent interest. This loan is not deferred. Monthly payments are required for the maximum term and the amortization period will be as authorized by the respective program authority.

(a) For Section 515 RRH projects, the maximum loan term is 30 years amortized over a maximum term of 50 years.

(b) For Sections 514/516 projects, the loan will be amortized over a maximum term of the loan which is 33 years.

(4) *MPR Soft-Second Loan*. A loan with a one percent interest rate that will have its accrued interest and principal deferred to a balloon payment. The balloon payment will be due at the same time as the latest modified Section 514 or Section 515 maturity date of any current loan being reamortized.

(5) *MPR or Section 515 Direct Loan*. An amortizing loan with a one percent effective interest rate. This loan is not

deferred. Monthly payments are required for the maximum term and amortization period will be as authorized by the respective program authority:

(a) For Section 515 RRH projects, the maximum loan term is 30 years amortized over a maximum term of 50 years.

(b) For Sections 514/516 projects, the loan will be amortized over a maximum term of the loan which is 33 years.

Funding tools are only for authorized purposes in the respective RRH and FLH programs in accordance with 7 CFR part 3560. The program will be administered within the resources available to the Agency through Public Law 118-42.

(6) Other Possible Sources of Funds (not all-inclusive):

(a) RD Section 538 Guaranteed RRH (GRRH) loan. The current **Federal Register** Notification for the Section 538 Program is available at 88 FR 26221 (April 28, 2023) (<https://www.govinfo.gov/content/pkg/FR-2023-04-28/pdf/2023-08952.pdf>);

(b) Third-party loans, grants, tax credits and tax-exempt financing;

(c) Owner-provided capital contributions in the form of a cash infusion. A cash infusion cannot be a loan.

G. Application Information

Respondents to this Notice must submit complete final applications by the application submission deadline as specified in the **DATES** section and this section of this Notice. Expenses incurred in developing applications will be at the applicant's sole risk.

All applications made in response to this Notice must be submitted electronically to the RHS Production and Preservation Division, Processing and Report Review (PRR) Branch using the process outlined in the **ADDRESSES** section above.

Applicants are encouraged to include a checklist of all the application requirements and to index and tab their application to facilitate the review process. The applicant should provide a Table of Contents of all of the documents that have been submitted. Last-minute requests and submissions may not allow adequate time for the submission process to take place prior to the deadline.

Note: Applicants are reminded that all submissions must be received by the deadline and the application will be rejected if it is not received by the deadline date and time, regardless of when the application was submitted.

(1) Application Requirements. The application must contain the following:

(a) An executed and dated Executive Summary on the applicant's letterhead that must include at least the following:

i. Brief description of the project and its history. Include the borrower's name, project name, project location, number of units, number of RA or Operating Assistance (OA) units and unit mix. For FLH projects, address whether the project operates year-round or on a seasonal basis. Provide the year the property was built and placed into service, the original sources of funding, and the original amounts of funding received. Include a description of any significant improvements, repairs, or modifications that have been made since the property was placed in service, which would include substantial rehabilitations and significant repairs that were needed due to natural disasters. Provide any other information that you may want to disclose regarding the project and its history.

ii. Brief description of the proposed transaction. Provide a narrative of the loan and/or grant funds that the applicant is seeking from the RHS, or any other third-party source, and a description of what the funds will be utilized for. Describe the scope of work and explain how the transaction will come together overall, including information on how the project will absorb any additional debt service, if applicable.

iii. Description of the current ownership structure with a detailed organizational chart. If a transfer of ownership is proposed as part of the transaction, include the proposed ownership structure with a detailed organization chart.

iv. Narrative verifying the applicant's ability to meet the applicant eligibility requirements stated earlier in this Notice.

v. A statement of the applicant's experience in operating affordable rental housing, labor housing or other rental housing.

vi. Description of the applicant's legal and financial capability to carry out the obligation and purpose of the loan and/or grant.

vii. Current management. A brief description of how the property is currently managed. If a change in management is proposed as part of the transaction, provide a brief description of the proposed plan to manage the property. As stated earlier in this Notice, the housing must be managed in accordance with the management regulations, 7 CFR part 3560.

viii. Any financial commitments, financial concessions, or other

economic benefits proposed to be provided by the RHS.

ix. Third-party funding sources, if applicable. For each third-party funding source, briefly discuss the provider, amount, including terms, commitment status, timing issues, any restrictions that will be applicable to the project, and whether any accommodation from the RHS is proposed, such as a subordination in lien position. The desired lien position of any third-party funding source must be clearly disclosed, as well as any proposal for the RHS to subordinate its lien position.

x. Any proposed compensation to parties having an identity of interest (IOI) with either the consultant or technical assistance provider. An IOI is defined in 7 CFR 3560.11

xi. Any proposed construction financing, for example, a construction or bridge loan or the use of multiple advances.

xii. Type and method of construction, such as negotiated bid or contractor method.

xiii. Signed statement by the applicant that they will pay any cost overruns in accordance with 7 CFR 3560.63(f).

xiv. Estimated development timeline to include estimated start and end date, as well as any other important milestones such as the proposed closing date.

xv. Description of any required state or local approvals and how they will be obtained.

xvi. Description of the required and intended applicant contribution, if applicable.

xvii. Any other pertinent information the applicant wishes to disclose as part of this proposal.

xviii. A separate one-page information sheet listing each of the application scoring criteria contained in this Notice, followed by a reference to the page numbers of all relevant material and documentation contained in the proposal that supports the outlined criteria.

(b) The following forms and certifications are required:

i. Form RD 3560-1, "Application for Partial Release, Subordination, or Consent," can be obtained at: <https://formsadmin.sc.egov.usda.gov/efcommon/eFileServices/eFormsAdmin/RD3560-0001.pdf>.

ii. Standard Form 424, "Application for Federal Assistance," can be obtained at: <https://www.grants.gov/>.

iii. Form RD 3560-30, "Certification of no Identity of Interest (IOI)," can be found at: <https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-30.PDF>. OR

iv. Form RD 3560-31, "Identity of Interest Disclosure/Qualification Certification," can be found at: <https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-31.PDF>. An IOI is defined in 7 CFR 3560.11. The RHS must review Form RD 3560-30 and Form RD 3560-31, as applicable, to determine if they are completed in accordance with the Forms Manual Insert and to determine that all IOI's have been disclosed.

v. Form HUD 2530, "Previous Participation Certification," if applicable, can be found at: <https://www.hud.gov/sites/dfiles/OCHCO/documents/2530.pdf>.

vi. Form RD 400-4, "Assurance Agreement," can be found at: <https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD400-4.PDF>.

vii. RD Instruction 1940-Q, Exhibit A-1, "Certification for contracts, grants and loans," can be found at: <https://www.rd.usda.gov/files/1940q.pdf>.

viii. Form RD 1910-11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts," can be found at: <https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD1910-11.PDF>.

ix. Form RD 400-1, "Equal Opportunity Agreement," can be found at: https://www.rd.usda.gov/files/UEP_RD_From_400-1.pdf.

x. Form RD 400-6, "Compliance Statement," if applicable can be found at: <https://www.rd.usda.gov/files/RD400-6.PDF>.

xi. For projects that have five or more rental units, an Affirmative Fair Housing Marketing Plan (AFHMP) as defined in 24 CFR part 200, subpart M.

(c) Provide the following financial and organizational information:

i. Current (within 6 months of this Notice's application submission due date) financial statements for each entity within the ownership structure with the following paragraph certified by the applicant's designated and legally authorized signer:

"I/we certify the above is a true and accurate reflection of our financial condition as of the date stated herein. This statement is given for the purpose of inducing the United States of America to make a loan or to enable the United States of America to make a determination of continued eligibility of the applicant for a loan as requested in the loan application of which this statement is a part."

ii. Submit a current (within 6 months of this Notice's application submission due date) comprehensive credit report for both the entity and the actual individual principals, partners and members within the applicant entity,

including any sub-entities who are responsible for controlling the ownership and operations of the entity. If any of the principals in the applicant entity are not natural persons (e.g., corporations, other limited liability companies, trusts), separate commercial credit reports must be submitted on those organizations as well. Individual personal consumer credit reports are not required if a combination report is being provided. Only credit reports provided by accredited major credit bureaus will be accepted (Experian, Equifax or TransUnion). If the credit report(s) is not submitted by the application deadline, the application will be considered incomplete and will not be considered for funding.

iii. Letter from the IRS indicating the applicant's tax identification number.

iv. Individual applicants and principals of organizational applicants must provide to their attorney acceptable evidence of U.S. citizenship and/or qualified alien status. Acceptable evidence of U.S. citizenship may include a valid U.S. birth certificate, a valid U.S. Passport, a valid U.S. Certificate of Naturalization, or other acceptable evidence of U.S. citizenship proposed by the applicant and accepted by the Agency. Acceptable evidence of qualified alien status may include valid documentation issued by the U.S. Citizenship and Immigration Services (USCIS), or other acceptable documentation of qualified alien status proposed by the applicant and accepted by the Agency.

Attorney Certification. The applicant's attorney must review all applicable evidence to verify U.S. citizenship and/or qualified alien status, must certify that the Agency's U.S. citizenship and/or qualified alien status eligibility requirements are met by all applicants, and must submit the certification for Agency review with the application.

v. Documentation verifying the applicant is registered in the System for Award Management (SAM) and the applicant's Unique Entity Identifier (UEI) number (unless exempt under 2 CFR 25.110(b), (c), or (d)).

vi. For applicants that are limited partnerships, a current and fully executed limited partnership agreement and certificates of limited partners.

vii. For applicants that are limited liability corporations, evidence of organization under State and local law and a copy of the applicant's Articles of Organization and Operating Agreement.

viii. If a nonprofit organization:

a. Tax-exempt ruling from the Internal Revenue Service designating them as a 501(c)(3) or 501(c)(4) organization.

b. Purpose statement, including the provision of low-income housing.

c. Evidence of organization under state and local law and a copy of the applicant's charter, Articles of Incorporation, and By-laws.

d. List of Board of Directors including names, occupations, phone numbers, and addresses.

e. If a member or subsidiary of another organization, the organization's name, address, and nature of business.

ix. For entity applicants, a Certificate of Good Standing.

x. Attorney Certification. Letter from the applicant's attorney certifying the legal sufficiency of the organizational documents. The attorney must certify:

a. The applicant's legal capacity to successfully operate the proposed project for the life of the loan and/or grant.

b. For entity applicants, that the organizational documents comply with applicable RHS regulations.

c. For partnership or limited partnership applicants, that the term of the partnership extends at least through the latest maturity of all proposed RHS debt.

d. For entity applicants, that the organizational documents require prior written RHS approval for any of the following: withdrawal of a general partner from a partnership or any member from an LLC, admission of a general partner to a partnership or any member to an LLC, amending the organizational documents, and selling all or substantially all of the assets of the applicant.

e. For current RHS borrowers, that there have been no changes to either the ownership entity or the property that have not been approved by the RHS.

(d) Provide the following information about the Project:

i. Document the need for the project. The applicant must provide documentation that the average physical vacancy rate for the twelve (12) months preceding this Notice's application submission due date has been no more than ten (10) percent for projects consisting of sixteen (16) or more revenue units, and no more than fifteen (15) percent for projects with less than sixteen (16) revenue units, unless the project is seasonal Off-FLH, or unless the applicant has an RHS approved workout plan and is in compliance with the provisions of the workout plan, and provides documentation that clearly demonstrates to the RHS that sufficient market demand exists. If the project is seasonal Off-FLH, the applicant must provide detailed documentation for the twenty-four (24) months preceding this Notice's application submission due

date that verifies the project's operations, including information regarding the open and close date, lease-up, vacancy, rent rolls, waiting lists, operating budgets, and any other information the applicant wants to provide to document the need for the seasonal Off-FLH project.

If the project does not meet the vacancy requirements above, a description of the cause of the vacancy rate and the plan to increase the occupancy rate must be submitted. The requested loan or grant funds must be needed to stabilize occupancy. In addition, if the project does not meet the vacancy requirements above, the project's waiting list and documentation regarding the market area must be submitted to support the need for the project. The market area must be clearly identified and may include only the area from which tenants can reasonably be drawn to the project. For Off-Farm projects that do not meet the vacancy requirements above, documentation must be provided to justify the need within the primary market area for the housing of domestic farm laborers. The documentation must also consider disabled and retired farm workers and adjusted median incomes of very-low, low, and moderate.

ii. Documentation that the project has a positive cash flow. The applicant must provide documentation that the project had a positive cash flow for the previous full three (3) years of operations preceding this Notice's application submission due date. An exception applies for projects with an RHS approved workout plan wherein the applicant is in compliance with the provisions of the workout plan for a minimum of six consecutive months before becoming eligible for a loan and/or grant under this Notice. Additionally, an exception will apply to projects that have a negative cash flow in operations if surplus cash exists in either the general operating account as defined in 7 CFR 3560.306(d)(1) or the reserve account. Surplus cash exists when the balance is greater than the required deposits minus authorized withdrawals. The applicant must provide the project's annual financial report(s) to document the project complies with this exception for each year the project has a negative cash flow, if applicable. Seasonal Off-FLH properties that receive Operating Assistance (OA) are exempt from this requirement.

(e) Provide the following construction related documents:

i. Plans and specifications along with the proposed manner of construction. The housing must meet RHS's design and construction standards contained in

7 CFR part 1924, subparts A and C, and must also meet all applicable Federal, State, and local accessibility standards and current codes. The plans and specifications along with the proposed manner of construction must be submitted prior to the approval of the application. The RHS will notify eligible applicants of the deadline to submit these materials. Also, applications for Off-FLH loans and grants must meet the design requirements in 7 CFR 3560.559.

ii. Construction planning, bidding, and contract documents, including the construction contract and architectural agreement. The construction planning, bidding, and contract documents, including the construction contract and architectural agreement, must be submitted prior to the approval of the application. The RHS will notify eligible applicants of the deadline to submit these materials.

iii. For Off-FLH projects that do not currently have interior/exterior washing facilities, applicants should consider incorporating interior/exterior washing facilities for tenants, as necessary to protect the asset and the tenants from excess dirt and chemical exposure. Such facilities might include a boot washing station or hose bibs, among others.

iv. The applicant must submit a checklist, certification, and signed affidavit by the project architect or engineer, as applicable, for any energy programs in which the applicant intends to participate.

v. An estimate of development costs utilizing Form RD 1924–13, “Estimate and Certificate of Actual Cost,” which can be found at: <https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD1924-13.PDF>.

(f) Provide the following project financing information:

i. A Sources and Uses Statement which shows all sources of funding included in the proposed transaction. The terms and schedules of all sources included in the project should be included in the Sources and Uses Statement. (Note: A Section 516 grant may not exceed 90 percent of the total development cost (TDC) of the transaction.)

ii. All applications that propose the use of any grant, leveraged funds, or similar funding source must submit firm commitment letters with their application, if available. Applicants dependent upon third-party funding, including but not limited to local, State, and Federal resources through competitive and noncompetitive

application rounds, must obtain and submit to the Agency a satisfactory commitment of those funds, as determined by the Agency, upon receipt, but no later than the twelve-month time frame, as specified in the award commitment. An extension of the award commitment of up to six months may be given, at the sole discretion of the Agency, and will be based on project viability, current program demand, and availability of program funds. Applicants unable to satisfy this condition of the award commitment will be subject to having the award rescinded and will be required to reapply in future funding announcements.

iii. Description of how the applicant will meet the applicable equity contribution requirement.

(g) Provide the following environmental information:

i. Environmental information in accordance with the requirements of 7 CFR part 1970. The applicant is responsible for preparing and submitting the environmental review document in accordance with the format and standards provided by RHS in 7 CFR part 1970. Applicants may employ a design or environmental professional or technical service provider to assist them in the preparation of their environmental review documents at their own expense.

ii. Evidence of the submission of the project description to the applicable State Housing Preservation Office (SHPO), and/or Tribal Historic Preservation Officer (THPO) with the request for comments, if applicable. A letter from the SHPO and/or THPO where the project is located, signed by their designee, will serve as evidence of compliance.

iii. Intergovernmental review. Evidence of compliance with Executive Order 12372. Information is available on the USDA website at: <https://www.usda.gov/ocfo/federal-financial-assistance-policy/intergovernmental-review>. The applicant must initiate the intergovernmental review by submitting the required information to the applicable State Clearinghouse. The applicant must provide documentation that the intergovernmental review process was completed. The applicant must also submit any comments that were received as part of this review to the agency. If no comments are received, the applicant must provide documentation that the review was properly initiated and that the required

comment period has expired.

Applications from Federally recognized Indian Tribes are not subject to this requirement.

(h) Provide the following budget and project management information:

i. A proposed post-transaction operating budget utilizing Form RD 3560–7, “Multiple Family Housing Project Budget/Utility Allowance”. Form can be found at: <https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-7.PDF>. The budget must include the debt service of the new RHS loan(s), if applicable. This will be a post transaction budget that must include a narrative which provides justification for any changes between the current budget and proposed budget.

The RHS will review the budget to determine that the income and expenses are reasonable and customary for the area. The RHS will also verify that the budget reflects the new RHS loan debt service, if applicable, the existing RHS loan debt service, the number of units, unit mix, and rents. Overall, the RHS must review the budget for feasibility, accuracy, and reasonableness.

ii. Form RD 3560–13, “Multifamily Project Borrower’s/Management Agent’s Management Certification,” can be found at: <https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-13.PDF>. This document is required only if the owner is changing the management agent or the management fee as part of this proposal.

iii. Management plan with all attachments, including the proposed record keeping system, the proposed lease with an attorney’s certification and the proposed occupancy rules. This document is required only if the owner is changing the management agent or revising the management plan and any attachments as part of this proposal.

iv. Management Agreement. This document is only required if the owner is changing the management agent or revising the management agreement and any attachments as part of this proposal.

v. Tenant relocation plan, if applicable. Loans and/or grants that are made for major repair may require the temporary relocation of tenants while the project is undergoing work. The applicant must provide a plan and financial assistance for relocation of displaced persons from a site on which a project will be located.

(i) Provide the following third-party reports:

i. Acceptable appraisal. Appraisals may be conditioned but will be required prior to closing. For Off-Farm projects, please refer to the Agency's appraisal assignment guidance under the "To Apply" tab on the Off-Farm Labor Housing Direct Loans & Grants website (<https://www.rd.usda.gov/programs-services/multifamily-housing-programs/farm-labor-housing-direct-loans-grants#to-apply>). For this funding type, applicants should use the appraisal assignment guidance named "MFH 514 516 Off Farm Rehabilitation Only Appraisal Assignment Guidance" or "MFH 514 516 Off Farm Transfer and Rehabilitation Appraisal Assignment Guidance," as applicable.

For Section 515 projects, please refer to the Agency's appraisal assignment guidance under the "To Apply" tab on the Multifamily Preservation and Revitalization (MPR) website (<https://www.rd.usda.gov/programs-services/multifamily-housing-programs/multifamily-preservation-and-revitalization-mpr#to-apply>). For this funding type, applicants should use the appraisal assignment guidance named "MFH 515 Rehabilitation Appraisal Assignment Guidance" or "MFH 515 Transfer and Rehabilitation Appraisal Assignment Guidance," as applicable.

Project funds may be used to obtain the appraisal if there are adequate funds available and the request to use project funds is approved by the Field Operations Division servicing official.

No appraisal is required for subsequent Section 516 Off-FLH grant only requests.

ii. An acceptable As-Is CNA in accordance with the requirements set forth in the CNA Template and CNA Process Addendum provided at <https://www.rd.usda.gov/programs-services/multifamily-housing-programs/multifamily-housing-direct-loans#to-apply>.

Project funds may be used to obtain the As-Is CNA if there are adequate funds available and the request to use project funds is approved by the Field Operations Division servicing official. The repair plan should be developed in accordance with the CNA and the applicant should submit documentation of the detailed plan and timeline for completion of the repair work.

If any of the required items listed above, with the exception of the appraisal, are not submitted within the application in accordance with this Notice, or are incomplete, the application will be considered incomplete and will not be considered for funding. An acceptable appraisal will be required as a condition of funding but may be submitted prior to

closing to minimize upfront third-party report costs for applicants. If the application is incomplete or deemed ineligible, the applicant will be notified of any applicable appeal rights under 7 CFR part 11. Applications that are deemed eligible but are not selected for further processing due to a lack of funding will be withdrawn from processing and will be encouraged to apply to future Notices. This action is not appealable.

The RHS will not consider information from the applicant after the application deadline, except as expressly specified in this Notice. The RHS may contact the applicant to clarify other items in its application. The RHS will uniformly notify applicants of each curable deficiency. A curable deficiency is an error or oversight that if corrected it would not alter, in a positive or negative fashion, the review and rating of the application. An example of a curable (correctable) deficiency would be inconsistencies in the amount of the funding request. Non-curable deficiencies are threshold components that effect the review and rating of the application, including but not limited to, evidence of an eligible entity and evidence of the need for the project.

Each application must address the applicable scoring criteria presented in this Notice for the type of funding being requested.

(2) *System for Award Management and Unique Entity Identifier.* The System for Award Management (SAM) is the Official U.S. Government system for collection of forms for acceptance of a Federal award through the registration or annual recertification process. On April 4, 2022, the unique entity identifier used across the Federal Government changed from the Data Universal Numbering System (DUNS) Number to the Unique Entity ID (UEI) (generated by SAM.gov).

All program applicants, unless exempt under 2 CFR 25.110(b), (c), or (d), are required to:

- i. Be registered in System Award Management (SAM) before submitting their applications;
- ii. Provide a valid Unique Entity ID (UEI) in their applications; and
- iii. Continue to maintain an active SAM registration with current information at all times during which they have an active Federal award or an application or plan under consideration by a Federal awarding agency.

The Federal awarding agency may not make a Federal award to an applicant until the applicant has complied with all applicable SAM requirements and, if an applicant has not fully complied with the requirements by the time the

Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. SAM is the Official U.S. Government system for collection of forms for acceptance of a Federal award through the registration or annual recertification process. Applicants may register for SAM at <https://www.sam.gov> or by calling 1-866-606-8220. The applicant must ensure that the information in the database is current, accurate, and complete. On April 4, 2022, the unique entity identifier used across the Federal Government changed from the DUNS Number to the UEI (generated by SAM.gov). As required by the Office of Management and Budget (OMB), all applications must provide a UEI number when applying for Federal assistance. Instructions for obtaining the UEI are available at <https://sam.gov/content/entity-registration>. Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM. Similarly, all recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation in accordance with 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

Additional information concerning these requirements can be obtained on the *Grants.gov* website at <https://www.grants.gov>. The applicant must provide documentation that they are registered in SAM and their UEI number or the application will not be considered for funding. The following forms for acceptance of a Federal award are now collected through the registration or annual recertification in SAM.gov in the Financial Assistance General Certifications and Representations section:

- Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions."
- Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion. Lower Tier Covered Transactions."
- Form AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants)."
- Form AD-3031, "Assurance Regarding Felony Conviction or Tax

Delinquent Status for Corporate Applicants.”

• Form AD-3030, “Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants.”

(e) The Agency will not make an award until the applicant has complied with all SAM requirements including providing the UEI. If an applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

H. Submission Information

The Agency will not solicit, accept, or consider new scoring or eligibility information that is submitted after the application deadline. RHS reserves the right to ask applicants for clarifying information and additional verification of assertions in the application. All required application documents in accordance with this Notice must be submitted on or before 12 p.m. (ET) December 26, 2024. Please refer to the **DATES** section of this Notice for details.

Last-minute requests and submissions may not allow adequate time for the submission process to take place prior to the application deadline.

Applications will be rejected if not received by the deadline date and time, regardless of when submitted. The Agency is not liable for technical issues or system-related difficulties that affect an applicant's ability to submit applications in a timely fashion in accordance with the instructions of this NOFA. Application submissions must meet all the requirements of this Notice. No application will be accepted after the deadline unless the date and time is extended by another Notice published in the **Federal Register**. Incomplete applications and applications submitted after the deadline will be rejected without being scored.

Applicants are encouraged to include a checklist of all the application requirements and to index and tab their application to facilitate the review process:

- ☐ Table of Contents citing all documents submitted;
- ☐ Checklist of Application Requirements indexed in order; and
- ☐ Application Scoring Criteria Sheet listing each of the scoring criteria contained in the Program Notice, followed by page number references for all supporting materials and documentation contained in the application package.

I. Application Review Process

The Agency will determine if applications meet the following criteria:

- The application was received by the submission deadline;
- The application is complete as specified in the NOFA;
- The application is for an authorized purpose; and
- The applicant meets Agency eligibility requirements.

Applicants that are rejected by the Agency because they do not meet the criteria above will not be scored or ranked. Only applications meeting the above criteria will be scored and ranked. RHS will use the scoring and ranking factors outlined in this Notice for MPR and Section 515 RRH application(s).

After the Agency's initial assessment is complete, the Agency will score and rank complete and eligible application(s) as outlined in this Notice. The Agency will process the applications in order of their ranking (from highest score to lowest score) taking into account available funds. If any loan applications are withdrawn, rejected, or delayed for a period of time that will not permit funding in the current funding cycle, the Agency will process, in rank order, the next loan application as funding levels permit, subject to the goals for geographic distribution of funds as described in section D of this Notice. The Agency reserves the right to offer the applicant less than the funding amount requested. Upon completion of the funding round, the Agency will notify applicants of their score, upon request.

J. Scoring Criteria

Application scoring will be based on information provided in the applications and in Agency records. A minimum score of 20 points for scoring criteria (1) and (2), along with meeting all other eligibility requirements, e, will be required for a project to receive funding. Meeting the minimum scoring requirements does not guarantee funding. Points will be awarded as follows:

(1) *Development Team Experience (up to 15 points)*. Applicants should demonstrate their team's recent experience in successfully completing the rehabilitation of affordable MFH and/or FLH projects, as applicable, in a timely manner. If other funding sources are being sought, RHS will consider the applicant's experience with utilizing Federal financing programs, including timely project completion. A firm resume must be provided for all members of the applicant's ownership entity and the proposed management

team, including the management agent. The description or firm resumes must include any rental housing projects facilities that the applicant team sponsored, owns, or operates. To score the highest number of points for this factor, applicants must describe significant previous experience in development, rehabilitation, and preservation of affordable housing projects. Points will be awarded as follows:

- (a) Low level of development experience (5 points)
- (b) Medium level of development experience (10 points)
- (c) High level of development experience (15 points)

(2) *Ownership and Management Capacity (10 points)*. Applicants should demonstrate that they have the experience and organizational resources to successfully own, operate and manage affordable MFH and/or FLH projects on a long-term basis. A firm resume must be provided for all members of the applicant's ownership entity and the proposed management team, including the management agent. Each resume must include FLH and affordable MFH ownership and management experience, as applicable. In addition, the resume should include a description of all similar projects that the applicant and Sponsors/Co-Sponsors have been involved with, to include whether they were Federal housing projects, and information regarding the success of the projects. Points will be awarded as follows:

- (a) Inadequate owner and management experience (0 points)
- (b) Acceptable owner and management experience (10 points)

(3) *Disaster-Impacted Properties (5 points)*. Points may be awarded to projects that have been adversely impacted by the occurrence of a natural or man-made disaster that caused physical property damage or failure that is not fully reimbursable by property, casualty or liability insurance or any other form of third-party compensation, such as disaster loans and grants from other agencies. To qualify for points, properties must have outstanding repair and rehabilitation needs stemming from the natural or man-made disaster that have not been remedied due to inadequate insurance/third-party compensation.

(4) *Projects with Existing MPR Debt Deferrals Expiring Prior to January 1, 2027 (5 points)*. Points are awarded to properties with an existing MPR debt deferral that is expiring prior to January 1, 2027. Documentation of the existing

loan deferral(s) must be provided with the application.

(5) *Projects Reaching Mortgage Maturity Prior to January 1, 2027 (5 points)*. Points are awarded if all Agency loans on the property have maturity dates prior to January 1, 2027. If the applicant is proposing a consolidation of two or more properties into a single project, all Agency loans on the consolidated project must have loan maturity dates prior to January 1, 2027, to receive points.

(6) *Non-Selected Projects with a Complete Application Submitted for Section 515 Subsequent Loan Funding in FY2023 (5 points)*. Points are awarded to projects for which a complete application was submitted for an FY2023 Section 515 Subsequent Loan but the project was not selected for funding. Applicants must provide a copy of the letter from the Agency indicating that a complete application was received but the project was not selected for funding.

(7) *Immediate Capital Needs for Health, Safety and Accessibility Repairs (up to 20 points)*. To receive points, applicants must submit a Capital Needs Assessment that includes documentation of the immediate health, safety and accessibility (H/S/A) repairs required for the property. Points will be awarded based on the percentage of project construction costs allocated for immediate H/S/A repairs and improvements. To receive points, applicants must clearly document the immediate H/S/A repairs and calculate the cost of those repairs as a percentage of the total project construction costs. Points will be awarded as follows:

- (a) Immediate H/S/A repairs >40% of construction costs: 20 points
- (b) Immediate H/S/A repairs 31–40% of construction costs: 15 points
- (c) Immediate H/S/A repairs 21–30% of construction costs: 10 points
- (d) Immediate H/S/A repairs 11–20% of construction costs: 5 points

(8) *Energy Efficiency and Green Building (up to 5 points)*. Points will be awarded to applicants demonstrating through written narrative how the proposed repair project meets energy efficiency, pollution mitigation or clean energy goals through the following programs. Applicants must submit the corresponding checklist, registrations in programs, and commitments signed by the owner, the architect, applicable mechanical, electrical plumbing, and structural engineers, and other program-required green building professionals, energy modelers and raters as applicable to the programs selected for point consideration.

(a) Program participation (3 points). Applicants will receive points for participation in one of the following programs:

- EPA's Energy Star Multifamily Certification or Energy Star Next Gen (https://www.energystar.gov/partner_resources/residential_new/homes_prog_reqs/multifamily_national_page)
- DOE Zero Energy Ready Homes (<https://www.energy.gov/eere/buildings/zero-energy-ready-homes>)
- Earth Advantage (<https://www.earthadvantage.org/>)
- Earthcraft Gold or Platinum (<https://earthcraft.org/programs/earthcraft-house/>)
- Green Communities program by the Enterprise Community Partners (2020 Criteria, EGC + Zero Ready/Phius) (<https://www.enterprisecommunity.org/solutions-and-innovation/green-communities>)
- Greenpoint Gold or Platinum (<https://www.greenpointrated.com/greenpoint-rated/>)
- The National Green Building Standard (–GBS)—Multifamily and Mixed Use (four levels of base certification, plus *NGBS Green + NET ZERO ENERGY CERTIFICATION) (https://www.homeinnovation.com/services/certification/green_homes/multifamily_certification)
- International Living Future Institute (ILFI) Living Building Challenge (LBC 4.0—Core Building Certification, *Zero Energy, *Zero Carbon) (<https://living-future.org/lbc/>)
- LEED V4 Homes and Multifamily Midrise, or LEED BD+C: Homes and Multifamily Lowrise LEED BD+C: Multifamily Midrise (four levels of certification, plus *LEED Zero) (<https://www.usgbc.org/resources/leed-v4-homes-and-multifamily-midrise-current-version>)
- Passive House Institute US, Inc. (Phius Core, *Phius Zero) (<https://multifamily.phius.org/service-category/phius-within-reach>)

(b) Water Conservation (1 point). One point will be awarded for xeriscaping of site landscaping and/or water conservation in irrigation measures to include a recycled water (gray water or storm water) for landscape irrigation covering 50 percent or more of the property's site landscaping needs. To receive points, the architect or consulting landscape architect must illustrate in narrative, draft specifications, and schematic drawings how this will be achieved.

(c) Property Management Credentials (1 point). One point will be awarded if the designated property management

company or individuals that will assume maintenance and operation responsibilities upon completion of construction work have a Credential for Green Property Management. Credentialing can be obtained from the National Apartment Association (NAA), National Affordable Housing Management Association, The Institute for Real Estate Management, U.S. Green Building Council Leadership in Energy and Environmental Design (USGBC LEED) for Operations and Maintenance, or another source with a certifiable credentialing program. To receive points, credentialing must be illustrated in the resume(s) of the property management team and included with the application.

All projects awarded scoring points for energy initiatives will be required to enroll the project in the EPA Portfolio Manager program and the associated EPA Water Score program to track post construction energy consumption data as well as water usage. More information about this program may be found at: <https://www.energystar.gov/buildings/benchmark>.

(9) *Leveraging Other Funding Sources (up to 15 points)*. Points will be allocated for applications that leverage other funds based on the percentage of leveraged funds. . Leveraged funds are defined as non-Section 514/515/516/MPR funds, including third-party funds from equity, grants, loans and deferred developer fees. Points are calculated as follows:

- (a) Leveraged funds/TDC is greater than 50%: 15 points
- (b) Leveraged funds/TDC is 26–50%: 10 points
- (c) Leveraged funds/TDC is 11–25%: 5 points

(10) *Projects Providing Access to Supportive Services for Tenants (5 points)*. Points are awarded to projects that employ a Service Coordinator, documented as a project expense in the most recent agency-approved Form RD 3560–7 Multifamily Housing Project Budget/Utility Allowance, or include units designated as permanent supportive units or for homeless households, documented by an agreement with another Federal or State funding source. To receive points, the applicant must describe the basis for claiming points (*i.e.*, service coordinator and/or permanent supportive housing/homeless unit set-aside) and provide documentation to include the Form 3560–7 and/or an agreement describing the terms and conditions for the units designated as permanent supportive housing or for homeless households, as applicable.

(11) *Creating More and Better Markets: Assisting rural communities to recover economically through more and better market opportunities through improved infrastructure. (5 points).*

Applicants receive priority points if the project is located in or serving a rural community whose economic well-being ranks in the most distressed tier of the Distressed Communities Index. The Distressed Communities Index provides a score between 1–100 for every community at the zip code level. The most distressed tier of the index are those communities with a score over 80. Applicants should use the Distressed Communities Index Look-Up Map to determine if the project qualifies for priority points. Provide a copy of the map showing the project is eligible to claim points.

Note: U.S. Territories are considered distressed and qualify for priority points. For additional information on data sources used for this priority determination, please download the Data Sources for Rural Development Priorities document at the website: <https://www.rd.usda.gov/media/file/download/rd-ic-prioritiesdatasupplementalupdatedfy2024.pdf>. Additional information for priority points can be found on the following website: <https://www.rd.usda.gov/priority-points>.

(12) *Advancing Racial Justice, Place-Based Equity, and Opportunity: Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects. (5 points).* Applicants receive priority points if the project is located in or serving a community with a score of 0.75 or above on the Centers for Disease Control and Prevention (CDC) Social Vulnerability Index. Applicants should use Social Vulnerability Index Map look up map or list to determine if the project qualifies for points. Provide a copy of the map showing the project is eligible to claim points. Applications from Federally Recognized Tribes, including Tribal instrumentalities and entities that are wholly owned by Tribes will receive points. Federally Recognized Tribes are classified as any Indian or Alaska Native Tribe, band, nation, pueblo, village, or community as defined by the Federally Recognized Indian Tribe List Act (List Act) of 1994 (Pub. L. 103–454). Please refer to the Bureau of Indian Affairs for a listing of Federally Recognized Tribes at 89 FR 944 (January 8, 2024) (<https://www.federalregister.gov/documents/2024/01/08/2024-00109/indian-entities-recognized-by-and-eligible-to-receive-services-from-the-united-states-bureau-of>). Additionally, projects where at least 50% of the project beneficiaries are members of Federally Recognized Tribes, will receive points if

applications from non-Tribal applicants include a Tribal Resolution of Consent from the Tribe or Tribes that the applicant is proposing to serve. Note: U.S. Territories are considered socially vulnerable and qualify for points.

An applicant would receive priority points if the project is an application from or benefiting a Rural Partner's Network's (RPN) community network. Currently RPN Networks exist in Alaska, Arizona, Georgia, Kentucky, Mississippi, Nevada, New Mexico, North Carolina, Puerto Rico, West Virginia, and Wisconsin. Use the Community Look-Up map available at www.rd.usda.gov/priority-points to determine if your project qualifies. Please provide a map or other documentation showing that the project is located in an RPN community network.

For additional information on data sources used for this priority determination, please download the Data Sources for Rural Development Priorities document at the website: <https://www.rd.usda.gov/media/file/download/rd-ic-prioritiesdatasupplementalupdatedfy2024.pdf>. Additional information for priority points can be found on the following website: <https://www.rd.usda.gov/priority-points>.

(13) *Addressing Climate Change and Environmental Justice: Reducing climate pollution and increasing resilience to the impacts of climate change through economic support for rural communities (5 points).*

Applicants can receive points through one of the options listed below. A maximum of 5 points can be received even if the applicant meets the requirements for both options.

Option 1: Points will be awarded if the project is located in or serves a Disadvantaged Community as defined by the Climate and Economic Justice Screening Tool (CEJST), from the White House Council on Environmental Quality (CEQ). CEJST is a tool to help Federal agencies identify disadvantaged communities that will benefit from programs included in the Justice40 initiative. Census tracts are considered disadvantaged if they meet the thresholds for at least one of the CEJST's eight (8) categories of burden: Climate, Energy, Health, Housing, Legacy Pollution, Transportation, Water and Wastewater, or Workforce Development.

Option 2: Points will be awarded if the project is located in or serves an Energy Community as defined by the Inflation Reduction Act (IRA). The IRA defines energy communities as:

- A “brownfield site” (as defined in certain subparagraphs of the

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)).

- A “metropolitan statistical area” or “non-metropolitan statistical area” that has (or had at any time after 2009).
- 0.17% or greater direct employment or 25% or greater local tax revenues related to the extraction, processing, transport, or storage of coal, oil, or natural gas, and has an unemployment rate at or above the national average unemployment rate for the previous year.
- A census tract (or directly adjoining census tract) in which a coal mine has closed after 1999, or in which a coal-fired electric generating unit has been retired after 2009.

To determine if your project qualifies for points under Option 1 or Option 2, please use the Disadvantaged Community & Energy Community Look-Up Map on the following website: <https://www.rd.usda.gov/priority-points>. Provide a copy of the map showing the project is eligible to claim points.

K. Federal Award Administration Information

1. Federal Award Notices

Successful applicants will receive notification by email for funding from the USDA Rural Development Office of Multifamily Housing. Applicants must comply with all applicable statutes and regulations before the award will be approved. Receipt of an award letter does not serve to authorize the applicant to commence performance under the award. Award letters will include conditions that must be met prior to award closing. Unsuccessful applications will receive notification by email, detailing why the application was unsuccessful.

2. Administrative and National Policy Requirements

There are no known unusual Administrative and National Policy Requirements associated with this program under this Notice.

3. Reporting

Performance reporting, including applicable forms, narratives, and other documentation, are to be completed and submitted in accordance with the provisions of 7 CFR 3560.308 and the Grant Agreement.

Borrowers must maintain separate financial records for the operation and maintenance of the project and for tenant services. Tenant services will not be funded by RHS. Funds allocated to the operation and maintenance of the project may not be used to supplement

the cost of tenant services, nor may tenant service funds be used to supplement the project operation and maintenance. Detailed financial reports regarding tenant services will not be required unless specifically requested by RHS, and then only to the extent necessary for RHS and the borrower to discuss the affordability (and competitiveness) of the service provided to the tenant. The project audit, or verification of accounts on Form RD 3560–10, “Borrower Balance Sheet,” together with an accompanying Form RD 3560–7, “Multiple Family Housing Project Budget/Utility Allowance,” must allocate revenue and expenses between project operations and the tenant services component.

L. Federal Awarding Agency Contact(s)

For general questions about this announcement, please contact Jonathan D. Bell, Director, Processing and Report Review Branches, Production and Preservation Division, MFH, RD, USDA, via email: MFHprocessing1@usda.gov or telephone: (202) 205–9217.

M. Build America, Buy America

Funding to Non-Federal Entities: For-profit entities and other entities not included in the definition of Non-Federal Entities, defined pursuant to 2 CFR 200.1, are not subject to the Build America, Buy America Act (BABAA). The Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58), requires the following Buy America preference for the Multifamily Housing Revitalization Demonstration Program (MPR) (Assistance Listing 10.447) and the Section 515 Direct Loan program:

(a) All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(b) All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

(c) All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

Awards under this announcement for infrastructure projects to non-Federal entities, defined pursuant to 2 CFR 200.1 as any State, local government, Indian Tribe, Institution of Higher Education, or nonprofit organization, shall be governed by the requirements of Section 70914 of BABAA within the IIJA, and its implementing regulations. Infrastructure projects include structures, facilities, and equipment that generate, transport, and distribute fuel or energy, including electric vehicle (EV) charging stations. Infrastructure projects also include structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property.

In accordance with BABAA, however, USDA has determined that de minimis, small grants, and minor components shall be waived from the requirements of BABAA, pursuant to a public interest waiver that was granted to the Department on September 13, 2022. Under such waiver, small grants below the Simplified Acquisition Threshold, which is currently set at \$250,000 shall not be subject to BABAA. Additionally, de minimis and minor components, as described in the Department waiver, are also not subject to BABAA.

Applicants and projects that are subject to BABAA may request other specific waivers, pursuant to the requirements posted at the USDA Office of the Chief Financial Officer Office website: <https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver>.

N. Other Information

(a) *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection requirements associated with the programs, as covered in this Notice, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0190.

(b) *National Environmental Policy Act.* All recipients under this Notice are subject to the requirements of 7 CFR part 1970.

(c) *Federal Funding Accountability and Transparency Act.* All applicants, in accordance with 2 CFR part 25 (<https://www.ecfr.gov/current/title-2/part-25>), must be registered in SAM and have a UEI number as stated in

“GENERAL SECTION” of this Notice. All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170 (<https://www.ecfr.gov/current/title-2/part-170>).

(d) Debarment and Suspension.

Applicants are not eligible if they have been debarred or suspended or otherwise excluded from, or ineligible for, participation in Federal assistance programs under 2 CFR parts 180 and 417. The Applicant will be required to comply with the requirement in 2 CFR 180.335.

(e) *Civil Rights Act.* All grants made under this Notice are subject to title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A, and section 504 of the Rehabilitation Act of 1973, title VIII of the Civil Rights Act of 1968, title IX, Executive Order 13166 (Limited English Proficiency), Executive Order 11246, and the Equal Credit Opportunity Act of 1974.

(f) *Non-Discrimination Policy.* In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language) should contact the responsible Mission Area, agency, or staff office or the 711 Federal Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant’s name, address, telephone number, and a written description of the

alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) *Mail*: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; or

(2) *Fax*: (833) 256-1665 or (202) 690-7442; or

(3) *Email*: Program.Intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

Yvonne Hsu,

Acting Administrator, Rural Housing Service.

[FR Doc. 2024-22177 Filed 9-24-24; 4:15 pm]

BILLING CODE 3410-XV-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-922, A-583-842]

Raw Flexible Magnets From the People's Republic of China and Taiwan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: As a result of these third expedited sunset reviews, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty orders on raw flexible magnets from the People's Republic of China (China) and Taiwan would be likely to lead to continuation or recurrence of dumping at the levels indicated in the "Final Results of Expedited Sunset Reviews" section of this notice.

DATES: Applicable September 27, 2024.

FOR FURTHER INFORMATION CONTACT: Garry Kasparov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1397.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2024, Commerce published in the **Federal Register** the initiation of the third sunset reviews of antidumping duty orders on raw flexible magnets from China and Taiwan pursuant to

section 751(c) of the Tariff Act of 1930, as amended (the Act).¹

On June 14, 2024, we received a timely notice of intent to participate in these sunset reviews from Magnum Magnet Corporation (Magnum), a domestic interested party, pursuant to 19 CFR 351.218(d)(1)(i).² Magnum claimed interested party status under section 771(9)(C) of the Act as a manufacturer of a domestic like product in the United States. On June 28, 2024, Magnum provided complete substantive responses for these reviews within the 30-day deadline specified in 19 CFR 351.2218(d)(3)(i).³ Commerce did not receive substantive responses from any respondent parties, and no party requested a hearing.

On July 23, 2024, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from other interested parties.⁴ As a result, in accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited, *i.e.*, 120-day, sunset reviews of the *Orders*. On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.⁵ The deadline for these final results is now October 8, 2024.

Scope of the Orders

The products covered by the *Orders* are certain flexible magnets regardless of shape, color, or packaging. For a full description of the scope of the *Orders*, see the Issues and Decision Memorandum.⁶

Analysis of the Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margin likely

¹ See *Initiation of Five-Year (Sunset) Reviews*, 89 FR 47525 (June 3, 2024); see also *Antidumping Duty Order: Raw Flexible Magnets from the People's Republic of China*, 73 FR 53847 (September 17, 2008); and *Antidumping Duty Order: Raw Flexible Magnets from Taiwan*, 73 FR 53848 (September 17, 2008) (collectively, *Orders*).

² See Magnum's Letters, "Notice of Intent to Participate," dated June 14, 2024.

³ See Magnum's Letters, "Substantive Response," dated June 28, 2024.

⁴ See Commerce's Letter, "Sunset Reviews Initiated on June 3, 2024," dated July 23, 2024.

⁵ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

⁶ See Memorandum, "Decision Memorandum for the Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders on raw flexible magnets from the People's Republic of China and Taiwan," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

to prevail if the Order were to be revoked, is provided in the accompanying Issues and Decision Memorandum.⁷ A list of topics discussed in the Issues and Decision Memorandum is included as the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping and that the magnitude of the margins of dumping likely to prevail would be margins up to 185.28 percent for China and up to 38.03 percent for Taiwan.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing, and publishing notice of, the final results of these sunset reviews in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2) and 19 CFR 351.221(c)(5)(ii).

Dated: September 23, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. History of the *Orders*
- V. Legal Framework
- VI. Discussion of the Issues

⁷ *Id.*

1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely To Prevail
- VII. Final Results of Expedited Sunset Reviews
- VIII. Recommendation

[FR Doc. 2024–22201 Filed 9–26–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–508–814, C–508–815]

Brass Rod From Israel: Antidumping Duty and Countervailing Duty Orders

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

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing antidumping duty (AD) and countervailing duty (CVD) orders on brass rod from Israel.

DATES: Applicable September 27, 2024.

FOR FURTHER INFORMATION CONTACT: Andrew Hart (AD) at (202) 482–1058 or Zachary Shaykin (CVD) at (202) 482–2638, AD/CVD Operations, Offices II and IV, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(d) and 735(d) of the Tariff Act of 1930, as amended (the Act), on August 5, 2024, Commerce published its affirmative final determination of sales at less than fair value (LTFV) and its affirmative final determination that countervailable subsidies are being provided to producers and exporters of brass rod from Israel.¹ On September 19, 2024, pursuant to sections 705(d) and 735(d) of the Act, the ITC notified Commerce of its final affirmative determinations that an industry in the United States (U.S.) is materially injured by reason of dumped imports and subsidized imports of brass rod from Israel, within the meaning of sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Act.²

¹ See *Brass Rod from Israel: Final Affirmative Determination of Sales at Less Than Fair Value*, 89 FR 63402 (August 5, 2024); and *Brass Rod from Israel: Final Affirmative Countervailing Duty Determination*, 89 FR 63410 (August 5, 2024).

² See ITC Letter, “Notification of ITC Final Determinations,” dated September 19, 2024 (ITC Notification Letter).

Scope of the Orders

The merchandise covered by these orders is brass rod from Israel. For a complete description of the scope of these orders, see the appendix to this notice.

Antidumping Duty Order

On September 19, 2024, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of brass rod that are sold in the United States at LTFV. Therefore, in accordance with section 735(c)(2) and 736 of the Act, Commerce is issuing this AD order. Because the ITC determined that imports of brass rod from Israel are materially injuring a U.S. industry, unliquidated entries of such merchandise from Israel, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of brass rod from Israel. Antidumping duties will be assessed on unliquidated entries of brass rod from Israel entered, or withdrawn from warehouse, for consumption on or after December 14, 2023, the date of publication of the *AD Preliminary Determination* but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC’s final injury determination, as further described below.³

Suspension of Liquidation and Cash Deposits—AD

Commerce intends to instruct CBP to reinstitute the suspension of liquidation of brass rod from Israel, effective on the date of publication of the ITC’s final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by Commerce, antidumping duties on each entry of subject merchandise based on the estimated weighted-average dumping margins indicated in the table below.

³ See *Brass Rod from Israel: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 88 FR 86632 (December 14, 2023) (*AD Preliminary Determination*).

On or after the date of publication of the ITC’s final injury determination in the **Federal Register**, Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below.

Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC’s final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated customs duties on this subject merchandise, a cash deposit equal to the rates listed in the table below.

Estimated Weighted-Average Antidumping Duty Margins

The estimated weighted-average dumping margins are as follows:

Exporter or producer	Weighted-average dumping margin (percent)
Finkelstein Metals Ltd	19.48
All Others	19.48

Provisional Measures—AD

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that accounted for a significant proportion of exports of brass rod from Israel, Commerce extended the four-month period to no more than six-months.⁴ In the underlying investigation, Commerce published the *AD Preliminary Determination* on December 14, 2023. Therefore, the six-month period beginning on the date of the publication of the *AD Preliminary Determination* ended on June 10, 2024.

For all companies, in accordance with section 733(d) of the Act, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of brass rod from Israel entered, or withdrawn from warehouse, for consumption, on or after June 11, 2024, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC’s final injury determination in the **Federal Register**.

⁴ See *AD Preliminary Determination*.

Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determination in the **Federal Register**.

CVD Order

As stated above, based on the above-referenced affirmative final determination by the ITC that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of brass rod from Israel,⁵ in accordance with section 705(c)(2) of the Act, Commerce is issuing this CVD order. Moreover, because the ITC determined that imports of brass rod from Israel are materially injuring a U.S. industry,⁶ unliquidated entries of subject merchandise from Israel entered, or withdrawn from warehouse, for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce intends to direct CBP to assess, upon further instruction by Commerce, countervailing duties on all relevant entries of brass rod from Israel, which are entered, or withdrawn from warehouse, for consumption on or after September 29, 2023, the date of publication of the *CVD Preliminary Determination*, but will not include entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final injury determination under section 705(b) of the Act, as further described in the "Provisional Measures—CVD" section of this notice.⁷

Suspension of Liquidation and Cash Deposits—CVD

In accordance with section 706 of the Act, Commerce intends to instruct CBP to reinstitute the suspension of liquidation of brass rod from Israel, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by Commerce, pursuant to section 706(a)(1) of the Act, countervailing duties on each entry of subject merchandise in an amount based on the net countervailable subsidy rates below. On or after the date of publication of the ITC's final injury determination in the

Federal Register, CBP must require, at the same time as importers would normally deposit estimated customs duties on this merchandise, a cash deposit equal to the rates listed in the table below. These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all producers or exporters not specifically listed below, as appropriate.

Estimated Countervailing Duty Subsidy Rates

The estimated countervailing duty subsidy rates are as follows:

Company	Subsidy rate (percent ad valorem)
Finkelstein Metals Ltd	1.89
All Others	1.89

Provisional Measures—CVD

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. Commerce published the *CVD Preliminary Determination* on September 29, 2023.⁸ As such, the four-month period beginning on the date of the publication of the *CVD Preliminary Determination* ended on January 26, 2024.

For all companies, in accordance with section 703(d) of the Act, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of brass rod from Israel entered, or withdrawn from warehouse, for consumption, on or after January 27, 2024, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

On September 20, 2021, Commerce published the *Final Rule* in the **Federal Register**.⁹ On September 27, 2021, Commerce also published the *Procedural Guidance* in the **Federal**

Register.¹⁰ The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.

In accordance with the *Procedural Guidance*, for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at <https://access.trade.gov>, within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called "AISL-Annual Inquiry Service List."¹¹

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance*,¹² the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of

¹⁰ See *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

¹¹ This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A-000-000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as "AISL-January Anniversary." Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

¹² See *Procedural Guidance*, 86 FR at 53206.

⁵ See ITC Notification Letter.

⁶ *Id.*

⁷ See *Brass Rod from Israel: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 88 FR 67236 (September 29, 2023) (*CVD Preliminary Determination*).

⁸ *Id.*

⁹ See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (*Final Rule*).

appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website.

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule*, Commerce stated that, “after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.”¹³ Accordingly, as stated above, the petitioner and the Government of Israel should submit their initial entries of appearance after publication of this notice in order to appear in the first annual inquiry service lists for these orders. Pursuant to 19 CFR 351.225(n)(3), the petitioner and the Government of Israel will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioner and the Government of Israel are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the AD order with respect to brass rod from Israel and the CVD order with respect to brass rod from Israel, pursuant to sections 706(a) and 736(a) of the Act. Interested parties can find a list of AD and CVD orders currently in effect at <https://enforcement.trade.gov/stats/iastats1.html>.

These orders are issued and published in accordance with sections 706(a) and 736(a) of the Act and 19 CFR 351.211(b).

Dated: September 23, 2024.

Ryan Majerus,

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

Appendix

Scope of the Orders

The products within the scope of these orders are brass rod and bar (brass rod), which is defined as leaded, low-lead, and no-lead solid brass made from alloys such as, but not limited to the following alloys classified under the Unified Numbering System (UNS) as C27450, C27451, C27460, C34500, C35000, C35300, C35330, C36000,

C36300, C37000, C37700, C48500, C67300, C67600, and C69300, and their international equivalents.

The brass rod subject to these orders has an actual cross-section or outside diameter greater than 0.25 inches but less than or equal to 12 inches. Brass rod cross-sections may be round, hexagonal, square, or octagonal shapes as well as special profiles (e.g., angles, shapes), including hollow profiles.

Standard leaded brass rod covered by the scope contains, by weight, 57.0–65.0 percent copper; 0.5–3.0 percent lead; no more than 1.3 percent iron; and at least 15 percent zinc. No-lead or low-lead brass rod covered by the scope contains by weight 59.0–76.0 percent copper; 0–1.5 percent lead; no more than 0.35 percent iron; and at least 15 percent zinc. Brass rod may also include other chemical elements (e.g., nickel, phosphorous, silicon, tin, etc.).

Brass rod may be in straight lengths or coils. Brass rod covered by these orders may be finished or unfinished, and may or may not be heated, extruded, pickled, or cold-drawn. Brass rod may be produced in accordance with ASTM B16, ASTM B124, ASTM B981, ASTM B371, ASTM B453, ASTM B21, ASTM B138, and ASTM B927, but such conformity to an ASTM standard is not required for the merchandise to be included within the scope.

Excluded from the scope of these orders is brass ingot, which is a casting of unwrought metal unsuitable for conversion into brass rod without remelting, that contains, by weight, at least 57.0 percent copper and 15.0 percent zinc.

The merchandise covered by these orders is currently classifiable under subheadings 7407.21.9000, 7407.21.7000, and 7407.21.1500 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheadings 7403.21.0000, 7407.21.3000, and 7407.21.5000. The HTSUS subheadings and UNS alloy designations are provided for convenience and customs purposes. The written description of the scope of these orders is dispositive.

[FR Doc. 2024–22206 Filed 9–26–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–929]

Ceramic Tile From India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Antidumping Duty Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable (CVD)

subsidies are being provided to producers and exporters of ceramic tile from India. The period of investigation (POI) is April 1, 2023, through March 31, 2024. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 27, 2024.

FOR FURTHER INFORMATION CONTACT:

Jinny Ahn or Natasia Harrison, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0339 or (202) 482–1240, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 16, 2024.¹ On June 24, 2024, Commerce postponed the preliminary determination in this investigation until September 16, 2024.² On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.³ The deadline for this preliminary determination is now September 23, 2024.

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

¹ *See Ceramic Tile from India: Initiation of Countervailing Duty Investigation*, 89 FR 42841 (May 16, 2024) (Initiation Notice).

² *See Ceramic Tile from India: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 89 FR 53958 (June 28, 2024).

³ *See* Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

⁴ *See* Memorandum, “Decision Memorandum for the Preliminary Affirmative Determination in the Countervailing Duty Investigation of Ceramic Tile from India,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

¹³ *See Final Rule*, 86 FR at 52335.

Scope of the Investigation

The product covered by this investigation is ceramic tile from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce’s regulations,⁵ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).⁶ We received several comments concerning the scope of this investigation, as well as in the companion less-than-fair value (LTFV) investigation of ceramic tile, as it appeared in the *Initiation Notice*. We are currently evaluating the scope comments filed by interested parties. We intend to issue our preliminary decision regarding the scope of the LTFV and CVD investigations on or before the preliminary determination of the companion LTFV investigation, the deadline for which is November 22, 2024. We will incorporate the scope decisions from the LTFV investigation into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in scope case and rebuttal briefs.⁷

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁸ In making its determination, Commerce relied, in part, on adverse facts available. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 703(e)(1) of the Act, Commerce preliminarily determines that critical circumstances do not exist with respect to U.S. imports of subject merchandise from Antiqua Minerals (Antiqua) and Win-Tel Ceramics Private Limited (Win-Tel). However,

Commerce preliminarily finds that critical circumstances exist for all other exporters or producers not individually examined. For a full description of the methodology and results of Commerce’s analysis, *see* the “Preliminary Determination of Critical Circumstances” section in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of ceramic tile from India based on a request made by the petitioner.⁹ Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than February 5, 2025, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates determined entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Antiqua and Win-Tel that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company’s publicly ranged values for the merchandise under consideration.¹⁰

⁹ See Petitioner’s Letter, “Petitioner’s Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination,” dated September 9, 2024. The petitioner is the Coalition for Fair Trade in Ceramic Tile.

¹⁰ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company’s publicly ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closer to (A) as the most appropriate rate for all

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent <i>ad valorem</i>)
Antiqua Minerals	3.15
Win-Tel Ceramics Private Limited ¹¹	3.05
All Others	3.08

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in Appendix I to this notice entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rate indicated in the table above.

Section 703(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published in the **Federal Register**. As noted above, Commerce preliminarily finds that critical circumstances do not exist for imports of subject merchandise produced and/or exported by Antiqua and Win-Tel, and that critical circumstances do exist for all other producers and/or exporters not individually examined. In accordance with section 703(e)(2)(A) of the Act, suspension of liquidation shall apply to unliquidated entries of subject

other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1. As complete publicly ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* the All-Others Rate Calculation Memorandum, dated concurrently with this notice.

¹¹ As discussed in the Preliminary Decision Memorandum, Commerce preliminarily finds Win-Tel Ceramics Private Limited to be cross-owned with Theos Tiles LLP.

⁵ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁶ *See Initiation Notice*, 89 FR at 42842.

⁷ The deadline for interested parties to submit scope case and rebuttal briefs will be established in the preliminary scope decision memorandum.

⁸ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

merchandise from the exporters/producers identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice in the **Federal Register**.

Disclosure

Commerce intends to disclose its calculations and analysis performed in this preliminary determination to parties to the proceeding within five days of public announcement of the determination, or if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.244(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

All interested parties will have the opportunity to submit scope case and rebuttal briefs on the preliminary decision regarding the scope of the LTFV and CVD investigations. The deadlines to submit scope case and rebuttal briefs will be provided in the preliminary scope decision memorandum. For all scope case and rebuttal briefs, parties must file identical documents simultaneously on the records of the ongoing LTFV and CVD ceramic tile investigations. No new factual information or business proprietary information may be included in either scope case or rebuttal briefs.

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation.¹² Rebuttal briefs, limited

to issues raised in case briefs, may be filed not later than five days after the date for filing case briefs.¹³ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁴

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide, at the beginning of their briefs, a public executive summary for each issue raised in their briefs.¹⁵ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis for the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice in the **Federal Register**. Requests should contain the party's name, address, and telephone number, the number of participants from the party, whether any participant is a foreign national, and a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing

two days before the scheduled hearing date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine, before the later of 120 days after the date of this preliminary determination or 45 days after the final determination, whether imports of ceramic tile from India are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: September 23, 2024.

Ryan Majerus,

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

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is ceramic flooring tile, wall tile, paving tile, hearth tile, porcelain tile, mosaic tile, flags, decorative tile, finishing tile, and the like (hereinafter ceramic tile). Ceramic tiles are articles containing a mixture of minerals including clay (generally hydrous silicates of alumina or magnesium) that are fired so the raw materials are fused to produce a tile that is less than 3.2 cm in thickness, exclusive of decorative features. All ceramic tile is subject to the scope regardless of end use, surface area, and weight, regardless of whether the tile is glazed or unglazed, regardless of the water absorption coefficient by weight, regardless of the extent of vitrification, and regardless of whether or not the tile is on a backing. Subject merchandise includes ceramic tile "slabs" or "panels" (tiles that are larger than 1 meter² (11 ft²)).

Subject merchandise includes ceramic tile that undergoes minor processing in a third country prior to importation into the United States. Similarly, subject merchandise includes ceramic tile produced that undergoes minor processing after importation into the United States. Such minor processing includes, but is not limited to, one or more of the following: beveling, cutting, trimming, staining, painting, polishing, finishing, additional firing, affixing a decorative surface to the tile, or any other processing that would otherwise not remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope product.

Subject merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following

¹³ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁶ See *APO and Service Final Rule*.

¹² See 19 CFR 351.309(c)(1)(i); see also 19 CFR 351.303 (for general filing requirements).

subheadings of heading 6907: 6907.21.1005, 6907.21.1011, 6907.21.1051, 6907.21.2000, 6907.21.3000, 6907.21.4000, 6907.21.9011, 6907.21.9051, 6907.22.1005, 6907.22.1011, 6907.22.1051, 6907.22.2000, 6907.22.3000, 6907.22.4000, 6907.22.9011, 6907.22.9051, 6907.23.1005, 6907.23.1011, 6907.23.1051, 6907.23.2000, 6907.23.3000, 6907.23.4000, 6907.23.9011, 6907.23.9051, 6907.30.1005, 6907.30.1011, 6907.30.1051, 6907.30.2000, 6907.30.3000, 6907.30.4000, 6907.30.9011, 6907.30.9051, 6907.40.1005, 6907.40.1011, 6907.40.1051, 6907.40.2000, 6907.40.3000, 6907.40.4000, 6907.40.9011, and 6907.40.9051. Subject merchandise may also enter under subheadings of headings 6913, 6914, and 6905: 6913.90.2000, 6914.10.8000, 6914.90.8000, 6905.10.0000, and 6905.90.0050. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Injury Test
- V. Preliminary Determination of Critical Circumstances
- VI. Use of Adverse Facts Available and Application of Adverse Inferences
- VII. Subsidies Valuation Information
- VIII. Interest Rate Benchmarks and Benchmarks for Measuring the Adequacy of Remuneration
- IX. Diversification of India's Economy
- X. Analysis of Programs
- XI. Calculation of the All-Others Rate
- XII. Recommendation

[FR Doc. 2024–22228 Filed 9–26–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–157]

Aluminum Lithographic Printing Plates From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Circumstances

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of aluminum lithographic printing plates (printing plates) from the People's Republic of China (China). The period of investigation (POI) is January 1, 2022, through December 31, 2022.

DATES: Applicable September 27, 2024.

FOR FURTHER INFORMATION CONTACT: Ajay Menon, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0208.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2024, Commerce published its *Preliminary Determination* in the **Federal Register** and invited interested parties to comment.¹ On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.² The deadline for the final determination is now September 20, 2024. For a complete discussion of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.³

The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The merchandise covered by the scope of this investigation are printing plates from China. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, we made no changes to the scope of the investigation.

¹ See *Aluminum Lithographic Printing Plates from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 89 FR 15134 (March 1, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

³ See Memorandum, “Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Aluminum Lithographic Printing Plates from the People's Republic of China,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in March 2024, Commerce conducted verification of the subsidy information reported by Fujifilm Printing Plate (China) Co., Ltd. (FFPS) and its cross-owned affiliate Fujifilm (China) Investment Co., Ltd.⁴

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by the parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, see Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁵ For a full description of the methodology underlying our final determination, see the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts otherwise available, including with an adverse inference, pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of adverse facts available (AFA), see the *Preliminary Determination*⁶ and the Issues and Decision Memorandum at the section entitled “Uses of Facts Available and Application of Adverse Inferences.”

Changes Since the Preliminary Determination

Based on our review and analysis of the information at verification and comments received from interested parties, we made changes to the subsidy rate calculations for FFPS. For a discussion of these changes, see the Issues and Decision Memorandum.

⁴ See Memorandum, “Verification of the Questionnaire Responses of Fujifilm Printing Plate (China) Co., Ltd. and Fujifilm (China) Investment Co., Ltd.,” June 10, 2024.

⁵ See sections 771(5)(B) and (D) of the Act regarding financial contribution; see also section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁶ See *Preliminary Determination* PDM at 4–42.

Final Affirmative Determination of Critical Circumstances, in Part

Commerce preliminarily determined, in accordance with sections 703(e)(1)(A) and (B) of the Act, and 19 CFR 351.206, that critical circumstances exist with respect to imports of subject merchandise for FFPS and Shanghai National Ink Co. Ltd. (Shanghai National).⁷ For this final determination, in accordance with section 705(a)(2) of the Act as well as our analysis of comments received regarding our affirmative preliminary determination of critical circumstances, in part.⁸ Commerce continues to find that critical circumstances exist with respect to imports of subject merchandise for FFPS and Shanghai National, and do not exist with respect to imports of subject merchandise for all other exporters and producers. For a full description of the methodology and results of our critical circumstances analysis, *see* the Issues and Decision Memorandum.

All-Others Rate

Pursuant to section 705(c)(5)(A)(i) of the Act, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. We continue to assign a rate based entirely on facts available to Shanghai National. Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for FFPS. Consequently, we continue to assign the rate calculated for FFPS as the rate for all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist for the period January 1, 2022, through December 31, 2022:

Company	Subsidy rate (percent <i>ad valorem</i>)
Fujifilm Printing Plate (China) Co., Ltd. ⁹	35.66

⁷ See *Aluminum Lithographic Printing Plates From the People's Republic of China: Preliminary Determination of Critical Circumstances, in Part, in the Countervailing Duty Investigation*, 89 FR 24433 (April 8, 2024) (*Preliminary Critical Circumstances Determination*).

⁸ See Issues and Decision Memorandum at Comment 3.

Company	Subsidy rate (percent <i>ad valorem</i>)
Shanghai National Ink Co. Ltd	* 229.54
All Others	35.66

* Rate based on AFA.

Disclosure

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

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of subject merchandise from China that were entered, or withdrawn from warehouse, for consumption, on or after March 1, 2024, the date of the publication of the *Preliminary Determination* in the **Federal Register**.¹⁰ Because we preliminarily determined that critical circumstances existed with respect to imports of subject merchandise from FFPS and Shanghai National, we instructed CBP to suspend such entries on or after December 1, 2023, which is 90 days prior to the date of the publication of the *Preliminary Determination* in the **Federal Register**.¹¹ In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after June 29, 2024, the final day of provisional measures, but to continue the suspension of liquidation of all entries of subject merchandise on or before June 28, 2024.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty (CVD) order, reinstate the suspension of liquidation under section 706(a) of the Act, as appropriate, and require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above. If the

⁹ As discussed in the Preliminary Decision Memorandum, Commerce has found the following company to be cross-owned with FFPS: Fujifilm (China) Investment Co., Ltd.

¹⁰ See *Preliminary Determination*, 89 FR at 15135.

¹¹ See *Preliminary Critical Circumstances Determination*, 89 FR at 24435.

ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final affirmative determination that countervailable subsidies are being provided to producers and exporters of printing plates from China. Because the final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of printing plates from China no later than 45 days after our final determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, CVDs on all imports of the subject merchandise that are entered, or withdrawn, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: September 20, 2024.

Ryan Majerus,

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

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is aluminum lithographic printing plates. Aluminum lithographic printing plates consist of a flat substrate containing at least 90 percent aluminum. The aluminum-containing substrate is generally treated using a mechanical, electrochemical, or chemical graining process, which is followed by one or more anodizing treatments that form a hydrophilic layer on the aluminum-containing substrate. An image-recording, oleophilic layer that is sensitive to light, including but not limited to ultra-violet, visible, or infrared, is dispersed in a polymeric binder material that is applied on top of the hydrophilic layer, generally on one side of the aluminum lithographic printing plate. The oleophilic light-sensitive layer is capable of capturing an image that is transferred onto the plate by either light or heat. The image applied to an aluminum lithographic printing plate facilitates the production of newspapers, magazines, books, yearbooks, coupons, packaging, and other printed materials through an offset printing process, where an aluminum lithographic printing plate facilitates the transfer of an image onto the printed media. Aluminum lithographic printing plates within the scope of this investigation include all aluminum lithographic printing plates, irrespective of the dimensions or thickness of the underlying aluminum substrate, whether the plate requires processing after an image is applied to the plate, whether the plate is ready to be mounted to a press and used in printing operations immediately after an image is applied to the plate, or whether the plate has been exposed to light or heat to create an image on the plate or remains unexposed and is free of any image.

Subject merchandise also includes aluminum lithographic printing plates produced from an aluminum sheet coil that has been coated with a light-sensitive image-recording layer in a subject country and that is subsequently unwound and cut to the final dimensions to produce a finished plate in a third country (including the United States), or exposed to light or heat to create an image on the plate in a third country (including in a foreign trade zone within the United States).

Excluded from the scope of this investigation are lithographic printing plates manufactured using a substrate produced from a material other than aluminum, such as rubber or plastic.

Aluminum lithographic printing plates are currently classifiable under Harmonized Tariff of the United States (HTSUS) subheadings 3701.30.0000 and 3701.99.6060. Further, merchandise that falls within the scope of this investigation may also be entered into the United States under HTSUS subheadings 3701.99.3000 and 8442.50.1000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Final Critical Circumstances Determination
- V. Subsidies Valuation Information
- VI. Interest Rates and Benchmarks
- VII. Use of Facts Available and Adverse Inferences
- VIII. Analysis of Programs
- IX. Discussion of the Issues
 - Comment 1: Whether Commerce Made a Ministerial Error in the Calculation of the Rate Applicable to FFPS for the Provision of Electricity for Less Than Adequate Remuneration (LTAR)
 - Comment 2: Whether Commerce Should Attribute Export Subsidies Received by the JRT Companies to FFPS
 - Comment 3: Whether Commerce Should Make a Negative Finding of Critical Circumstances for FFPS
 - Comment 4: Whether Commerce's Decision To Countervail the Provision of Aluminum Sheet and Aluminum Foil for LTAR Is in Accordance With Law
 - Comment 5: Whether Commerce's Application of Adverse Facts Available to the Export Buyer's Credit Program Is in Accordance With Law
 - Comment 6: Whether Commerce's Countervailing of the Provision of Electricity for LTAR Is in Accordance With Law
 - Comment 7: Whether Commerce's Determinations Regarding Other Subsidies Exceed the Lawful Scope of This Investigation
- X. Recommendation

[FR Doc. 2024–22156 Filed 9–26–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–881]

Aluminum Lithographic Printing Plates From Japan: Final Affirmative Determination of Sales at Less-Than-Fair-Value

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that

aluminum lithographic printing plates (printing plates) from Japan are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2022, through June 30, 2023.

DATES: Applicable September 27, 2024.

FOR FURTHER INFORMATION CONTACT:

Caroline Carroll, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4948.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2024, Commerce published in the **Federal Register** the *Preliminary Determination* in this investigation and invited interested parties to comment.¹ On July 22, 2024, Commerce tolled certain deadlines in this investigation by seven days.² The deadline for the final determination is now September 20, 2024. For a complete description of the events that occurred since the *Preliminary Determination*, see the Issues and Decision Memorandum.³ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The merchandise covered by the scope of this investigation is printing plates from Japan. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore,

¹ See *Aluminum Lithographic Printing Plates from Japan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 89 FR 35065 (May 1, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

³ See Memorandum, “Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Aluminum Lithographic Printing Plates from Japan,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

we made no changes to the scope of the investigation.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in May 2024, Commerce conducted on-site verifications of the data reported by Fujifilm and its U.S. affiliate, Fujifilm North America Corporation, using standard verification procedures.⁴

Analysis of Comments Received

The issues raised in the case and rebuttal briefs by the parties in this investigation are addressed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, see Appendix II.

Changes Since the Preliminary Determination

Based on our review and analysis of the information at verification and comments received from interested parties, we made certain changes to the margin calculations for Fujifilm. For a discussion of these changes, see the Issues and Decision Memorandum.

Use of Adverse Facts Available

As discussed in the *Preliminary Determination*, Commerce assigned to one of the mandatory respondents in this investigation, Miraclon Corporation Ltd. (Miraclon), an estimated weighted-average dumping margin on the basis of adverse facts available (AFA), pursuant to sections 776(a) and (b) of the Act, because it failed to cooperate by not acting to the best of its ability to comply with Commerce's requests for information.⁵ As discussed in the Issues and Decision Memorandum, we find no basis to change our decision in the *Preliminary Determination* to apply AFA to Miraclon. As AFA, we continue to apply the highest transactions specific margin calculated for Fujifilm (i.e., 160.11 percent) because it is a rate derived from information submitted on the record and is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁶

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-

average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act.

In this investigation, Commerce assigned a rate based entirely on facts available to Miraclon. Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for Fujifilm. Consequently, the rate calculated for Fujifilm is also assigned as the rate for all other producers and/or exporters.

Final Determination

The final estimated weighted-average dumping margins are listed below:

Exporter/producer	Weighted-average dumping margin (percent)
Fujifilm Corporation; Fujifilm Shizuoka Co., Ltd	91.83
Miraclon Corporation Ltd	* 160.11
All Others	91.83

* Rate is based on AFA.

Disclosure

Commerce intends to disclose the calculations performed in connection with this final determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of aluminum lithographic printing plates, as described in Appendix I of this notice, which were entered or withdrawn from warehouse for consumption on or after May 1, 2024, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for estimated antidumping duties for such entries as follows: (1) the cash deposit rate for the respondents listed in

the table above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not the respondent listed in the table above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin listed for the producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin listed in the table above. These suspension of liquidation instructions will remain in effect until further notice.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its final affirmative determination of sales at LTFV. Because the final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured or threatened with material injury by reason of imports of printing plates from Japan no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation, as discussed in the "Continuation of Suspension of Liquidation" section.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

⁴ See Memoranda, "Verification of the Sales Response of Fujifilm Corporation," dated July 17, 2024; "Verification of the U.S. Sales Response of Fujifilm North America Corporation," dated July 18, 2024; and "Verification of the Cost Response of Fujifilm Corporation," dated August 7, 2024.

⁵ See *Preliminary Determination*, 89 FR at 35065.

⁶ See *Preliminary Determination* PDM at 6.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: September 20, 2024.

Ryan Majerus,

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

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is aluminum lithographic printing plates. Aluminum lithographic printing plates consist of a flat substrate containing at least 90 percent aluminum. The aluminum-containing substrate is generally treated using a mechanical, electrochemical, or chemical graining process, which is followed by one or more anodizing treatments that form a hydrophilic layer on the aluminum-containing substrate. An image-recording, oleophilic layer that is sensitive to light, including but not limited to ultra-violet, visible, or infrared, is dispersed in a polymeric binder material that is applied on top of the hydrophilic layer, generally on one side of the aluminum lithographic printing plate. The oleophilic light-sensitive layer is capable of capturing an image that is transferred onto the plate by either light or heat. The image applied to an aluminum lithographic printing plate facilitates the production of newspapers, magazines, books, yearbooks, coupons, packaging, and other printed materials through an offset printing process, where an aluminum lithographic printing plate facilitates the transfer of an image onto the printed media. Aluminum lithographic printing plates within the scope of this investigation include all aluminum lithographic printing plates, irrespective of the dimensions or thickness of the underlying aluminum substrate, whether the plate requires processing after an image is applied to the plate, whether the plate is ready to be mounted to a press and used in printing operations immediately after an image is applied to the plate, or whether the plate has been exposed to light or heat to create an image on the plate or remains unexposed and is free of any image.

Subject merchandise also includes aluminum lithographic printing plates produced from an aluminum sheet coil that has been coated with a light-sensitive image-recording layer in a subject country and that is subsequently unwound and cut to the final dimensions to produce a finished plate in a third country (including the United States), or exposed to light or heat to create an image on the plate in a third country (including in a foreign trade zone within the United States).

Excluded from the scope of this investigation are lithographic printing plates manufactured using a substrate produced from a material other than aluminum, such as rubber or plastic.

Aluminum lithographic printing plates are currently classifiable under Harmonized Tariff of the United States (HTSUS) subheadings 3701.30.0000 and 3701.99.6060. Further, merchandise that falls within the scope of this investigation may also be entered into the United States under HTSUS subheadings 3701.99.3000 and 8442.50.1000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Determination*
- IV. Discussion of the Issues
 - Comment 1: Whether Miraclon Corporation Ltd. (Miraclon) Made Sales of Subject Merchandise During the POI
 - Comment 2: Whether Commerce Should Offset Fujifilm's Reported U.S. Freight Expenses by its Reported Freight Revenue
 - Comment 3: Whether the Price Used to Calculate Fujifilm's U.S. Credit Expenses should Exclude Price Adjustments
 - Comment 4: Whether the Price Used to Calculate Fujifilm's U.S. Indirect Selling Expenses (INDIRS1U, INDIRS2U, INDIRS3U) Should Exclude Price Adjustments
 - Comment 5: Whether Fujifilm's Revenues from the Sale of Aluminum Scrap Should Offset Repacking and Resizing Costs
 - Comment 6: Whether Commerce Should Grant Fujifilm a Constructed Export Price (CEP) Offset
 - Comment 7: Whether Commerce Should Apply Adverse Facts Available (AFA) for Fujifilm's Failure to Submit Downstream Home Market Sales for One Home Market Affiliate
 - Comment 8: Whether Fujifilm's Allocation of Warehouse and Other U.S. Transportation Expenses is Distortive
 - Comment 9: Whether to Include Fujifilm's Home Market Quantity Discount Program Discovered at Verification
 - Comment 10: Whether Commerce Should Include the Net Hedging Expenses Recorded in Fujifilm's Audited Financial Statements as Part of Fujifilm's Interest Expenses
 - Comment 11: Whether Commerce Should Revise the General and Administrative (G&A) Expense Ratio to Incorporate Missing Expenses

V. Recommendation

[FR Doc. 2024–22157 Filed 9–26–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–831]

Prestressed Concrete Steel Wire Strand From Mexico: Final Affirmative Determination of Circumvention of the Antidumping Duty Order

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of certain high carbon steel (HCS) wire that are produced in Mexico and assembled or completed into prestressed concrete steel wire strand (PC strand) in the United States are circumventing the antidumping duty (AD) order on PC strand from Mexico.

DATES: Applicable September 27, 2024.

FOR FURTHER INFORMATION CONTACT: Jonathan Schueler, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–9175.

SUPPLEMENTARY INFORMATION:

Background

On January 28, 2004, Commerce published in the **Federal Register** the AD order on PC strand from Mexico.¹ On July 31, 2023, pursuant to section 781(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(d)(1), Commerce initiated a country-wide circumvention inquiry to determine whether imports of HCS wire from Mexico that is assembled or completed into PC strand in the United States is circumventing the *Order* and, accordingly, should be covered by the scope of the *Order*.² On April 2, 2024, Commerce published the *Preliminary Determination* that imports of HCS wire that is produced in Mexico and assembled or completed into PC strand in the United States is circumventing the *Order* on a country-wide basis,

¹ See *Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Mexico*, 69 FR 4112 (January 28, 2004) (*Order*).

² See *Prestressed Concrete Steel Wire Strand from Mexico: Initiation of Circumvention Inquiry on the Antidumping Duty Order*, 88 FR 49438 (July 31, 2023) (*Initiation Notice*). We note that in the *Initiation Notice*, we stated that we are initiating this circumvention inquiry pursuant to 19 CFR 351.226(d)(1)(ii). However, this section was amended after the *Initiation Notice* was published, therefore we reference the latest version of the regulation. See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67078 (September 29, 2023).

pursuant to section 781(a) of the Act.³ Between April 23 and 26, 2024, Commerce conducted on-site verification of the questionnaire responses submitted by Aceros Camesa S.A. de C.V. (Camesa) and WireCo WorldGroup (WireCo).⁴

On May 16, 2024, Commerce extended the deadline for issuing the final determination in this inquiry.⁵ On July 22, 2024, Commerce further extended the deadline for issuing the final determination in this inquiry.⁶ Also on July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.⁷ The deadline for the final determination is now September 20, 2024. For a summary of events that occurred since the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for consideration in the final determination, *see* the Issues and Decision Memorandum.⁸

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memoranda can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise covered by this *Order* is PC strand. For a full description of the scope of the *Order*, *see* the Issues and Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers certain HCS wire imported from Mexico. The HCS wire has a high

carbon content (*i.e.*, 0.60–0.85 percent),⁹ is not heat treated, and has a diameter less than 4.50 millimeters. The HCS wire is assembled or completed in the United States by stranding the HCS wire to produce PC strand of the type that would be subject to the *Order* (inquiry merchandise).

The inquiry merchandise is currently classifiable under HTSUS subheading 7217.10.8090. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Importers of the subject HCS wire that will not be converted into PC strand in the United States may certify that the HCS wire will not be further processed into subject merchandise covered by the scope of the *Order*. Failure to comply with the requisite certification requirement may result in the merchandise being found subject to AD duties.

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(a) of the Act, and 19 CFR 351.226.¹⁰ We have continued to apply this methodology, without exception, and incorporate by reference this description of the methodology, for our final determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice at Appendix I. Based on our analysis of the comments received from interested parties, we made no changes to our *Preliminary Determination*.

Final Circumvention Determination

We determine that Mexican-origin HCS wire produced by Deacero S.A.P.I. de CV (Deacero) and assembled or completed into PC strand in the United States is circumventing the *Order*. We also determine that Mexican-origin HCS wire produced by Aceros Camesa S.A. de C.V. (Camesa) is not assembled or completed into PC strand in the United States, and, therefore, is not circumventing the *Order*. For a detailed explanation of our determination, *see* the *Preliminary Determination* PDM and the Issues and Decision Memorandum.

⁹ As discussed in Comment 6 of the Issues and Decision Memorandum, we revised the scope of the inquiry merchandise in the *Preliminary Determination* and re-affirm that revision in this final determination.

¹⁰ *See Preliminary Determination* PDM for a full description of the methodology.

We also determine that U.S. imports of inquiry merchandise exported from Mexico are circumventing the *Order* on a country-wide basis. As a result, in accordance with section 781(a) of the Act, we determine that this merchandise is covered by the *Order*.

See the “Suspension of Liquidation and Cash Deposit Requirements” section, below, for details regarding suspension of liquidation and cash deposit requirements. *See* the “Certifications” and “Certification Requirements” sections, below, for details regarding the use of certifications.

Suspension of Liquidation and Cash Deposit Requirements

Based on the affirmative country-wide determination of circumvention for Mexico, in accordance with 19 CFR 351.226(l)(3) and (m)(1)(ii), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of HCS wire completed or assembled into PC strand in the United States that were entered, or withdrawn from warehouse, for consumption on or after July 31, 2023, the date of publication of the initiation of this circumvention inquiry in the *Federal Register*.

For exporters of HCS wire that have a company-specific cash deposit rate under the *Order*, the cash deposit rate will be the company-specific cash deposit rate established for that company in the most recently completed segment of the proceeding. For exporters of HCS wire that do not have a company-specific cash deposit rate under the *Order*, the AD cash deposit rate will be the “all-others” rate (62.78 percent).¹¹ The suspension of liquidation will remain in effect until further notice.

Certified Entries

Entries for which importers have met the certification requirements described below and in Appendix II to this notice will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to AD duties.

Certification

To administer the country-wide affirmative determinations of circumvention for Mexico, Commerce established importer certifications which will permit importers to establish

¹¹ *See Order*.

³ *See Antidumping Duty Order on Prestressed Concrete Steel Wire Strand from Mexico: Preliminary Affirmative Determination of Circumvention*, 89 FR 22668 (April 2, 2024) (*Preliminary Determination*), and accompanying Preliminary Determination Memorandum (PDM).

⁴ *See* Memorandum, “Verification of the Questionnaire Responses of WireCo and Camesa,” dated May 20, 2024.

⁵ *See* Memorandum, “Extension of Final Determination,” dated May 16, 2024.

⁶ *See* Memorandum, “Second Extension of Final Determination,” dated July 22, 2024.

⁷ *See* Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

⁸ *See* Memorandum, “Decision Memorandum for the Final Affirmative Determination of Circumvention of the Antidumping Duty Order on Prestressed Concrete Steel Wire Strand from Mexico,” dated concurrently with, and hereby adopted by, this notice.

that specific entries of HCS wire from Mexico are not subject to suspension of liquidation or the collection of cash deposits pursuant to this affirmative determination of circumvention because the merchandise meets the requirements described in the certification (*see* Appendix II to this notice).

Importers that claim that the entry of HCS wire is not subject to suspension of liquidation or the collection of cash deposits based on the end-use of such merchandise must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the certification.

Certification Requirements

Importers are required to complete and maintain the applicable importer certification and retain all supporting documentation for the certification. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as a broker, however, are not permitted to certify on behalf of the importer.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all entries of HCS wire from Mexico that were entered, or withdrawn from warehouse, for consumption during the period July 31, 2023, (the date of initiation of this circumvention inquiry), through the date of publication of the *Preliminary Determination* in the **Federal Register** (*i.e.*, April 2, 2024), where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should already be complete and signed.

For unliquidated entries (and entries for which liquidation has not become final) of HCS wire that were declared as non-AD/countervailing duty (CVD) type entries (*e.g.*, type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period July 31, 2023 (the date of initiation of these circumvention inquiries), through the date of publication of the *Preliminary Determination* in the **Federal Register** (*i.e.*, April 2, 2024), for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD/CVD type entries to AD/CVD type entries (*e.g.*, type 01 to type 03). The importer should post cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties, including AD and CVD duties.

If it is determined that an importer has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this country-wide affirmative determination of circumvention and the *Order*, all unliquidated entries for which these requirements were not met and require the importer to post applicable cash deposits equal to the rates noted above.

Opportunity To Request an Administrative Review

Each year during the anniversary month of the publication of an AD or CVD order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Act, may request, in accordance with 19 CFR 351.213, that Commerce conduct an administrative review of that AD or CVD order, finding, or suspended investigation. An interested party who would like Commerce to conduct an administrative review should wait until Commerce announces via the **Federal Register** the next window during the anniversary month of the publication of the *Orders* to submit such requests. The anniversary month for this *Order* is January.

Administrative Protective Order

This notice will serve as the only reminder to all parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or

destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These determinations are issued and published in accordance with section 781(a) of the Act and 19 CFR 351.226(g)(2).

Dated: September 20, 2024.

Ryan Majerus,

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

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Period of Circumvention Inquiry
- VI. Discussion of the Issues
 - Comment 1: Whether the Scope of the *Order* Precludes an Affirmative Determination of Circumvention
 - Comment 2: Whether HCS Wire Is a Part or Component Within the Meaning of Section 781(a) of the Act
 - Comment 3: Whether Deacero USA Inc.'s Production Process Is Minor or Insignificant
 - Comment 4: Whether the Value of the HCS Wire Imported From Mexico Is a Significant Portion of the Total Value of the PC Strand Sold in the United States
 - Comment 5: Whether Deacero's Increased Imports of HCS Wire Support an Affirmative Circumvention Determination
 - Comment 6: Whether Commerce Lawfully Modified the Scope of the Inquiry Merchandise
 - Comment 7: Whether To Exempt Camesa From the Certification Process
- VII. Recommendation

Appendix II

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of subject high-carbon steel (HCS) wire produced in Mexico that entered under the entry summary number(s), identified below, and which is covered by this certification. "Direct personal knowledge" refers to the facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the exporter's and/or seller's identity and location.

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The imported subject-HCS wire covered by this certification was imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The imported HCS wire covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. Select the appropriate statement below:

a. I have personal knowledge of the facts regarding the end-use of the imported products covered by this certification because my company is the end-user of the imported product covered by this certification and I certify that the imported subject-HCS wire will not be used to produce subject merchandise. "Personal knowledge" includes facts obtained from another party, (e.g., correspondence received by the importer (or exporter) from the producer regarding the source of the inputs used to produce the imported products).

b. I have personal knowledge of the facts regarding the end-use of the imported product because my company is not the end-user of the imported product covered by this certification. However, I have been able to contact the end-user of the imported product and confirm that it will not use this product to produce subject merchandise. The end-user of the imported product is {COMPANY NAME} located at {ADDRESS}. "Personal knowledge" includes facts obtained from another party (e.g., correspondence received by the importer from the end-user of the product).

F. The imported subject-HCS wire covered by this certification will not be further processed into prestressed concrete steel wire strand (PC strand) in the United States.

G. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Producer:
Producer's Address:

H. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (i.e., documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, product specification sheets, production records, invoices, etc.) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

I. I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records to U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce), upon the request of either agency.

J. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

K. I understand that failure to maintain the required certifications and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are entries of merchandise that is covered by the scope of the antidumping duty order on PC strand from Mexico. I understand that such a finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping duty cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

L. I understand that agents of the importer, such as brokers, are not permitted to make this certification. Where a broker or other party was used to facilitate the entry process, {NAME OF IMPORTING COMPANY} obtained the entry summary number and date of entry summary from that party.

M. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

N. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

[FR Doc. 2024-22113 Filed 9-26-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818, C-475-819, A-489-805, C-489-806]

Certain Pasta From Italy and the Republic of Türkiye: Continuation of Antidumping Duty Orders and Countervailing Duty Orders

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

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that the revocation of the antidumping duty (AD) orders and countervailing duty (CVD) orders on certain pasta (pasta) from Italy and the Republic of Türkiye (Türkiye) would likely lead to the continuation or recurrence of dumping and net countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

DATES: Applicable September 19, 2024.

FOR FURTHER INFORMATION CONTACT: Erin Kearney (AD), AD/CVD Operations, Office VI, and Blair Hood (CVD), AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0167 and (202) 482-8329, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, Commerce published in the **Federal Register** the AD and CVD orders on pasta from Italy and Türkiye.¹ On March 1, 2024, the ITC instituted,² and Commerce initiated,³ the fifth sunset reviews of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce

¹ See *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 38547 (July 24, 1996); see also *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") from Italy*, 61 FR 38544 (July 24, 1996); *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey*, 61 FR 38545 (July 24, 1996); *Notice of Countervailing Duty Order: Certain Pasta ("Pasta") from Turkey*, 61 FR 38546 (July 24, 1996) (collectively, the *Orders*).

² See *Institution of Five-Year Reviews*, 89 FR 15217 (March 1, 2024).

³ See *Initiation of Five-Year (Sunset) Reviews*, 89 FR 15139 (March 1, 2024).

determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping and net countervailable subsidies and, therefore, notified the ITC of the magnitude of the margins of dumping and the net countervailable subsidy rates likely to prevail should the *Orders* be revoked.⁴

On September 19, 2024, the ITC published its determinations, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

Scope of the Orders

The merchandise covered by the *Orders* is pasta. For a complete description of the scope of the *Orders*, see the appendix to this notice.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping, net countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders*. U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be September 19, 2024.⁶ Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to the fifth anniversary of the date of the last determination by the ITC.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment

of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: September 23, 2024.

Ryan Majerus,

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

Appendix

Scope of the Orders

Italy (A-475-818, C-475-819)

The scope of these *Orders* consists of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by the scope of the *Orders* is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of these *Orders* are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the *Orders*. Pursuant to Commerce's August 14, 2009, changed circumstances review, effective July 1, 2008, gluten free pasta is also excluded from the scope of the *Orders*. Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Orders*.

Also excluded are imports of organic pasta from Italy that are certified by an EU authorized body in accordance with the United States Department of Agriculture's National Organic Program for organic products. The organic pasta certification must be retained by exporters and importers and made available to U.S. Customs and Border Protection or the Department of Commerce upon request.

The merchandise subject to these *Orders* is currently classifiable under subheadings 1901.90.9095 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise subject to the *Orders* is dispositive.

Türkiye (A-489-805, C-489-806)

The scope of these *Orders* consists of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of these *Orders* are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise subject to these *Orders* is currently classified under subheading 1902.19.20 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the *Orders* is dispositive.

[FR Doc. 2024-22179 Filed 9-26-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-156]

Aluminum Lithographic Printing Plates From the People's Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair-Value and Final Affirmative Determination of Critical Circumstances

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that aluminum lithographic printing plates (printing plates) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2023, to June 30, 2023.

DATES: Applicable September 27, 2024.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-7425.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2024, Commerce published the *Preliminary Determination* in this investigation and invited interested parties to comment.¹ On June 3, 2024,

¹ See *Aluminum Lithographic Printing Plates from the People's Republic of China: Preliminary*

⁴ See *Certain Pasta from Italy and Türkiye: Final Results of Expedited Fifth Sunset Reviews of the Antidumping Duty Orders*, 89 FR 56863, (July 11, 2024) and accompanying Issues and Decision Memorandum (IDM); see also *Certain Pasta from Italy and the Republic of Türkiye: Final Results of the Expedited Fifth Sunset Review of the Countervailing Duty Order*, 89 FR 56302 (July 9, 2024) and accompanying IDM.

⁵ See *Certain Pasta from Italy and Turkey*, 89 FR 76869 (September 19, 2024).

⁶ *Id.*

in response to significant ministerial error allegations raised by Eastman Kodak Company (the petitioner), Commerce amended the *Preliminary Determination*.² On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.³ The deadline for the final determination is now September 20, 2024.

For a complete description of the events that occurred since the *Preliminary Determination*, see the Issues and Decision Memorandum.⁴ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The merchandise covered by the scope of this investigation is printing plates from China. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, we made no changes to the scope of the investigation.

Final Affirmative Determination of Critical Circumstances

Commerce preliminarily determined, in accordance with section 733(e)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206(c)(1), that critical circumstances exist with respect to imports of printing plates exported by Fujifilm Printing Plate (China) Co., Ltd. (Fujifilm) and the China-wide entity.⁵ For the final determination, pursuant to section 735(a)(3)(B) of the Act and 19 CFR 351.206, we continue to find that critical circumstances exist for Fujifilm and the China-wide entity.⁶

Verification

As provided in section 782(i) of the Act, in May and June 2024, respectively, Commerce conducted on-site verifications of the data reported by Fujifilm and its U.S. affiliate, Fujifilm North America Corporation, using standard verification procedures.⁷

Analysis of Comments Received

The issues raised in the case and rebuttal briefs by the parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, see Appendix II.

Changes Since the Amended Preliminary Determination

Based on our review and analysis of the information at verification and comments received from interested parties, we made certain changes to the margin calculations for Fujifilm. For a

discussion of these changes, see the Issues and Decision Memorandum.

Application of Total Adverse Facts Available With Respect to the China-Wide Entity

Consistent with the *Preliminary Determination*, Commerce continues to find, pursuant to sections 776(a)(1) and (a)(2)(A)–(C) of the Act, that the use of facts available is warranted in determining the rate of the China-wide entity.⁸ Furthermore, we continue to find that an adverse inference is warranted in selecting from the facts otherwise available, pursuant to section 776(b) of the Act and 19 CFR 351.308(a), because the China-wide entity failed to cooperate by not acting to the best of its ability to comply with Commerce's requests for information.⁹ As adverse facts available (AFA), we continue to apply the highest individual margin calculated for Fujifilm (*i.e.*, 317.44 percent) because it is a rate derived from information submitted on the record and achieves the goal of inducing future cooperation by the uncooperative respondent.¹⁰

Combination Rates

Consistent with the *Initiation Notice*,¹¹ the *Preliminary Determination*, and Policy Bulletin 05.1,¹² Commerce calculated a combination rate for Fujifilm, which is the sole respondent eligible for a separate rate in this investigation.

Final Determination

The final estimated weighted-average dumping margins are listed below:

Producer	Exporter	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset) (percent)
Fujifilm Printing Plate (China) Co., Ltd	Fujifilm Printing Plate (China) Co., Ltd	115.85	115.84
China-wide Entity ¹³ .....	.....	317.44	317.43

Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination and Extension of Provisional Measure, 89 FR 35062 (May 1, 2024) (*Preliminary Determination*), and accompanying Preliminary Determination Memorandum (PDM).

² See Aluminum Lithographic Printing Plates from the People's Republic of China: Amended Preliminary Determination of the Less-Than-Fair-Value Investigation, 89 FR 47516 (June 3, 2024) (*Amended Preliminary Determination*), and accompanying Memorandum, "Allegations of Ministerial Errors in the Preliminary Determination," dated May 28, 2024.

³ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

⁴ See Memorandum, "Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Aluminum Lithographic Printing Plates from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁵ See *Preliminary Determination*, 89 FR at 35062–63.

⁶ See *Preliminary Determination* PDM at 26–28.

⁷ See Memoranda, "Verification of the Questionnaire Responses of Fujifilm Printing Plate (China) Co., Ltd.," dated July 9, 2024; and "Verification of the U.S. Sales Response of Fujifilm North America Corporation," dated July 15, 2024.

⁸ See *Preliminary Determination* PDM at 12.

⁹ *Id.*

¹⁰ See *Amended Preliminary Determination*, 89 FR at 47516–17.

¹¹ See *Aluminum Lithographic Printing Plates from the People's Republic of China and Japan: Initiation of Less-Than-Fair-Value Investigations*, 88 FR 73316, 73320 (October 25, 2023) (*Initiation Notice*).

¹² See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," dated April 5, 2005 (Policy Bulletin 05.1), available on Commerce's website at <https://enforcement.trade.gov/policy/bull05-1.pdf>.

¹³ This rate is based on AFA.

Disclosure

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

Continuation of Suspension of Liquidation

In accordance with section 735(c)(4) of the Act, because Commerce continues to find that critical circumstances exist for Fujifilm and the China-wide entity, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of subject merchandise, as described in Appendix I of this notice, entered, or withdrawn from warehouse, for consumption, on or after February 1, 2024, which is 90 days prior to the date of publication of the *Preliminary Determination*.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce makes an affirmative determination for domestic subsidy pass-through or export subsidies, Commerce offsets the calculated estimated weighted-average dumping margin by the appropriate rates. However, suspension of liquidation of provisional measures in the companion CVD investigation has been discontinued; therefore, we are not instructing CBP to collect cash deposits based upon the adjusted estimated weighted-average dumping margin for those export subsidies at this time.¹⁴

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for such entries of merchandise equal to the amount by which the normal value exceeds the U.S. price as follows: (1) for the producer/exporter combination listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table;

(2) for all combinations of Chinese producers/exporters of subject merchandise that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third country exporters of subject merchandise not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Chinese producer/exporter combination (or China-wide entity) that supplied that third-country exporter. These suspension of liquidation instructions will remain in effect until further notice.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. Because the final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured or threatened with material injury by reason of imports of printing plates from China no later than 45 days after our final determination. If the ITC determines that such material injury or threat of material injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation, as discussed in the "Continuation of Suspension of Liquidation" section.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: September 20, 2024.

Ryan Majerus,

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

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is aluminum lithographic printing plates. Aluminum lithographic printing plates consist of a flat substrate containing at least 90 percent Aluminum. The aluminum-containing substrate is generally treated using a mechanical, electrochemical, or chemical graining process, which is followed by one or more anodizing treatments that form a hydrophilic layer on the aluminum-containing substrate. An image-recording, oleophilic layer that is sensitive to light, including but not limited to ultra-violet, visible, or infrared, is dispersed in a polymeric binder material that is applied on top of the hydrophilic layer, generally on one side of the aluminum lithographic printing plate. The oleophilic light-sensitive layer is capable of capturing an image that is transferred onto the plate by either light or heat. The image applied to an aluminum lithographic printing plate facilitates the production of newspapers, magazines, books, yearbooks, coupons, packaging, and other printed materials through an offset printing process, where an aluminum lithographic printing plate facilitates the transfer of an image onto the printed media. Aluminum lithographic printing plates within the scope of this investigation include all aluminum lithographic printing plates, irrespective of the dimensions or thickness of the underlying aluminum substrate, whether the plate requires processing after an image is applied to the plate, whether the plate is ready to be mounted to a press and used in printing operations immediately after an image is applied to the plate, or whether the plate has been exposed to light or heat to create an image on the plate or remains unexposed and is free of any image.

Subject merchandise also includes aluminum lithographic printing plates produced from an aluminum sheet coil that has been coated with a light-sensitive image-recording layer in a subject country and that is subsequently unwound and cut to the final dimensions to produce a finished plate in a third country (including the United States), or exposed to light or heat to create an image on the plate in a third country (including in a foreign trade zone within the United States).

Excluded from the scope of this investigation are lithographic printing plates manufactured using a substrate produced from a material other than aluminum, such as rubber or plastic.

¹⁴ See *Aluminum Lithographic Printing Plates from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 89 FR 15134, (March 1, 2024); see also section 703(d) of the Act, which states that the provisional measures may not be in effect for more than four months, which in the companion CVD case is 120 days after the publication of the preliminary determination, or June 29, 2024.

Aluminum lithographic printing plates are currently classifiable under Harmonized Tariff of the United States (HTSUS) subheadings 3701.30.0000 and 3701.99.6060. Further, merchandise that falls within the scope of this investigation may also be entered into the United States under HTSUS subheadings 3701.99.3000 and 8442.50.1000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the Amended Preliminary Determination
- IV. Discussion of the Issues
 - Comment 1: Whether To Use Fujifilm's Correction to U.S. Inland Freight Expenses Submitted at Verification
 - Comment 2: Whether To Average Descartes and Maersk Ocean Freight Data in Calculating the Surrogate Value for Ocean Freight
 - Comment 3: Whether To Revise the U.S. Truck Surrogate Value Inflation Factor
 - Comment 4: Whether To Continue Using United Parcel Service (UPS) and Federal Express (FedEx) Air Freight Data
 - Comment 5: Whether To Adjust the Surrogate Financial Ratios
 - Comment 6: Whether To Recalculate the Processor-Related Costs (*i.e.*, INDIRS2U)
 - Comment 7: Whether To Recalculate U.S. Repacking Expenses
 - Comment 8: Whether To Recalculate U.S. Adjustments Based on Entered Value
 - Comment 9: Whether To Use Fujifilm's Reported Aluminum Coil Consumption
 - Comment 10: Whether To Grant Fujifilm a Double Remedies Adjustment
- V. Recommendation

[FR Doc. 2024–22155 Filed 9–26–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE329]

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Snapper Grouper Advisory Panel (AP) October 15–17, 2024 in Charleston, SC.

DATES: The Snapper Grouper AP will meet on Tuesday, October 15, 2024,

from 1 p.m. until 5 p.m.; Wednesday, October 16, 2024, from 8:30 a.m. until 5 p.m.; and Thursday, October 17, 2024, from 8:30 a.m. until 12 p.m.

ADDRESSES:

Meeting address: Town & Country Inn and Suites, 2008 Savannah Highway, Charleston, SC 29407; telephone: (843) 334–6660.

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

SUPPLEMENTARY INFORMATION: Meeting information, including the agenda, overview, briefing book materials, and an online public comment form will be posted on the Council's website at: <https://safmc.net/advisory-panel-meetings/> two weeks prior to the meeting. The meeting is open to the public and available via webinar as it occurs. The webinar registration link will be available from the Council's website. Public comment will also be taken during the meeting.

The agenda for the Snapper Grouper AP meeting includes: development of a Fishery Performance Report (FPR) for red snapper and an update to the Yellowtail Snapper FPR; discussion of Acceptable Biological Catch Control Rule risk scoring for golden tilefish, blueline tilefish, mutton snapper, red snapper, and yellowtail snapper; and an update and discussion about the snapper grouper management strategy evaluation.

The AP will receive a presentation of the latest Southeast Reef Fish Survey data; provide input on planning for 2025 stakeholder engagement meetings; and discuss expected fishery behavioural responses to potential management changes being considered for the black sea bass fishery (Snapper Grouper Amendment 56). The AP will also receive updates on development of Amendment 46 addressing private recreational permitting and education, the Southeast For-Hire Integrated Electronic Reporting program, and other Council programs and initiatives. The AP will provide input and recommendations on agenda items for the Council's consideration and address other items as needed.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

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

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

Dated: September 24, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–22196 Filed 9–26–24; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete product(s) and service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before: October 27, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

6515–00–NIB–0571—Glove, Exam, Powder-Free, Nitrile, Non-Latex, Textured, Midnight, Black, Small
6515–00–NIB–0572—Glove, Exam, Powder-Free, Nitrile, Non-Latex, Textured, Midnight, Black, Medium
6515–00–NIB–0573—Glove, Exam, Powder-Free, Nitrile, Non-Latex, Textured, Midnight, Black, Large
6515–00–NIB–0574—Glove, Exam, Powder-Free, Nitrile, Non-Latex, Textured, Midnight, Black, X-Large

Authorized Source of Supply: Central Association for the Blind and Visually Impaired, Utica, NY

Contracting Activity: DEPT OF JUST/ FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC

NSN(s)—Product Name(s):

8105-01-582-6877—M26 MASS
Ammunition Magazine Pouch, ACU
Camouflage
Authorized Source of Supply: LC Industries,
Inc., Durham, NC
Contracting Activity: W6QK ACC-PICA,
PICATINNY ARSENAL, NJ
NSN(s)—Product Name(s):
6530-01-321-5592—Table, Field
Operating
Authorized Source of Supply: The
Lighthouse for the Blind, Inc. (Seattle
Lighthouse), Seattle, WA
Contracting Activity: DLA TROOP SUPPORT,
PHILADELPHIA, PA
NSN(s)—Product Name(s):
7530-01-501-2688—Pad, Message, “While
You Were Out”
Authorized Source of Supply: Blind
Industries & Services of Maryland,
Baltimore, MD
Contracting Activity: GSA/FAS ADMIN
SVCS ACQUISITION BR(2, NEW YORK,
NY
Service(s)
Service Type: Mess Attendant Service
Mandatory for: US Navy, JEBLCFS Galley 2,
864 Omaha Beach Road, Virginia Beach,
VA
Authorized Source of Supply: Louise W.
Eggleston Center, Inc., Norfolk, VA
Contracting Activity: DEPT OF THE NAVY,
NAVSUP FLT LOG CTR NORFOLK
Service Type: Mess Attendant Service
Mandatory for: US Navy, JEBLCFS Galley 2,
864 Omaha Beach Road, Virginia Beach,
VA
Authorized Source of Supply: Community
Alternatives, Incorporated, Norfolk, VA
Contracting Activity: DEPT OF THE NAVY,
NAVSUP FLT LOG CTR NORFOLK
Service Type: Mailroom Operation
Mandatory for: US Army, Customer Support
Division, US Army Garrison Adelphi
Laboratory Center, 2800 Powder Mill
Road, Adelphi, MD
Authorized Source of Supply: WeAchieve,
Inc., Silver Spring, MD
Contracting Activity: DEPT OF THE ARMY,
W6QK ACC-APG ADELPHI
Service Type: Mailroom Operation
Mandatory for: US Army Corps of Engineers,
Cold Regions Research and Engineering
Laboratory (CRREL), 72 Lyme Road,
Hanover, NH
Authorized Source of Supply: Northern New
England Employment Services, Portland,
ME
Contracting Activity: DEPT OF THE ARMY,
W2R2 COLD RGNS RSCH ENG LAB
Service Type: Records Digitization
Mandatory for: Ohio Army Reserve National
Guard Element, Joint Forces
Headquarters, 3990 East Broad Street,
Columbus, OH
Authorized Source of Supply: Coleman
Professional Services, Kent, OH
Contracting Activity: DEPT OF THE ARMY,
W7NU USPFO ACTIVITY OH ARNG
Service Type: Janitorial/Grounds
Maintenance
Mandatory for: GSA PBS Region 3, Mount
Hope Federal Building, 100 Bluestone
Rd, Mount Hope, WV

Authorized Source of Supply: Integrated
Resources, Inc., Maben, WV
Contracting Activity: PUBLIC BUILDINGS
SERVICE, PBS R3

Michael R. Jurkowski,
Director, Business Operations.

[FR Doc. 2024-22208 Filed 9-26-24; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletion

AGENCY: Committee for Purchase From
People Who Are Blind or Severely
Disabled.

ACTION: Deletion from the Procurement
List.

SUMMARY: This action deletes a service
from the Procurement List that was
furnished by nonprofit agencies
employing persons who are blind or
have other severe disabilities.

DATES: *Date deleted from the
Procurement List:* October 27, 2024.

ADDRESSES: Committee for Purchase
From People Who Are Blind or Severely
Disabled, 355 E Street SW, Suite 325,
Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT:
Michael R. Jurkowski, Telephone: (703)
489-1322 or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

Deletions

On August 23, 2024 (89 FR 68146),
the Committee for Purchase From
People Who Are Blind or Severely
Disabled published notice of proposed
deletions from the Procurement List.
This notice is published pursuant to 41
U.S.C. 8503(a)(2) and 41 CFR 51-2.3.

After consideration of the relevant
matter presented, the Committee has
determined that the service(s) listed
below are no longer suitable for
procurement by the Federal Government
under 41 U.S.C. 8501-8506 and 41 CFR
51-2.4.

Regulatory Flexibility Act Certification

I certify that the following action will
not have a significant impact on a
substantial number of small entities.
The major factors considered for this
certification were:

1. The action will not result in
additional reporting, recordkeeping or
other compliance requirements for small
entities.

2. The action may result in
authorizing small entities to furnish the
service(s) to the Government.

3. There are no known regulatory
alternatives which would accomplish
the objectives of the Javits-Wagner-
O'Day Act (41 U.S.C. 8501-8506) in
connection with the service(s) deleted
from the Procurement List.

End of Certification

Accordingly, the following service(s)
are deleted from the Procurement List:

Service(s)

Service Type: Grounds Maintenance
Mandatory for: Federal Aviation

Administration, Patrick Henry Field
(PHF) Air Traffic Control Tower, 2402 G
Avenue, Newport News, VA

Authorized Source of Supply: VersAbility
Resources, Inc., Hampton, VA
Contracting Activity: FEDERAL AVIATION
ADMINISTRATION, 697DCK
REGIONAL ACQUISITIONS SVCS

Michael R. Jurkowski,
Director, Business Operations.

[FR Doc. 2024-22207 Filed 9-26-24; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS-2024-0021; OMB
Control Number 0704-0454]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); U.S. International Atomic Energy Agency Additional Protocol

AGENCY: Defense Acquisition
Regulations System, Department of
Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition
Regulations System has submitted to
OMB for clearance the following
proposal for collection of information
under the provisions of the Paperwork
Reduction Act.

DATES: Consideration will be given to all
comments received by October 28, 2024.

ADDRESSES: Written comments and
recommendations for the proposed
information collection should be sent
within 30 days of publication of this
notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this
particular information collection by
selecting “Currently under 30-day
Review—Open for Public Comments” or
by using the search function.

You may also submit comments,
identified by docket number and title,
by the following method: Federal
eRulemaking Portal: <https://www.regulations.gov>. Follow the
instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT:

Tucker Lucas, 571–372–7574, or
whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement; U.S. International Atomic Energy Agency Additional Protocol; OMB Control Number 0704–0454.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Number of Respondents: 10.

Responses per Respondent: 1.

Annual Responses: 10.

Average Burden per Response: 1 hours.

Annual Burden Hours: 10.

Needs and Uses: This information collection is necessary to provide for protection of information or activities with national security significance. As such, this information collection requires contractors to comply with the notification process in the contract clause at DFARS 252.204–7010, Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the U.S.-International Atomic Energy Agency Additional Protocol.

Under the U.S.-International Atomic Energy Agency (IAEA) Additional Protocol, the United States is required to declare a wide range of public and private nuclear-related activities to the IAEA and potentially provide access to IAEA inspectors for verification purposes. The U.S.-IAEA Additional Protocol permits the United States unilaterally to declare exclusions from inspection requirements for activities with direct national security significance.

The contract clause at DFARS 252.204–7010, as prescribed at DFARS 204.470–3, is included in contracts for research and development or major defense acquisition programs involving fissionable materials (e.g., uranium, plutonium, neptunium, thorium, americium); other radiological source materials; or technologies directly related to nuclear power production, including nuclear or radiological waste materials.

The clause requires a contractor to provide written notification to the applicable DoD program manager and a copy of the notification to the contracting officer if the contractor is required to report its activities under the U.S.-IAEA Additional Protocol. Upon

such notification, DoD will determine if access may be granted to IAEA inspectors, or if a national security exclusion should be applied.

DoD Clearance Officer: Mr. Tucker Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2024–22151 Filed 9–26–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System**

[Docket Number DARS–2024–0022; OMB Control Number 0704–0187]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Information Collection in Support of the DoD Acquisition Process (Various Miscellaneous Requirements)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 28, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT:

Tucker Lucas, 571–372–7574, or
whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Information Collection in Support of the DoD Acquisition Process (Various

Miscellaneous Requirements); OMB Control Number 0704–0187.

Type of Request: Revision and extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Number of Respondents: 75.

Responses per Respondent: 2.8, approximately.

Annual Responses: 207.

Average Burden per Response: 1.2 hours, approximately.

Annual Burden Hours: 242.

Needs and Uses: This information collection requirement pertains to information required in DFARS parts 208, 235, and associated contract clauses in part 252 that offerors and contractors must submit to DoD in response to a request for proposals or an invitation for bids or a contract requirement. The solicitation provision and contract clause associated with DFARS part 209 have been removed from this information collection. The information required by the provision is collected via the System for Award Management, for which the burden is approved under OMB Control Number 9000–0189. The information required by the clause is submitted by fewer than 10 respondents per year.

DoD uses the information collected in the clauses associated with DFARS parts 208 and 235 to—

- Determine whether to provide precious metals as Government-furnished material;
- Evaluate claims of indemnification for losses or damages occurring under a research and development contract; and
- Keep track of radio frequencies on electronic equipment under research and development contracts so that the user does not override or interfere with the use of that frequency by another user.

DoD Clearance Officer: Mr. Tucker Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2024–22152 Filed 9–26–24; 8:45 am]

BILLING CODE 6001–FR–P

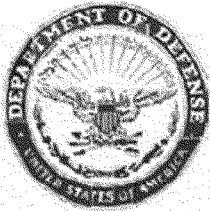
DEPARTMENT OF DEFENSE**Office of the Secretary**

[Transmittal No. 23-26]

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:**Pamela Young at (703) 953-6092, pamela.a.young14.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.**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 23-26, Policy Justification, and Sensitivity of Technology.

Dated: September 24, 2024.

Aaron T. Siegel,*Alternate OSD Federal Register Liaison Officer, Department of Defense.***BILLING CODE 6001-FR-P****DEFENSE SECURITY COOPERATION AGENCY**
2800 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2800

May 11, 2023

The Honorable Kevin McCarthy
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. 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. 23-26, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Germany for defense articles and services estimated to cost \$8.5 billion. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

A handwritten signature in black ink, reading "James A. Hursch", is positioned above the printed name and title.

James A. Hursch
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 6001-FR-C

Transmittal No. 23–26

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:* Government of Germany

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$3.35 billion
Other	\$5.15 billion

TOTAL	\$8.50 billion
-------------	----------------

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Sixty (60) CH-47F Block II Cargo

Helicopters with customer-unique modifications

One hundred forty (140) T-55-GA-714A Engines (120 installed, 20 spares)

Seventy-two (72) AN/AAR-57

Common Missile Warning Systems (CMWS) (60 installed, 12 spares)

Two hundred eighty-four (284) AN/ARC-231A Communications Security (COMSEC) Radios (240 installed, 44 spares)

Non-MDE:

Also included are AN/AVR-2B Laser Detecting Sets; AN/APR-39C(V)1 Radar Detecting Sets; AN/ARC-220 High Frequency (HF) radios with Electronic Countermeasures (ECCM); military Precise Positioning Service (PPS) (to include SAASM or M-Code); Digital Advanced Flight Control Systems (DAFCS); AN/APX-123A Identification Friend or Foe (IFF) transponder; AN/ARN-147 Very High Frequency (VHS) Omnidirectional Range and Instrument Landing System (VOR/ILS); AN/ARN-153 Tactical Air Navigation Systems (TACAN); air data computers; AN/APN-209 radar altimeter systems; AN/PYQ-10 simple key loaders; KIV-77 Mode 4/5 IFF Applique; KY-100M Narrowband/Wideband terminal COMSEC devices; AN/AVS-6 Night Vision Devices (NVD); IDM-401 Improved Data Modem; Extended Range Fuel Systems (ERFS); air-to-air refueling probes; M134 gun mounts; Infrared Suppression System (IRSS); Engine Air Particle Separator (EAPS); Ballistic Protection System (BPS) with Cockpit; cabin sides; Midas Underfloor COOLS; Extended Range Fuel System (ERFS) 800 gal and 500 gal; Forward Area Refueling Equipment (FARE); Tie Down Materiel and Helicopter

Under-Slung Load Equipment (HUSLE) for internal and external loads; rotorbrake; rescue hoists; Fast Rope Insertion/Extraction System (FRIES); Electro Optical Infrared Sensors (EO/IR); crash resistant pilot and troop seats; skis; life rafts; litter straps and fittings; mission equipment (e.g., jungle penetrator; litter basket; Jacob's Ladder; Airborne Tactical Extraction Platform (AirTEP); special tools and test equipment; ground support equipment; airframe and engine spare parts; technical data; publications; Maintenance Work Orders/Engineering Change Proposals (MWO/ECPs); Repair and Return (R&R); technical assistance; airworthiness assistance; transportation of aircraft; training; flight training and maintenance trainers; and other related elements of logistics and program support.

(iv) *Military Department:* Army (GY-B-XBA)

(v) *Prior Related Cases, if any:* None

(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:* See Attached Annex

(viii) *Date Report Delivered to Congress:* May 11, 2023

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Germany—CH-47F Chinook Helicopters

The Government of Germany has requested to buy sixty (60) CH-47F Block II Cargo Helicopters with customer-unique modifications; one hundred forty (140) T-55-GA-714A engines (120 installed, 20 spares); seventy-two (72) AN/AAR-57 Common Missile Warning Systems (CMWS) (60 installed, 12 spares); and two hundred eighty-four (284) AN/ARC-231A Communications Security (COMSEC) radios (240 installed, 44 spares). Also included are AN/AVR-2B Laser Detecting Sets; AN/APR-39C(V)1 Radar Detecting Sets; AN/ARC-220 High Frequency (HF) radios with electronic counter-countermeasures (ECCM); military Precise Positioning Service (PPS) (to include SAASM or M-Code); Digital Advanced Flight Control Systems (DAFCS); AN/APX-123A Identification Friend or Foe (IFF) transponder; AN/ARN-147 very high frequency (VHS) omnidirectional range and instrument landing system (VOR/ILS); AN/ARN-153 Tactical Air Navigation Systems (TACAN); air data

computers; AN/APN-209 radar altimeter systems; AN/PYQ-10 simple key loaders; KIV-77 Mode 4/5 IFF Applique; KY-100M narrowband/wideband terminal COMSEC devices; AN/AVS-6 Night Vision Devices (NVD); IDM-401 Improved Data Modem; Extended Range Fuel Systems (ERFS); air-to-air refueling probes; M134 gun mounts; Infrared Suppression System (IRSS); Engine Air Particle Separator (EAPS); Ballistic Protection System (BPS) with Cockpit; cabin sides; Midas Underfloor COOLS; Extended Range Fuel System (ERFS) 800 gal and 500 gal; Forward Area Refueling Equipment (FARE); Tie Down Materiel/Helicopter Under-Slung Load Equipment (HUSLE) for internal and external loads; rotorbrake; rescue hoists; Fast Rope Insertion/Extraction System (FRIES); Electro Optical Infrared Sensors (EO/IR); crash resistant pilot and troop seats; skis; life rafts; litter straps and fittings; mission equipment (e.g., jungle penetrator; litter basket; Jacob's ladder; Airborne Tactical Extraction Platform (AirTEP); special tools and test equipment; ground support equipment; airframe and engine spare parts; technical data; publications; Maintenance Work Orders/Engineering Change Proposals (MWO/ECPs); Repair and Return (R&R); technical assistance; airworthiness assistance; transportation of aircraft; training; flight training and maintenance trainers; and other related elements of logistics and program support. The total estimated cost is \$8.5 billion.

This proposed sale will support the foreign policy and national security of the United States by improving the security of a NATO Ally which is an important force for political and economic stability in Europe.

The proposed sale will improve Germany's heavy lift capability. Germany intends to use this enhanced capability to strengthen its homeland defense and deter regional threats. Germany will have no difficulty absorbing this equipment and services 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 Helicopter Company, Philadelphia, PA. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the temporary deployment of an estimated thirty (30) contractor representatives to Germany's Main Operating Bases (MOBs) for onsite aircraft technical, maintenance, and logistics support as part of a

Performance Based Logistics (PBL) program; training support; and operator and maintenance support for the Transportable Flight Proficiency Simulators (TFPS). This support will be provided for three to five years. The temporary deployment of contractor representatives will include five (5) Field Service Representatives (FSRs), four (4) from Boeing and one (1) from Rockwell Collins. This proposed sale will also require Foreign Liaison Officers be located at Redstone Arsenal and at the Boeing facility.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 23–26

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 Chinook CH–47F is a heavy lift, newly manufactured aircraft. The CH–47F has the Common Avionics Architecture System (CAAS) cockpit, which provides aircraft system, flight, mission, and communication management systems. The CAAS consist of two dual-redundant MIL–STD–1553B data busses and an Ethernet LAN capable of supporting both IEEE 802.3 and ARINC 664. The CAAS includes five multifunction displays (MFDs), two general purpose processor units (GPPUs), two control display units (CDUs), and two data concentrator units (DCUs).

2. The Navigation System will have two military PPS (to include SAASM or M-Code), two Digital Advanced Flight Control Systems (DAFCS), one ARN–147 Very High Frequency (VHS) Omnidirectional Range and Instrument Landing System (VOR/ILS) marker beacon system, one ARN–153 Tactical Air Navigation System (TACAN), two air data computers, and two AN/APN–209 Radar Altimeter system. The communications suite is as follows: four each AN/ARC–231A multi-mode radios providing VHF FM, VHF–AM, UHF, HQ II and Demand Assigned Multiple Access (DAMA) Satellite Communications (SATCOM), and one each AN/ARC–220 High Frequency (HF) Radio. The Identifier, Friend or Foe (IFF) will be the APX–123A, which provides the additional functionality of MODE. Aircraft survivability equipment (ASE) will consist of the Common Missile Warning System (CMWS), AN/AAR–57; the Radar Signal Detecting Set (RSDS), AN/APR–39C(V)1; and the Laser Detecting Set, AN/AVR–2B.

3. Support and fielding for the CH–47F, Block II and installed CAAS would require one copy of technical documentation, along with two (2) Contractor Field Service Representatives.

4. Sensitive technologies include:

a. The AN/ARN–147 combines all VHF Omni Ranging/Instrument Landing System (VOR/ILS) functions into one compact, lightweight, VHF navigation receiver.

b. 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.

c. The AN/APN–209 is a pulsed 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.

d. The AN/ARC–231A is a software-definable radio for military aircraft that provides two-way, multi-mode voice and data communications over a 30 Hz to 512 MHz frequency range. It supports both line-of-sight Ultra High Frequency (UHF) and Very High Frequency (VHF) bands with AM, FM, and SATCOM capabilities and includes embedded frequency agile modes, Electronic Counter-Countermeasures (ECCM), and anti-jam waveforms such as HAVE QUICK and SINCGARS, Demand Assigned Multiple Access (DAMA), and Integrated Waveform (IW). It provides simultaneous, real-time participation in tactical voice and data communications networks. The embedded RT–1987 radio transceiver will provide National Security Agency (NSA) Tactical Secure Voice Cryptographic Interoperability Specification (TSVCIS) 3.1.1 cryptographic modernization compliance. It also allows for operator-selectable Air Traffic Control (ATC) channel spacing of 5, 8.33, 12.5, and 25kHz steps and other data link and secure communications features, providing battlefield interoperability.

e. The AN/ARC–220 High Frequency (HF) airborne communications system provides embedded Automatic Link Establishment (ALE), serial tone data modem, text messaging, and GPS position reporting functions.

f. 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 surface interrogators.

g. 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 and countermeasures either automatically or under pilot or crew control to defeat incoming missile threats.

h. The AN/APR–39 Radar Warning System detects radar-based rangefinders, target designators and beam rider systems targeting an aircraft or vehicle. It is a detection component of the suite of countermeasures designed to increase survivability of current generation combat aircraft and specialized special operations aircraft against the threat posed by laser designated or guided weapons.

i. The AN/AVR–2B Laser Warning Set is a passive laser warning system that receives, processes, and displays threat information resulting from aircraft illumination by lasers on the multi-functional display.

j. The KIV–77 is a Common Crypto Applique for IFF that provides Mode 4/5 capability. The KIV–77 Applique physical dimensions are 3.5 in. × 4.25 in. × 1 in., 16-oz. The KIV–77 can be removed from the host.

k. The TSEC KY–100M is a radio encryptor.

l. The AN/PYQ–10 (C) Simple Key Loader (SKL) is a ruggedized, portable, hand-held fill device used for securely receiving, storing, and transferring electronic key material and data between compatible end cryptographic units (ECU) and communications equipment. It supports both the DS–101 and DS–102 interfaces, as well as the Crypto Ignition Key, and is compatible with existing ECUs.

m. The Improved Data Modem (IDM) is a multi-channel receive and transmit terminal that interoperates with other digital message systems by processing Variable Message Format (VMF) and Air Force Applications Program Development message traffic on the Tactical internet (TI) and Private Network (PN). The IDM provides the essential routing and gateway functionality necessary to support seamless data communication over combat-net radio (CNR) systems and across multiple tactical networks simultaneously. The IDM provides this functionality on a multi-service basis, supporting Army, Navy, Marine Corps, and Air Force operations. The IDM provides a means to participate in Joint Battle Command—Platform/Air (JBC–P/A) communications through the exchange of digital Command and Control (C2) and Situational Awareness (SA) data. The IDM also supports

Private Net communications providing connectivity across Army Aviation platforms and connectivity with digital ground systems. The unit is interoperable with the following radio terminals: AN/ARC-164, AN/ARC-186, AN/ARC-201D, AN/ARC-231, Joint Tactical Radio System (JTRS) Airborne and Maritime/Fixed Station (AMF) SA, Blue Force Tracker (BFT) 1 (AVX-06, MT-2011, and KGV-72), and BFT 2 (KGV-72).

n. The AN/AVS-6 Military Grade Night Vision Goggles (NVG) are helmet mounted, optoelectronic devices that allow images to be produced in levels of light approaching total darkness. The image may be a conversion to visible light of both visible light and near-infrared.

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 the Government of Germany 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.

8. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Germany.

[FR Doc. 2024-22241 Filed 9-26-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 23-37]

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:

Pamela Young at (703) 953-6092, pamela.a.young14.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

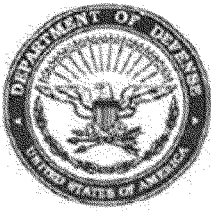
SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 23-37, Policy Justification, and Sensitivity of Technology.

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY

2800 Defense Pentagon
Washington, DC 20301-2800

May 9, 2023

The Honorable Kevin McCarthy
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. 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. 23-37, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Poland for defense articles and services estimated to cost \$124.7 million. 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

BILLING CODE 6001-FR-C

Transmittal No. 23-37

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:* Government of Poland

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$101.5 million
Other	\$ 23.2 million
TOTAL	\$124.7 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Thirty-four (34) AN/AAQ-33 Sniper Advanced Targeting Pods (ATP) with Shipping Containers

Non-MDE:

Also included are system support and support equipment; spare parts, consumables, accessories, and repair and return support; integration and test equipment and support; unclassified software delivery and support; unclassified

Computer Program Identification Number (CPIN) systems; unclassified publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical and logistics support services; and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (PL-D-QBD)

(v) *Prior Related Cases, if any:* PL-D-SAC

(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*: See Attached Annex

(viii) *Date Report Delivered to Congress*: May 9, 2023

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Poland—Sniper Advanced Targeting Pods

The Government of Poland has requested to buy thirty-four (34) AN/AAQ-33 Sniper Advanced Targeting Pods (ATP) with Shipping Containers. Also included are system support and support equipment; spare parts, consumables, accessories, and repair and return support; integration and test equipment and support; unclassified software delivery and support; unclassified Computer Program Identification Number (CPIN) systems; unclassified publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical and logistics support services; and other related elements of logistical and program support. The estimated total cost is \$124.7 million.

This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve the security of a NATO Ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve the tactical effectiveness of the FA-50 fighter aircraft that Poland is buying from the Republic of Korea by enhancing its abilities to identify targets, track, and engage from a standoff distance; it will also increase interoperability with U.S. and NATO forces. Poland will have no difficulty absorbing these articles 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 Lockheed Martin, Orlando, Florida. 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 Poland.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 23-37

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 AN/AAQ-33 Sniper Advanced Targeting Pod (ATP) or LITENING Targeting Pod is a single, lightweight targeting pod for military aircraft that provides positive target identification, autonomous tracking, Global Positioning System (GPS) coordinate generation, and precise weapons guidance from extended standoff ranges. It incorporates a high-definition mid-wave Forward-Looking Infrared (FLIR), dual-mode laser, visible-light high-definition television (HDTV), laser spot tracker, video data link (VDL), and a digital data recorder.

2. The highest level of classification of defense articles, components, and services included in this potential sale is UNCLASSIFIED.

3. 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.

4. A determination has been made that Poland 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 Government of Poland.

[FR Doc. 2024-22239 Filed 9-26-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 22-55]

Arms Sales Notification

Correction

In notice document 2024-18761 beginning on page 67624 in the issue of Wednesday, August 21, 2024, make the following correction:

The two letters appearing on pages 67624 and 67625 should not have been included in the document.

[FR Doc. C1-2024-18761 Filed 9-26-24; 8:45 am]

BILLING CODE 0099-10-D

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 23-20]

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:

Pamela Young at (703) 953-6092, pamela.a.young14.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

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 23-20, Policy Justification, and Sensitivity of Technology.

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

May 3, 2023

The Honorable Kevin McCarthy
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Mr. 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. 23-20, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of the Czech Republic for defense articles and services estimated to cost \$650 million. 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

BILLING CODE 6001-FR-C

Transmittal No. 23-20

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:* Government of the Czech Republic

(ii) *Total Estimated Value:*

Magic Defense Equipment * \$350 million

Other \$300 million

TOTAL \$650 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* The Government of Czech Republic has requested to buy equipment and services to refurbish six (6) AH-1Z and

two (2) UH-1Y Excess Defense Article (EDA) helicopters. This equipment and services will include:

Major Defense Equipment (MDE):

Twenty-two (22) T-700 GE 401C Engines (16 installed, 6 spares)

Fourteen (14) Honeywell Embedded Global Positioning System Inertial Navigation Systems (EGIs) w/ Precise Positioning Service (PPS) (8

installed, 6 spares)
Four (4) M240 Machine Guns
Twenty-four (24) ARC-210 COMSEC
Radios

Non-MDE:

Also included is communication equipment; electronic warfare systems; support equipment; spare engine containers; flight training devices; Composite Maintenance trainer; spare and repair parts; tools and test equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (EZ-P-SBI)

(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:* May 3, 2023

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Czech Republic—AH-1Z and UH-1Y Refurbishment/Modernization

The Government of the Czech Republic has requested to buy equipment and services to refurbish six (6) AH-1Z and two (2) UH-1Y Excess Defense Article (EDA) helicopters. This equipment and services will include: twenty-two (22) T-700 GE 401C engines (16 installed, 6 spares); fourteen (14) Honeywell Embedded Global Positioning System Inertial Navigation Systems (EGIs) w/Precise Positioning Service (PPS) (8 installed, 6 spares); four (4) M240 machine guns; and twenty-four (24) ARC-210 COMSEC radios. Also included is communication equipment; electronic warfare systems; support equipment; spare engine containers; flight training devices; Composite Maintenance trainer; spare and repair parts; tools and test equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$650 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a NATO partner that is an important force for ensuring peace and stability in Europe.

The proposed sale will improve the Czech Republic's ability to develop and

maintain a strong and ready self-defense capability. The Czech Republic will have no difficulty absorbing these defense articles and services into its armed forces.

The proposed sale of this equipment and services will not alter the basic military balance in the region.

The principal contractors will be Bell Helicopter, Textron, Fort Worth, TX, and General Electric Company, Lynn, MA. There are no known offset agreements proposed in connection with this potential sale.

Implementation of the proposed sale will require multiple trips by U.S. Government and contractor representatives to participate in program and technical reviews plus training and maintenance support in-country, on a temporary basis, for a period of sixty (60) months. It will also require three (3) contractor representatives to reside in country for a period of two (2) years to support this program.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 23-20

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 AH-1Z and UH-1Y helicopter model have an integrated avionics system (IAS) which includes two (2) mission computers and an automatic flight control system. Each crew station has two (2) 8x6-inch multifunction liquid crystal displays (LCD) and one (1) 4.2x4.2-inch dual function LCD display. The communications suite will have COMSEC ARC 210 Ultra High Frequency/Very High Frequency (UHF/VHF) radios with associated communications equipment. The navigation suite includes a Precise Positioning Systems (PPS), Honeywell Embedded GPS Inertial Navigation System (EGI) (SAASM or upgraded equivalent), a digital map system, and a low-aspired air data subsystem, which allows weapons delivery when hovering.

2. The crew is equipped with the Optimized Top Owl (OTO) helmet-mounted sight and display system. The OTO has a Day Display Module (DDM) and a Night Display Module (NDM). The H-1 has survivability equipment including the AN/AAR-47 Missile Warning and Laser Detection System, AN/ALE-47 Counter Measure Dispensing System (CMDS) and the AN/APR-39 Radar Warning Receiver (RWR)

to cover countermeasure dispensers, radar warning, incoming/on-way missile warning and on-fuselage laser-spot warning systems.

3. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

4. 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.

5. A determination has been made that the Czech Republic 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.

6. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of the Czech Republic.

[FR Doc. 2024-22237 Filed 9-26-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 23-29]

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:

Pamela Young at (703) 953-6092, pamela.a.young14.civ@mail.mil, or dsca.ncr.rsrmgmt.list.cns-mbx@mail.mil.

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 23-29, Policy Justification, and Sensitivity of Technology.

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

May 4, 2023

The Honorable Kevin McCarthy
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Mr. 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. 23-29, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Australia for defense articles and services estimated to cost \$207 million. 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. 23-29

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex

Item No. (ii)

(i) *Prospective Purchaser:* Government of Australia

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 0 million
Other	\$207 million

TOTAL \$207 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

None

Non-MDE:

Included are Surveillance Towed Array Sensor System Expeditionary (SURTASS-E) mission systems for Vessels of Opportunity (VOO); a shore processing mission system, a spare SURTASS passive acoustic

array; containers; communications parts and support equipment (Classified and Unclassified); software (Classified and Unclassified); publications (Classified and Unclassified); training; U.S. Government and contractor engineering support; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (AT-P-LGL)

(v) *Prior Related Cases, if any:* AT–P–LGN, AT–P–LGL (P&A)

(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:* May 4, 2023

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Australia—Surveillance Towed Array Sensor System Expeditionary (SURTASS–E) Mission Systems

The Government of Australia has requested to buy Surveillance Towed Array Sensor System Expeditionary (SURTASS–E) mission systems for Vessels of Opportunity (VOO); a shore processing mission system, a spare SURTASS passive acoustic array; containers; communications parts and support equipment (Classified and Unclassified); software (Classified and Unclassified); publications (Classified and Unclassified); training; U.S. Government and contractor engineering support; and other related elements of logistics and program support. The estimated total cost is \$207 million.

This proposed sale will support the foreign policy and national security objectives of the United States. Australia is one of our most important allies in the Western Pacific. The strategic location of this political and economic power contributes significantly to ensuring peace and economic stability in the region. It is vital to the U.S. national interest to assist our ally in developing and maintaining a strong and ready self-defense capability.

The proposed sale will improve Australia's capability to meet current and future maritime threats by providing tactical platforms with the detection and cueing of enemy submarines. The ability to provide acoustic Wide Area Surveillance and generate Indications and Warnings to Australian Commands will significantly improve shared maritime security. Australia 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 contractors will be Lockheed Martin-Syracuse, Syracuse, NY; and Lockheed Martin-Manassas, Manassas, VA. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require U.S. Government personnel

and U.S. Contractor representatives to visit the Commonwealth of Australia on a temporary basis in conjunction with program technical oversight and support requirements, including program and technical reviews.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 23–29

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 Surveillance Towed Array Sensor System Expeditionary (SURTASS–E) mission system is a containerized variant of the passive SURTASS system providing long range detection and cueing for tactical weapons platforms against both diesel and nuclear-powered submarines. SURTASS–E allows the fleet to detect, classify, localize, track, and report emergent threats, thereby improving overall maritime security.

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 specific hardware and software elements, the information could be used to develop countermeasures that might reduce mission system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Australia 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 Government of Australia.

[FR Doc. 2024–22238 Filed 9–26–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Funding Availability—Covered Technology Categories—Equipment Financing

AGENCY: Office of Strategic Capital (OSC), Office of the Under Secretary of

Defense for Research and Engineering, Department of Defense (DoD).

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: The OSC is announcing the availability of up to \$984,000,000 aggregate funding for direct loans for equipment financing for technologies in the designated covered technology categories.

DATES: Applications will be accepted per the terms set forth below.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact David Vidal, Office of Strategic Capital Director of Credit Programs, at *Federal.Register.Notice@osc.mil*, tel. no. 703–545–1903. Please direct media inquiries to the OSC Press Team at *engagements@osc.mil*.

SUPPLEMENTARY INFORMATION:

1. Notice of Funding Availability Overview

- *Federal Agency Name:* Office of Strategic Capital, U.S. Department of Defense.

- *Federal Funding Opportunity Title:* Office of Strategic Capital Notice of Funding Availability (Equipment Finance).

- *Announcement Type and Date:* Initial announcement for the Office of Strategic Capital Notice of Funding Availability (Equipment Finance), as authorized by section 903 of the National Defense Authorization Act for Fiscal Year 2024. Effective date: September 27, 2024.

- *Purpose:* This Notice of Funding Availability seeks applications for financing the construction, expansion, or modernization of commercial equipment in the United States. These commercial facilities and their products will support, either directly or indirectly, Covered Technology Categories as set out in 10 U.S.C. 149(e). The Office of Strategic Capital will provide direct loans in the amount of \$10–\$150 million under this Notice of Funding Availability. The eligibility and selection criteria for investments include compliance with statute, the extent to which an investment supports U.S. national security or economic interests, the impact that direct loans would have on the project or transaction, and the creditworthiness of the investment, among other factors OSC will evaluate in the application process. See section 5 for additional information on evaluation criteria.

- *Application Format and Timeline:* This Notice of Funding Availability will employ a two-stage application process. The application process under this

Notice of Funding Availability consists of an Application Part 1 to validate eligibility and project or transaction suitability. As further detailed below, Applicants with a successful Part 1 submission will be invited to complete the full application.

○ *Application Part 1.* Part 1 of the application may be submitted starting on January 2, 2025 and must be received by 4:59 p.m. Eastern Time on February 3, 2025. See section 7(B) for additional information on Application Part 1 submission instructions.

○ *Application Part 2.* Following Application Part 1 review, the Office of Strategic Capital will invite certain applicants to complete Application Part 2. See section 7(E) for additional information on Application Part 2 submission instructions.

Application Part 2 submissions will be considered on a rolling basis. The Office of Strategic Capital may amend, cancel, or withdraw the Notice of Funding Availability at any time. All changes will be communicated via **Federal Register** Notice and the OSC website at <https://www.osc.mil>.

• *Eligible Applicants:* Pursuant to section 903 of the National Defense Authorization Act for Fiscal Year 2024: (1) an eligible applicant must be an Eligible Entity, (2) investments must be in a Covered Technology Category, and (3) investments must not be in a technology that solely has defense applications (each of Eligible Entity and Covered Technology Category, as defined in the National Defense Authorization Act for Fiscal Year 2024). Furthermore, eligible applicants will be assessed for creditworthiness, alignment with the mission of the Office of Strategic Capital, and compliance with certain provisions of the Federal Credit Reform Act of 1990. See section 3 of this Notice of Funding Availability for a full assessment of Eligibility.

• *Funding Opportunity Description:* Direct loans made under this Notice of Funding Availability will seek to strengthen U.S. economic and national security by providing equipment finance loans for companies investing in Covered Technology Categories. Through this Notice of Funding Availability, the Office of Strategic Capital will issue approximately \$10–\$150 million in loans to approximately ten successful applicants, subject to the availability of funds as set out in section 4(B)(I) below. Subsequent Notices of Funding Availability will offer additional forms of financial assistance for companies investing in Covered Technology Categories.

2. Covered Technology Categories

Per 10 U.S.C. 149(e), the Covered Technology Categories are:

- (A) Advanced bulk materials;
- (B) Advanced manufacturing;
- (C) Autonomous mobile robots;
- (D) Battery storage;
- (E) Biochemicals;
- (F) Bioenergetics;
- (G) Biomass;
- (H) Cybersecurity;
- (I) Data fabric;
- (J) Decision science;
- (K) Edge computing;
- (L) External communication;
- (M) Hydrogen generation and storage;
- (N) Mesh networks;
- (O) Microelectronics assembly, testing, or packaging;
- (P) Microelectronics design and development;
- (Q) Microelectronics fabrication;
- (R) Microelectronics manufacturing equipment;
- (S) Microelectronics materials;
- (T) Nanomaterials and metamaterials;
- (U) Open RAN;
- (V) Optical communications;
- (W) Sensor hardware;
- (X) Solar;
- (Y) Space launch;
- (Z) Spacecraft;
- (AA) Space-enabled services and equipment;
- (BB) Synthetic biology;
- (CC) Quantum computing;
- (DD) Quantum security; and
- (EE) Quantum sensing.

3. Notice of Funding Availability

Table of Contents

1. Notice of Funding Availability Overview
2. Covered Technology Categories
3. Notice of Funding Availability Table of Contents
4. Program Description
 - A. Purpose of Program
 - B. Program Objectives and Priorities
 - C. Statutory Authority
5. Federal Funding Information
 - A. Funding Instrument—Type of Funding
 - B. Funding Availability
 - I. Fiscal Year Funds
 - II. Funding Categories, Interest Rates, Terms and Conditions
 - III. Direct Loan Amounts
6. Eligibility Information
 - A. Eligible Applicants
 - B. Eligible Projects
 - C. Section 8140 Eligibility Criteria
 - D. Eligible Costs
7. Application and Submission Information
 - A. How To Access an Application
 - B. How To Submit Application Part 1
 - C. Pre-Application Consultation
 - D. Application Part 1, Review and Selection
 - I. Foreign Ownership, Control, or Influence and Adversarial Capital
 - II. Evaluation Criteria
 - E. How To Submit Application Part 2
 - F. Part 2 Application Review
 - G. System for Award Management and Unique Entity Identifier

- H. Submission Dates and Times
- I. Confidential Business Information
- J. Funding Restrictions
- K. Intergovernmental and Regulatory Review

8. Federal Funding Administration Information

- A. Third-Party Expenses and Fees
- B. Funding Availability and Limitation of Liability
- C. Reporting
- D. Additional Information
- E. Privacy Advisory
- F. Office of Strategic Capital Contact Information

4. Program Description

This Notice of Funding Availability (“NOFA”) from the United States Department of Defense (“DoD” or the “Department”) Office of Strategic Capital (“OSC”) seeks submission of Part 1 of the Application for Loan Financing (“Application Part 1”) from eligible applicants based on criteria set forth in subsequent portions of this document. Successful Application Part 1 submissions may receive an invitation from OSC to submit an Application Part 2.

OSC has the authority to provide multiple forms of assistance, including direct loans, loan guarantees, and technical assistance that support commercial supply chains for technologies that are critical to U.S. national security. This inaugural NOFA specifically seeks applications for direct loans that will support modernization of manufacturing equipment in Covered Technology Categories. Applicants are not required to have any past, current, or future DoD or Federal Government contracts or provide sales or services to the Federal Government to be eligible. Subject to additional appropriations, OSC expects to publish opportunities in the future for additional CTCs and types of assistance, including loan guarantees.

This NOFA provides detailed information about the program objectives and requirements applicants will need to meet to receive funding. It also describes the procedures the program will use to evaluate and select applications for funding. Application Part 1, OMB Control Number 0704–0694, is due no later than 4:59 p.m. Eastern Time on February 3, 2025. OSC will invite certain applicants to submit Part 2 of the application (OMB Control Number 0704–0694, “Application Part 2”) based on its evaluation of Application Part 1. OSC may provide further guidance on these requirements and procedures in subsequent publications and through a series of public outreach sessions, information about which will be available at OSC’s website: <https://www.osc.mil>. Interested

parties should routinely check the website for updates.

OSC reserves the right to amend or modify any of the terms, procedures, or conditions set forth in this Notice of Funding Availability.

A. Purpose of Program

OSC's mission is to attract and scale private capital to technologies critical to the national and economic security of the United States. The NDAA (as defined below) states OSC shall:

- develop, integrate, and implement capital investment strategies proven in the commercial sector to shape and scale investment in critical technologies and assets;
- identify and prioritize promising critical technologies and assets that require funding and have the potential to benefit DoD; and
- make eligible investments in such technologies and assets, such as supply chain technologies not always supported through direct investment.

The United States is in a global competition to be the world's leader in emerging and critical technologies. These technologies are vital to creating enduring national security advantages for the U.S., its allies, and partners. Today, the private sector funds the majority of technological research and development, and, consequently, private capital is the driving resource that determines the United States' research and development agenda.

DoD will utilize financial tools available to OSC to attract and scale the private capital needed to commercialize and scale critical technologies that enhance the United States' broader national security and economic interests. OSC is authorized to provide loans and loan guarantees to eligible projects in select covered technology categories. OSC aims to build on successful examples of administering efficient, cost-effective financial tools to advance national security priorities. By aligning government and private sector incentives around technologies vital to national security and economic interests, DoD aims to use the power of the market and economic competition to attract the capital required for critical technology investment.

B. Program Objectives and Priorities

OSC aims to support entities in expanding and modernizing their production capabilities while simultaneously encouraging private capital investment. A key goal in OSC's efforts is to attract and scale private capital alongside public funds, rather than relying on public funding alone for investment in national and economic

security priorities. For this inaugural NOFA, OSC's objective is to provide direct loans to entities for equipment modernization, refurbishment, and expansion efforts in existing manufacturing facilities that support the CTCs.

C. Statutory Authority

This NOFA is issued pursuant to the National Defense Authorization Act for Fiscal Year 2024, Public Law 118–31, section 903 (the “NDAA”), which authorized the Office of Strategic Capital. Under the NDAA, OSC is authorized to carry out a pilot program to provide direct loans to eligible entities for investments in technologies that fall within specified CTCs and have existing or forecasted commercial applications beyond solely defense purposes. The eligibility and selection criteria for investments include compliance with statute, the extent to which an investment supports U.S. national security or economic interests, the impact that direct loans would have on the project or transaction, and the creditworthiness of the investment, among other factors OSC will evaluate in the application process.

5. Federal Funding Information

A. Funding Instrument—Type of Funding

To accomplish program objectives described in section 3(a) and section 3(b) above, OSC will provide direct loans to eligible applicants. Additional financial products will be available in future NOFAs.

B. Funding Availability

I. Fiscal Year Funds

The Further Consolidated Appropriations Act, 2024 (Pub. L. 118–47) (the “Appropriations Act”) included appropriations to support up to \$984,000,000 in direct loans, available for obligation through September 26, 2026. Total amount of funding for direct loans under this NOFA may include future appropriations. Amounts funded under this NOFA will depend on the creditworthiness of applications received and program priorities. Remaining funding, if any, will be used for future funding opportunities.

OSC reserves the right to issue funds up to the amounts appropriated under fiscal year 2024 under this NOFA. Additionally, OSC retains the discretion to apply funds from future appropriations to loans issued under this NOFA. OSC will determine the total level of funding to be issued based on current and future appropriations.

II. Funding Categories, Interest Rates, Terms and Conditions

Based on statutory authority provided in section 903(b)(3)(A) of the NDAA, OSC has established requirements for terms and conditions for direct loans under this NOFA. Specific terms will be developed for each transaction, but this section describes guiding principles for certain terms.

Interest Rate

The interest rate on direct loans provided under this program shall be set depending upon factors specific to the transaction and market factors at the time of approval, including prevailing market interest rates and the credit risk of the transaction, but in no event at a rate less than the yield on marketable United States Department of the Treasury securities of a similar maturity.

Maturity Date

The maturity date for direct loans under this program shall be determined depending upon factors specific to the transaction at the time of approval, including the credit risk of the transaction, use of loan proceeds, useful life of the underlying assets, and collateral.

Prepayment

Direct loans provided under this program may be prepaid without penalty.

Non-Subordination

OSC loans are senior loans and shall not be subordinated to any other indebtedness, subject to certain exceptions. The form of acceptable security will be determined based on factors specific to transactions and can include a lien on pledged collateral, or other form of security acceptable to OSC in its sole discretion. In some cases, pursuant to the NDAA, OSC may make an unsecured corporate loan.

Other Terms and Conditions

OSC reserves the right to determine terms on a transaction-by-transaction basis under this program. Transactions may be subject to such other terms, conditions, covenants, representations, warranties, and requirements as OSC deems appropriate.

III. Direct Loan Amounts

The total amount of direct loan financing provided under this NOFA will vary by project or transaction and applicants will be required to specify their financing needs in their Application Part 1. For this NOFA, a project or transaction is defined as the comprehensive effort encompassing the

purchase, refurbishment, installation, maintenance, and/or related activities associated with the use of equipment for manufacturing purposes. Direct loan financing will be individually negotiated and obligated based on considerations specific to each project, as well as the availability of program funds.

Under this NOFA, OSC will accept loan applications for loan amounts of no less than \$10 million and not exceeding \$150 million. The NDAA section 903(d) requires not less than 80% of the total capital invested in a CTC-focused industry come from non-Federal sources at the time of OSC investment. While OSC will monitor compliance with this requirement, OSC generally does not expect this requirement to restrict investment into individual projects.

6. Eligibility Information

The eligibility information below applies to this inaugural NOFA. OSC may revise the scope of eligible projects for future funding opportunities.

A. Eligible Applicants

The following entities (including relationships by and among entities, *e.g.*, joint ventures or strategic alliances) are eligible to apply for direct loans from OSC:

- an individual;
- a corporation;
- a partnership, which may include a public-private partnership, limited partnership, or general partnership;
- a trust;
- a State, including a political subdivision or any other instrumentality of a State;
- a Tribal government or consortium of Tribal governments;
- any other governmental entity or public agency in the United States, including a special purpose district or public authority, including a port authority, or
- a multi-State or multi-jurisdictional group of public entities.

To ensure the effective allocation of direct loans, OSC will require that borrowing entities (or sponsors) demonstrate a minimum of three years of operating history. OSC reserves the right to waive or increase this requirement in its sole discretion if the application demonstrates exceptional alignment with NOFA objectives and requirements.

B. Eligible Projects

Eligible projects or transactions under this NOFA must align with authorizing language provided in the NDAA, which requires that all eligible investments made:

- are in a CTC, and
- are not a technology that solely has defense applications.

For this inaugural NOFA, OSC aims to fund the procurement or rehabilitation of equipment for manufacturing processes in the CTCs.

C. Section 8140 Eligibility Criteria

OSC will evaluate project applications for existing Federal involvement. The Section 8140 Eligibility Criteria were developed pursuant to section 8140 of the Appropriations Act. The third proviso of section 8140 requires the Secretary of Defense and the Director of the Office of Management and Budget (“OMB”) to jointly develop criteria for “eligibility for direct loans and loan guarantees that limit Federal participation in a project consistent with the requirements for the budgetary treatment provided for in section 504 of the Federal Credit Reform Act of 1990 (“FCRA”; 2 U.S.C. 661c) and based on the recommendations contained in the 1967 Report of the President’s Commission on Budget Concepts. All applicants submitting applications for funding under this NOFA must complete responses for the Section 8140 Eligibility Criteria. OSC and OMB will perform a holistic review of the responses to the Section 8140 Eligibility Criteria responses and determine whether the application meets the criteria.

Federal Eligibility Threshold Questions

1. Is the prospective borrower seeking financing for a project or transaction to produce a technology, product, asset, and/or service for which the Federal Government is the sole user?
2. Is the prospective borrower seeking financing for a project or transaction to produce a technology, product, asset, and/or service where repayment is majority dependent on current or anticipated Federal sources (*e.g.*, grants or contracts)?

Federal Transaction Screening Criteria

1. Is the borrower a public-private partnership, or does the Federal Government otherwise have a role in the governance of the activity financed by the proposed transaction (*e.g.*, a corporate officer position, membership on the Board of Directors, the ability to unilaterally elect or veto members of the Board of Directors, or other forms of control or influence reserved for a stockholder), excepting any terms and conditions contained in the Credit Agreement or ancillary documents?
2. Is the proposed transaction financing an activity for which a Federal agency has received previous

authorization in legislation, and without which authorization a private sector entity would not engage in the activity?

3. In the absence of an OSC loan, is the project economically viable (*e.g.*, is the OSC loan critical to securing favorable ratings opinions or catalyzing private investments)? If yes, please explain how the proposed transaction fits within the assessed current private market.

4. Does the transaction depend on the Federal Government making other in-kind contributions (land, real estate, right-of-way, etc.)? If yes, please explain.

5. What, if any, current Federal capital assets (*e.g.*, Federal land, structures, equipment, or intellectual property) will be affected by the transaction? For example, will the transaction finance construction of an asset on Federal land, or does the transaction rely on the Federal Government’s continued ownership and maintenance of a structure for viability?

6. To your knowledge, excepting an event of default, would the Federal Government be required to cover financial losses associated with the project?

In the Application Part 1, if the applicant answers “yes” to any of the Federal Transaction Screening Criteria, the applicant will be invited to supplement the answer to provide further detail.

D. Eligible Costs

Direct loans made for eligible projects through OSC may be used to finance the purchase or rehabilitation of equipment, as well as the following costs directly associated with the financed equipment:

- Pre-installation costs, such as planning, development, engineering analysis, financing, legal expenses, and associated fees (excepting application costs, which shall not be covered);
- Ancillary costs, such as preparation of facility, permitting, utility upgrades, delivery, calibration, first-article testing and/or qualification, integration with existing systems, as well as associated modifications or software necessary for operational use;
- Installation costs, including cost of labor and materials required for installation;
- Appraisal and inspection costs, appraisals required to determine value of asset, or appraisal or inspections required by law and industry regulations; and
- Refinancing costs, on a case-by-case basis.

For any equipment that is purchased prior to submission of the Application Part 1, any of the above costs that have

been incurred during the useful life of an underlying asset may be included, at the sole discretion of OSC.

7. Application and Submission Information

This section 7 describes the application completion and submission process. First, potential applicants will submit Application Part 1 complete with descriptive information about the equipment purchase or rehabilitation and the potential borrower. Next, Application Part 1 will be reviewed using the criteria described in subsection D below. Finally, applicants who meet these criteria will then be invited to apply and submit Application Part 2.

A. How To Access an Application

Application Part 1, Application Part 2, FAQs, and other materials are available at <https://www.osc.mil>.

B. How To Submit Application Part 1

a. All instructions required for submitting Part 1 are located on the OSC web page, <https://www.osc.mil>.

b. Applicants can submit only one application.

c. A parent company that has subsidiaries applying for funding based on the parent's audited financials can only be the proposed guarantor for one application for funding under this notice. If multiple subsidiaries apply based on the same parent audited financial statement, only one application for one subsidiary can be funded, chosen at OSC's discretion.

d. Applications and supporting documents will not be accepted through mail or courier delivery, in-person delivery, or fax.

C. Pre-Application Consultation

Subject to OSC availability, Applicants can request pre-application consultation sessions with OSC prior to completion of Application Part 1. This optional pre-application consultation can be useful for feedback in anticipation of review of materials. Topics of discussion may include but are not limited to: OSC's economic and national security goals; the scope of the OSC mission; the application process; CTCs; long-term investment plans for capital expenditures, as well as standard, market-oriented terms and conditions for loans. No findings from a pre-application consultation shall be used to evaluate an Application Part 1 or Application Part 2 and OSC shall make no binding agreements whatsoever with applicants during a pre-application consultation.

D. Application Part 1, Review and Selection

Application Part 1 submissions must be received by 4:59 p.m. Eastern Time on February 3, 2025. Application Part 1 submissions received after this date shall not be considered or reviewed. For all Application Part 1 submissions, OSC and OMB will assess whether the proposed project meets minimum eligibility requirements described in this NOFA as well as the loan proposal and supporting project information. OSC reserves the right to reopen this NOFA for the purpose of additional submissions of new or amended applications or to offer additional notices of funding availability.

I. Foreign Ownership, Control, or Influence and Adversarial Capital

During both the Application Part 1 and Application Part 2 evaluation, OSC will assess the degree to which the applicant (including the borrower, sponsor, or guarantor, as applicable) or the project or transaction is subject to Foreign Influence and Adversarial Capital (each as defined below). The scope of the assessment will include the entity's customers, suppliers, management team, board of directors or equivalent governing body, the entity's ownership, as well as other contractual relationships.

For the purposes of this NOFA these terms can be clarified as described below:

Foreign Influence is a condition that exists when a Foreign Country of Concern (as defined below) or a Foreign Entity of Concern (as defined below) has the power, direct or indirect, whether or not exercised, (A) to direct or decide matters affecting the management or operations of the company or (B) to access material non-public information, or (C) to access material intellectual property of the company. *Adversarial Capital* is an investment in an entity, in the form of ownership or credit, from persons, whether legal or individual, in Foreign Countries of Concern or from *Foreign Entities of Concern* hostile to the interests of the United States, its allies, or partners. For the purposes of this NOFA, a *Foreign Country of Concern* is as set out in 15 U.S.C. 4651(7) and a *Foreign Entity of Concern* is as set out in 15 U.S.C. 4651(8) and 15 CFR 231.104(c).

In connection with any concerns about Foreign Influence or Adversarial Capital, OSC reserves the right to employ mitigation agreements or other measures during the application process, including not approving a loan application.

II. Evaluation Criteria

OSC will review eligible Application Part 1 submissions and prioritize them by selection criteria, which include readiness to proceed and alignment with OSC's mission. Following review, OSC will invite applicants to submit Application Part 2. At that time, OSC will furnish an application number for employment throughout the remainder of the application process.

Application Part 1 will be assessed and prioritized on factors that include, but are not limited to, the following:

a. Economic and National Security Objectives

OSC is guided by the OSC mission statement: to attract private capital to national security priorities and scale private investment into critical technologies. Successful applicants will have a demonstrated investment in one or more CTCs, either through previous actions or a comprehensive business plan.

b. Adherence to OSC Statutory Requirements

Applicants that align with covered technologies eligible for investment and are not solely for defense applications, as outlined in the NDAA will be eligible for consideration.

c. Alignment With OSC Funding Objectives

Applicants that align with CTCs for equipment modernization efforts in existing manufacturing facilities will be prioritized under this NOFA.

d. Speed to Commercialization

Applicants for projects or transactions for which a technology or product can be quickly brought to market and made commercially available will be prioritized in the evaluation process.

e. Readiness To Proceed

Applicants in a position to execute on the purchase of equipment will be prioritized in the evaluation process.

f. Availability of Government Financial Support

The extent to which the project or transaction uses available funding (*i.e.*, appropriated funds from Congress), allowing OSC to fund a diverse portfolio of investments for the initial funding round.

g. Creditworthiness

OSC will review applicants for a demonstrated history of reliable credit repayment. OSC will not issue a loan unless it determines that the applicant has a reasonable prospect of repaying

the principal and interest on the loan in a timely manner and that the principal, when combined with amounts available to the applicant from other sources, will be sufficient to carry out the purchase or refurbishment, installation, and use of the equipment.

h. Technical Assessment

Projects or transactions may be prioritized based on a technical assessment associated with the subject application.

i. Anticipated Results or Benefits of Resulting Capability

Projects or transactions may be prioritized, at the discretion of OSC, based on the prospective benefits or results of the subject application.

j. Current Associated Financing for Past Purchases (as Applicable)

In the case of equipment purchased prior to submission of the application, OSC may prioritize projects or transactions associated with current financing or obligations to maximize the benefit of the subject offering.

k. Other Factors (as Applicable)

Projects or transactions may be prioritized on other factors relevant to OSC, the applicant, or the subject application as appropriate.

l. Timeline

Following review, at any time following the submission of Application Part 1, the OSC project development team may notify applicants of their status and invite them to submit Application Part 2.

E. How To Submit Application Part 2

a. OSC will invite applicants to complete Application Part 2. Unsolicited Application Part 2 submissions will not be reviewed. OSC will employ the contact and notice information listed in Application Part 1 to send its invitation.

b. All materials and instructions for completing an application are located on the OSC web page, <https://www.osc.mil>. Please note there are several supporting studies and documents that will need to be submitted along with Application Part 2.

c. Applicants can submit only one application.

d. A parent company that has subsidiaries applying for funding based on the parent's audited financials can only be the proposed guarantor for one application for funding under this notice. If multiple subsidiaries apply based on the same parent audited

financial statement, only one application can be funded, chosen at OSC's discretion based on the factors in section 6(D)(ii) above.

e. Applications and supporting documents will not be accepted through mail or courier delivery, in-person delivery, or fax.

F. Part 2 Application Review

Following receipt of a complete Application Part 2, the proposed project will undergo environmental, credit, legal, and technical due diligence on the proposed project or transaction, including compliance with relevant Bank Secrecy Act requirements. This review will inform a final determination on whether to make commit to a project and on what terms. OSC may request the applicant to retain outside consulting services to assess relevant aspects of the project. Those costs may be included in the project costs listed in the financial plan and may be the responsibility of the applicant, as determined by OSC. In some cases, OSC may request additional information to ensure the best financing options for an applicant's needs.

OSC will conduct the business, technical, and legal review during the due diligence phase to evaluate the financial and legal soundness of the proposed project or transaction. The areas that the origination team evaluates include the following:

- Proposed Capitalization Structure;
- Financial History of Key Participants—Borrower(s), Guarantor(s), Contractors(s);
- Financial Condition of Key Participants;
- Terms and Conditions of Project Contracts;
- Target Market and Marketing Strategy;
- Proposed Project Management Team and Operating Plan;
- Financial Projections of the Project;
- Historical Financial Performance;
- Legal, Regulatory, and Tax Issues;
- Bank and Trade References; and
- Character Risk Due Diligence.

Following due diligence, the application materials and findings will undergo an approval process within OSC. OMB will evaluate the final subsidy cost of the direct loan.

Following OSC and OMB approval processes, OSC may share a final term sheet and conditional letter of commitment with the applicant. At this stage, OSC may seek the applicant's approval for employment of consultants or advisors to perform any confirmatory due diligence items which may include, but are not limited to, independent engineering assessment, appraisals, and insurance evaluations.

G. System for Award Management and Unique Entity Identifier

Applicants should make efforts to complete the process of registering for the System for Award Management (SAM.gov), including obtaining a Unique Entity Identifier, prior to submitting a full application. Applicants are strongly encouraged to begin the process of registering for SAM.gov as early as possible. While this process ordinarily takes between three days and two weeks, in some circumstances it can take six or more months to complete due to information verification requirements. The Department is unable to issue the OSC loan to an entity that lacks an active SAM.gov registration. Throughout the term of the OSC loan, applicant will be required to maintain its SAM.gov registration in good standing.

In considering applications, OSC will assess the record of the applicant, as well as of its corporate parent, in executing programs or activities under Federal grants, cooperative agreements, procurement awards, and other transactions, as well as its integrity and business ethics. As part of this consideration, OSC will review and consider the non-publicly available information about that applicant in the designated integrity and performance system accessible through Responsibility/Qualification Records on SAM.gov. This review may also include the applicant's corporate parent or affiliates that are under common ownership and control. Each applicant, at its option, may review information in the designated integrity and performance system accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM. OSC will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards.

H. Submission Dates and Times

- Beginning on January 2, 2025, Application Part 1 will be accepted until 4:59 p.m. Eastern Time on February 3, 2025.

- Application Part 2 will be accepted on a rolling basis following OSC's invitation to complete an Application Part 2. The invitation to complete an Application Part 2 will include a submission deadline.

- OSC will not solicit or consider new scoring or eligibility information that is submitted after the application deadline. However, OSC reserves the right to ask applicants for clarifying information and additional verification of assertions in the Application Part 1 and Application Part 2.

I. Confidential Business Information

OSC recognizes the importance of protecting proprietary or otherwise confidential business information. OSC and the Department will follow applicable laws, including, for example, the Trade Secrets Act, and the Freedom of Information Act ("FOIA"), as well as the DoD Controlled Unclassified Information ("CUI") policy to protect such information.

All Federal employees are bound by the Trade Secrets Act, which makes Federal employees criminally liable for the unauthorized disclosure of "information [that] concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association". Violations of the Trade Secrets Act may result in the loss of employment, fines, or imprisonment. OSC will also ensure any contractors or consultants working in support of OSC uphold relevant standards for protecting the Confidential Business Information of any applicant.

Exemption 4 of FOIA protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. This exemption is designed to protect the interests of both the government and private parties doing business with the government by exempting the disclosure of information that is customarily kept confidential by the company providing the information. The Department will apply this exemption to FOIA requests in accordance with the law and the Department's FOIA regulations.

CUI policy outlines the handling, dissemination, and protection of information that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and government-wide policies. CUI policy encompasses a wide range of information categories including proprietary business information, defined as material and information relating to, or associated with, a company's products, business, or activities, including but not limited to financial information; data or statements; trade secrets; product research and development; existing and

future product designs and performance specifications. The policy mandates proper marking, handling, and dissemination practices to prevent unauthorized access and ensure the protection of sensitive information, thereby enhancing operational security and reducing the potential damage associated with data breaches. Instructions for the identification and marking of information or documents that the applicant treats as confidential are included in Application Part 1 and on the OSC website at <https://www.osc.mil>. Any requests for information covered by a confidentiality claim will be disclosed by OSC in accordance with the procedures set forth under 32 CFR Subchapter N, or as otherwise required by law or order of court with appropriate jurisdiction.

J. Funding Restrictions

In the case of an eligible investment made through a direct loan, OSC requires not less than 80% of the total capital invested in a CTC-focused industry come from non-Federal sources at the time of OSC investment. OSC will evaluate applications against this requirement by sector and covered technologies. OSC will monitor this requirement but based on OSC's market research to date, OSC generally does not expect this requirement to restrict investment into individual projects under this NOFA.

Funds made available under this NOFA may only be put to eligible uses. In addition, funds made available through this NOFA may not be used for any purpose that would violate the following laws and regulations:

- *Foreign Corrupt Practices Act and Domestic Anti-Bribery Laws*: Prohibited uses include making payments to foreign or domestic government officials to assist in obtaining or retaining business, and willfully using mails or any means of interstate commerce corruptly to offer, pay, promise to pay, or authorize the payment of money or anything of value, directly or indirectly, to a foreign or domestic government official to influence the official in their official capacity, induce the official to do or omit to do an act in violation of their lawful duty, or to secure any improper advantage to assist in obtaining or retaining business for or with, or directing business to, any person.

- *Anti-Lobbying Laws*: Prohibited uses include using money appropriated by any enactment of Congress, in the absence of express authorization by Congress, to directly or indirectly influence or attempt to influence any official or employee of a government

agency, or any official, employee or member of Congress, in connection with a government loan or contract.

- *Anti-Boycott*: Prohibited uses include participation in foreign boycotts not sanctioned by the United States.

- *Foreign Entities of Concern*:

Prohibited uses include purchases or other commercial or advisory relationships with Foreign Entities of Concern.

Additionally, OSC funds may not be used for any illegal or other prohibited purpose.

K. Intergovernmental and Regulatory Review

Under this NOFA, financing for equipment modernization and expansion may constitute a major Federal action and cross-cutting regulations may apply. Accordingly, receiving financial credit support may—in certain circumstances—require borrowers to comply with a variety of Federal environmental, labor, transportation, and equipment sourcing requirements.

In certain circumstances, and based on potential borrowers' responses to Application Part 1, applicants may be required to provide a description of whether and how they intend to utilize domestically produced iron, steel, and construction materials as part of their projects, including for non-Federal entities how they plan to meet any applicable legal requirements pursuant to the Build America, Buy America Act. Applicants may also be required to comply with Davis-Bacon and its related acts (40 U.S.C. 3141 *et seq.*).

In addition, applicants may be required to provide environmental studies necessary to verify compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and other applicable Federal environmental laws and authorities such as the National Historic Preservation Act, Endangered Species Act, Clean Water Act, and related Executive Orders. OSC expects applicants to design their projects so that they avoid, minimize, and mitigate the potential for significant environmental effects.

The applicant will also be responsible for obtaining and complying with applicable Federal, State, and local permits such as those required under the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act. OSC expects that each applicant invited to submit an Application Part 2 will be prepared to submit required environmental studies as outlined in the application requirements. OSC encourages applicants to begin preparing for the environmental review

process as early as possible so that the applicant can demonstrate its readiness to commence the project(s). Applicants should therefore prepare for the environmental review, including gathering data and analysis, engaging experts or outside contractors, etc., as early as possible. Such actions will facilitate an expeditious environmental review process if invited to submit Application Part 2.

In connection with any loans issued by OSC and depending on the nature of the project or transaction, borrowers may be required to adhere to additional regulations. OSC and potential borrowers (or sponsors) will determine which regulations shall apply during the development of legal documentation.

8. Federal Funding Administration Information

A. Third-Party Expenses and Fees

OSC may utilize independent technical, financial, environmental, insurance, or other consultants and contractors and outside legal counsel during the due diligence process. Subject to the express agreement of the applicant, the applicant shall be responsible for the payment of all expenses charged by the independent consultants or contractors and OSC outside legal counsel in connection with an application. In such case, OSC shall not be responsible for expenses incurred if an application is denied.

B. Funding Availability and Limitation of Liability

Funding for the program is contingent upon the availability of appropriations. In no event will OSC be responsible for application preparation costs. Neither publication of this NOFA nor invitation to complete an Application Part 2 will oblige OSC to fund any specific project or transaction or to obligate available funds. This NOFA also is not intended to and does not create any rights enforceable by any alleged third-party beneficiaries.

OSC is not under any obligation to provide additional future funding in connection with funding made under this NOFA.

C. Reporting

OSC understands the importance of undertaking systemic data collection and rigorous evaluative activities to assess the outcomes related to funds given under this NOFA. OSC is committed to this goal, and all applicants should expect this will be a requirement of funding.

All funding recipients will be expected to comply with all reporting

requirements, as well as program evaluation activities undertaken by OSC, in a format acceptable to OSC.

OSC may publish generalized information through the review, selection, and loan issuance process. OSC may inform and, to the extent required by law, seek consent from applicants of any such disclosures. In addition, as will be set forth in the terms and conditions of each loan, successful applicants will be expected to support program and project reviews, audits, and program evaluation activities, including by submitting required financial and performance information and other relevant data in an accurate and timely manner, making available documents and other records related to the project upon request, and by cooperating with OSC and external program evaluators, including the Office of the Inspector General. Certain post-loan issuance progress reporting may also be made public.

OSC may also publish aggregated information from Application Part 1 and Application Part 2.

D. Additional Information

Any decision by OSC to reject an Application Part 1 as ineligible, or to deny an Application Part 2, shall be final and non-appealable. Unsuccessful applicants will be notified of a denial by email and will have the opportunity to receive a debriefing. Unsuccessful applications will be retained in accordance with Department of Defense recordkeeping requirements.

E. Privacy Advisory

a. Authority: The information requested by Application Part 1 and Part 2 is authorized by the NDAA.

b. Purpose: The information requested by Application Part 1 and Part 2 will be used to determine whether the loan transaction presents a reasonable assurance of repayment, meets the eligibility requirements set forth in NDAA section 903 and section 8140 of the Further Consolidated Appropriations Act, 2024, and supports the mission of OSC to attract and scale private investment for national and economic security. The information collected will also be used for “know your customer” purposes to assure that transaction parties do not have ownership, control, or influence from or by foreign parties adverse to the United States.

c. Uses: While the information requested by the Application Part 1 and Part 2 is primarily intended to be used internally at OSC, in certain circumstances it may be necessary to disclose this information externally,

including to contractors, experts, consultants, and others performing or working on a contract, service, or other assignment for the Federal Government, when necessary to accomplish an agency function.

d. Disclosure: Provision of the information requested by the Application Part 1 and Part 2 is voluntary. However, failure to provide the requested information may result in OSC being unable to determine eligibility under this Notice of Funding Availability and rejection of an Application Part 1 or Part 2. At all times, OSC reserves the right to decline to process or to discontinue processing any application.

e. OMB Control Number: Unless a currently valid OMB control number is displayed on Application Part 1 and Application Part 2, OSC may not ask applicants to submit, and applicants are not required to provide, the requested information.

F. Office of Strategic Capital Contact Information

For general inquiries regarding the NOFA, please contact: Office of Strategic Capital, Department of Defense, Phone: (703) 545-1903, Email: OSC.Loan.Application@osc.mil.

DoD is an equal opportunity provider, employer, and lender.

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024-22229 Filed 9-26-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 23-39]

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: Pamela Young at (703) 953-6092, pamela.a.young14.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

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 23-39, Policy Justification, and Sensitivity of Technology.

Dated: September 24, 2024.
Aaron T. Siegel,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
 BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

May 9, 2023

The Honorable Kevin McCarthy
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Mr. 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. 23-39, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Slovakia for defense articles and services estimated to cost \$250 million. 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

BILLING CODE 6001-FR-C

Transmittal No. 23-39

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:* Government of Slovakia
- (ii) *Total Estimated Value:*

Major Defense Equipment *	\$100 million
Other	\$150 million
TOTAL	\$250 million

Funding Source: Foreign Military Financing

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

One Hundred Ninety-Two (192)
 M1278A1/A2 Heavy Gun Carriers
 Joint Light Tactical Vehicles (JLTVs)

Non-MDE:

Also included are M153 Common Remote Weapons Stations (CROWS) with Display and Control Panels (DCP); M2 Quick Change Barrels (QCBs) .50 caliber machine guns; MK19 40mm grenade launchers; M2A1 machine guns; M4A1 Joint Chemical Agent Detectors; AN/VAS-5B(V)2 Driver's Vision Enhancers (DVE); JLTV kits; special tools to support the JLTV; JLTV spare parts; M205 gun mounts; basic issue items for CROWS; CROWS DCP retrofit kits; AN/VRC-104 radio kits; 16 port network switch kits; Silent Watch energy storage kits; DVE installation kits; M4A1 detector kits; M1114 turret rings and hatches; Maintenance Support Devices (MSD) with wireless at-platform test sets; Driver Vision Enhancer (DVE) sensor modules; display control modules; bracket assembly; electronics components assembly; CROWS appended trainers; CROWS diagnostic kits; CROWS maintenance tool sets; M2 Small Arms Tool Kits; MK19 Small Arms Tool Kits; M2 spare parts; MK93 weapon mounts; Toughbook laptops with interactive electronic technical manuals (IETM) and cables; JLTV contractor spare parts support; CROW Systems spare parts support; Maintenance Support Items (MSI) in support of MK19; MK19 Mod III spare parts support; CROWS spare parts; CROWS Basic Issue Items (BII) boresight kit components; Total Package Fielding; Field Service Representative support; U.S. government technical assistance; training; technical publications/manuals; and other related elements of logistics and program support.

(iv) *Military Department:* Army (LO-B-UDI)

(v) *Prior Related Cases, if any:* None

(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:* See Attached Annex

(viii) *Date Report Delivered to Congress:* May 9, 2023

*As defined in Section 47(6) of the Arms Export Control Act.

*POLICY JUSTIFICATION**Slovakia—M1278A1/A2 Heavy Gun Carriers Joint Light Tactical Vehicles (JLTVs)*

The Government of Slovakia has requested to buy one hundred ninety-two (192) M1278A1/A2 Heavy Gun Carriers Joint Light Tactical Vehicles (JLTVs) as well as M153 Common Remote Weapons Stations (CROWS) with Display and Control Panels (DCP); M2 Quick Change Barrels (QCB) .50 caliber machine guns; MK19 40mm grenade launchers; M2A1 machine guns; M4A1 Joint Chemical Agent Detectors; AN/VAS-5B(V)2 Driver's Vision Enhancers (DVE); JLTV kits; special tools to support the JLTV; JLTV spare parts; M205 gun mounts; basic issue items for CROWS; CROWS DCP retrofit kits; AN/VRC-104 radio kits; 16 port network switch kits; Silent Watch energy storage kits; DVE installation kits; M4A1 detector kits; M1114 turret rings and hatches; Maintenance Support Devices (MSD) with wireless at-platform test sets; Driver's Vision Enhancer (DVE) sensor modules; display control modules; bracket assembly; electronics components assembly; CROWS appended trainers; CROWS diagnostic kits; CROWS maintenance tool sets; M2 Small Arms Tool Kits; Small Arms MK19 Tool Kits; M2 spare parts; MK93 weapon mounts; Toughbook laptops with interactive electronic technical manuals (IETM) and cables; JLTV contractor spare parts support; CROW Systems spare parts support; Maintenance Support Items (MSI) in support of MK19; MK19 Mod III spare parts support; CROWS spare parts; CROWS Basic Issue Items (BII) boresight kit components; Total Package Fielding; Field Service Representative support; U.S. government technical assistance; training; technical publications/manuals; and other related elements of logistics and program support. The estimated cost is \$250 million.

This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve the security of a NATO Ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve Slovakia's capability to meet current and future threats by providing the Slovak Land Forces with vehicles to support increased mobility and enhanced protection for ground units. The JLTV procurement would also enable divestiture of Russian-produced equipment, as JLTVs would replace Soviet-era personnel carriers. Procurement of the JLTV would

represent a major milestone in Slovakia's goal of developing a capable, twenty-first century military which can meet its national defense needs and effectively contribute to NATO operations. Slovakia 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 contractors will be Oshkosh Corporation and Oshkosh Defense, LLC in Oshkosh, Wisconsin. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of U.S. Government or contractor representatives to Slovakia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 23-39

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 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 with our adversaries during multi-domain operations. It is an optimal choice for a spectrum of light tactical vehicle missions 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 in its weight class today.

2. The JLTV is designed to be a system of systems. The Joint Light Tactical Vehicle uses a modular design that allows it to integrate with various materiel and equipment used by U.S. forces in tactical operations.

3. The JLTV has inherent armor built into the base vehicle referred to as A-Kit armor. This A-Kit inherent armor provides both opaque and transparent armor solutions to provide 360-degree azimuthal (*i.e.*, all around) protection from a wide variety of kinetic energy and small arms fire threats. Vehicle survivability enhancements include Automatic Fire Extinguishing Protection and structural rollover protection of 150 percent of the vehicle Ground Vehicle Weight Rating.

4. The AN/VAS-5 Driver's Vision Enhancer is a compact thermal camera providing armored vehicle drivers with day or nighttime visual awareness in clear or reduced vision (fog, smoke, dust) situations. The system provides the driver a 180-degree viewing angle using a high-resolution infrared sensor and image stabilization to reduce the effect of shock and vibration. The viewer and monitor are ruggedized for operation in tactical environments.

5. The Common Remote Operated Weapon Station (CROWS) is an externally mounted weapon mounting and control system that allows the gunner to remain protected inside the vehicle while firing a variety of crew served weapons. The CROWS provides remote day and night sighting and ballistic control capacity, providing first-burst engagement of targets at maximum effective weapon range while on the move.

6. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

7. 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.

8. A determination has been made that Slovakia can provide 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.

9. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Slovakia.

[FR Doc. 2024-22240 Filed 9-26-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2024-SCC-0089]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Higher Education Emergency Relief Fund (HEERF) I, II and III Data Collection Form

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 28, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this information collection request (ICR) by selecting "Department of Education" under "Currently Under Review," then check the "Only Show ICR for Public Comment" checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the "View Information Collection (IC) List" link. Supporting statements and other supporting documentation may be found by clicking on the "View Supporting Statement and Other Documents" link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Gaby Watts, 202-987-0429.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Higher Education Emergency Relief Fund (HEERF) I, II and III Data Collection Form.

OMB Control Number: 1840-0850.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 270.

Total Estimated Number of Annual Burden Hours: 2,160.

Abstract: Under the current unprecedented national health emergency, the legislative and executive

branches of government have come together to offer relief to those individuals and industries affected by the COVID-19 virus under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA), and the American Rescue Plan (ARP). In each of these statutes, targeted relief to institutions of higher education (IHEs) was made available under the Higher Education Emergency Relief Fund (HEERF). HEERF, originally established by section 18004(a) of the CARES Act, Public Law 116-136 (March 27, 2020) and expanded through CRRSAA and ARP, authorizes the Secretary of Education to allocate formula grant funds to participating IHEs to address impacts of the COVID-19 virus.

This information collection requests approval for a revision to a previously approved collection that includes annual reporting requirements to comply with the requirements of the HEERF program and obtain information on how the funds were used. The revision simplifies the collection by substantially reducing the number of items because specific grant activities within HEERF have expired and many of the items have become moot. In accordance with the Recipients Funding Certification and Agreements executed by HEERF grantees, the Secretary may specify additional forms of reporting.

Dated: September 24, 2024.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024-22172 Filed 9-26-24; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Request for Information To Release a Solicitation for Certification and Allocation of Credits Under the Civil Nuclear Credit Program

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE or the Department) is issuing this RFI to request information from interested parties of DOE's intent to release a solicitation for applications, and to seek advance notice of an intent to submit applications in the form of a Letter of Interest (LOI), from nuclear reactor owners or operators for certification and allocation of credits

under the Civil Nuclear Credit (CNC) Program to support nuclear reactors at risk of ceasing operations due to economic factors. In the Infrastructure Investment and Jobs Act, Congress directed the Secretary of Energy (Secretary) to establish a CNC Program to evaluate and certify nuclear reactors that are projected to cease operations due to economic factors and to allocate credits to selected certified nuclear reactors via a sealed bid process.

DATES: Submission of LOIs is requested on or before October 28, 2024.

ADDRESSES: Interested parties may submit an LOI as an attachment by email to CNC_Program_Mailbox@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or questions about the RFI may be sent to Theodore Taylor, Civil Nuclear Credit Program Manager, at CNC_Program_Mailbox@hq.doe.gov or at (202) 586-4316.

SUPPLEMENTARY INFORMATION:

Background and Program Description

As energy markets and economic circumstances continue to shift, the United States has lost approximately 10,200 megawatts of nuclear energy capacity with the premature closures of 13 commercial reactors.¹ These closures have led to an increase in carbon emissions, poorer air quality, and the loss of thousands of high-paying jobs. Further closures threaten to exacerbate these issues. In November 2021, Congress appropriated funds under the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58), codified at 42 U.S.C. 18753, to allocate credits to certified nuclear reactors to prevent closure due to economic factors. In addition to the CNC Program, Congress also appropriated funds in August 2022 under Section 13105 of the Inflation Reduction Act of 2022 (IRA) (Pub. L. 117–169), codified at 26 U.S.C. 45U for the zero-emission nuclear power production tax credit that provides up to an inflation-adjusted \$15 per megawatt-hour for electricity produced. The CNC Program also advances the President's Justice40 Initiative,² which sets a goal that 40 percent of the overall benefits of certain federal climate, clean energy, affordable and sustainable housing, and other investments flow to

disadvantaged communities that are marginalized by underinvestment and overburdened by pollution.³ In the Consolidated Appropriations Act, 2024, Congress repurposed an aggregate amount of up to \$3.72 billion in the CNC Program's unobligated balances appropriated under the IIJA to carry out nuclear programs supporting small modular reactors and a uranium strategy pursuant to the Nuclear Fuel Security Act of 2023.⁴

CNC Award Cycles 1 and 2 were released in 2022 and 2023, respectively. Under the CNC Program, DOE certifies operating nuclear reactors projected to cease operations due to economic factors and whose closure would result in a projected increase in air pollutants, if the U.S. Nuclear Regulatory Commission has reasonable assurance the reactor will continue to operate safely. Certification of eligibility to apply for credits requires that the nuclear reactor meet certain economic and other criteria. The CNC Program identifies specific eligibility criteria and provides discretion for the Secretary to define additional eligibility criteria for certification of the qualifying nuclear reactor. Credits will be awarded over a four-year period beginning on the date of the selection. Nuclear reactor owners or operators may apply for recertification after that time and additional credits may be allocated through September 30, 2031, subject to the availability of funds.

More detailed information about the CNC Program can be found at <https://www.energy.gov/gdo/civil-nuclear-credit-program>.

Purpose

Subject to availability of funds, DOE is planning up to \$980 million for Award Cycle 3. Prior to releasing the Guidance for Award Cycle 3, DOE is requesting that nuclear reactor owners or operators interested in applying for certification and allocation of credits under the CNC Program provide advance notice of intent to apply in the form of a Letter of Interest (LOI) to be submitted no later than 30 days after this RFI notice. Submissions of LOIs that comply with relevant requirements, as outlined in the Business Proprietary Information section will be kept strictly confidential.

LOI responses shall include:

- Name(s), phone number(s), and email address(es) for the principal point(s) of contact
- Institution or organization affiliation and postal address
- Organization's non-binding expression of interest in applying to the CNC Program Award Cycle 3
- Names of each nuclear reactor for which an owner/operator is intending to apply for certification and allocation of credits under the CNC Program

The responses received from nuclear reactors owners or operators will assist DOE in assessing the CNC Program's timing and resources for Award Cycle 3. Any information obtained as a result of this RFI is intended to be used by DOE on a non-attribution basis for planning and strategy development; this RFI does not constitute a formal solicitation for applications. No application submittals are required at this time. Responses to this RFI will be treated as information only. Respondents are advised that DOE is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under this RFI. Responses to this RFI do not bind DOE to any further actions related to this topic.

An LOI containing the required information as stated in this section will be marked confidential as described in the Business Proprietary Information section.

Business Proprietary Information

Responses containing confidential, proprietary, or privileged information must be conspicuously marked as described in this section. Failure to comply with these marking requirements may result in the disclosure of the unmarked information under the Freedom of Information Act or otherwise. The U.S. Federal Government is not liable for the disclosure or use of unmarked information and may use or disclose such information for any purpose.

Pursuant to 10 CFR 1004.11, any person submitting information believed to be business proprietary and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked "Business Proprietary" including all the information believed to be proprietary, and one copy of the document marked "non-Proprietary" deleting all information believed to be business proprietary. DOE will make its own determination about the business proprietary status of the information and treat it according to its

¹ Congressional Research Serv., R46820, U.S. Nuclear Plant Shutdowns, State Interventions, and Policy Concerns, (Updated 2/7/22, available at <https://crsreports.congress.gov/product/pdf/R/R46820>). Note that Palisades Nuclear Power Plant has not yet closed but is not producing power.

² <https://www.whitehouse.gov/environmentaljustice/justice40>.

³ White House, Justice40 Covered Programs List (Nov. 2023), available at https://www.whitehouse.gov/wp-content/uploads/2023/11/Justice40-Initiative-Covered-Programs-List_v2.0_11.23_FINAL.pdf.

⁴ See Section 3131 of the National Defense Authorization Act for Fiscal Year 2024, Public Law 118–31 (Dec. 22, 2023).

determination. Factors of interest to DOE when evaluating requests to treat submitted information as business proprietary include: (1) a description of the items; (2) whether and why such items are customarily treated as business proprietary within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its business proprietary nature; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its business proprietary character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

Signing Authority

This document of the Department of Energy was signed on September 20, 2024, by Maria D. Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 23, 2024.

Treena V. Garrett,

*Federal Register Liaison Officer, U.S.
Department of Energy.*

[FR Doc. 2024-22046 Filed 9-26-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho Cleanup Project

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho Cleanup Project (ICP). The Federal Advisory Committee Act requires that public notice of this

meeting be announced in the **Federal Register**.

DATES: Wednesday, October 23, 2024; 9 a.m.–4:30 p.m. MDT.

ADDRESSES: Sun Valley Lodge, 1 Sun Valley Road, Sun Valley, Idaho 83353. This meeting will be open to the public in-person at the Sun Valley Lodge or virtually via Zoom. To attend virtually, please contact Danielle Miller, ICP Citizens Advisory Board (CAB) Administrator, by email at millerdc@id.doe.gov or phone (208) 526-5709, no later than 5 p.m. MDT on Monday, October 21, 2024.

FOR FURTHER INFORMATION CONTACT: Danielle Miller, ICP CAB Administrator, by email at millerdc@id.doe.gov or phone (208) 526-5709 or visit the Board's internet homepage at <https://energy.gov/em/icpcab>.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on any EM program components.

Tentative Agenda (agenda topics may change up to the day of the meeting; please contact Danielle Miller for the most current agenda):

1. Recent Public Outreach
2. ICP Overview
3. Ten-Year Plan and Budget Overview
4. Program Presentations
5. Fall EM SSAB Chairs Meeting Update

Public Participation: The in-person/online virtual hybrid meeting is open to the public either in-person at the Sun Valley Lodge or via Zoom. To sign-up for public comment, please contact the ICP CAB Administrator (above) no later than 5 p.m. MDT on Monday, October 21, 2024. In addition to participation in the live public comment sessions identified above, written statements may be filed with the Board either five days before or five days after the meeting by sending them to the ICP CAB Administrator at the aforementioned email address. Written public comment received prior to the meeting will be read into the record. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Danielle Miller, ICP Administrator, phone (208) 526-5709 or email millerdc@id.doe.gov. Minutes will also be available at the following website: <https://www.energy.gov/em/icpcab/listings/cab-meetings>.

Signing Authority: This document of the Department of Energy was signed on September 23, 2024, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 24, 2024.

Treena V. Garrett,

*Federal Register Liaison Officer, U.S.
Department of Energy.*

[FR Doc. 2024-22173 Filed 9-26-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[GDO Docket No. EA-516]

Application for Authorization To Export Electric Energy; Energia Sierra Juarez U.S., LLC

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: Energia Sierra Juarez U.S., LLC (ESJ US or Applicant) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before October 28, 2024.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to Electricity.Exports@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Janessa Zucchetto, 240-474-8226 Electricity.Exports@hq.doe.gov.

SUPPLEMENTARY INFORMATION: The United States Department of Energy (DOE) regulates electricity exports from the United States to foreign countries in accordance with section 202(e) of the Federal Power Act (FPA) (16 U.S.C.

824a(e)) and regulations thereunder (10 CFR 205.300 *et seq.*). Sections 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. 7151(b) and 7172(f)) transferred this regulatory authority, previously exercised by the now-defunct Federal Power Commission, to DOE.

Section 202(e) of the FPA provides that an entity which seeks to export electricity must obtain an order from DOE authorizing that export. (16 U.S.C. 824a(e)). On April 10, 2023, the authority to issue such orders was delegated to the DOE's Grid Deployment Office (GDO) by Delegation Order No. S1-DEL-S3-2023 and Redelegation Order No. S3-DEL-GD1-2023.

On August 16, 2024, ESJ US filed an application (Application or App.) with DOE for authorization to transmit electric energy from the United States to Mexico. App. at 1. According to the Application, ESJ US is a power marketer and a Delaware limited liability company authorized to operate in California. *Id.* at 1, 6. Further, the Applicant states its corporate parent, Energia Sierra, S. de R.L. de C.V., is a "wholly-owned subsidiar[y] of Sempra Infrastructure Partners, LP, which in turn is indirectly majority owned and controlled by Sempra, a publicly traded utility holding company based in San Diego, California." *Id.* at 1-2. ESJ US states it "will sell energy, capacity and/or ancillary services into the [California Independent Service Operator (CAISO)] balancing authority area [.]". *Id.*

The Applicant represents that their exports would "not impair the sufficiency of electric supply, nor would it impede or tend to impede regional coordination of electric utility planning or operation." *Id.* at 7. ESJ US further states that the electric power it "plans to export will be surplus energy obtained in wholesale markets, and any such export transactions will be completed using CAISO's procedures and/or market structures, . . . applicable market rules implemented by the CAISO, and reliability standards implemented by the [North American Electric Reliability Corporation] and the [Western Electric Reliability Council]." *Id.* 8-9. The Applicant asserts that its export transactions therefore "will not adversely impact native load customers or other market participants, and will not compromise transmission security or reliability." *Id.* at 9.

The existing international transmission facility to be utilized by the Applicant has been previously authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended, and is appropriate

for open access transmission by third parties. *See* App. at 10.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at Electricity.Exports@hq.doe.gov. Protests should be filed in accordance with Rule 211 of FERC's Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at Electricity.Exports@hq.doe.gov in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning ESJ US's Application should be clearly marked with GDO Docket No. EA-516. Additional copies are to be provided directly to Jerrod L. Harrison, Sempra Infrastructure, 488 8th Avenue, HQ12, San Diego, CA 92101, jharrison@sempraglobal.com, and Katy Wilson, Sempra Infrastructure, 488 8th Avenue, San Diego, CA 92101, kwilson@sempraglobal.com.

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the United States electric power supply system.

Copies of this Application will be made available, upon request, by accessing the program website at <https://www.energy.gov/gdo/pending-applications-0> or by emailing Electricity.Exports@hq.doe.gov.

Signing Authority: This document of the Department of Energy was signed on September 20, 2024, by Maria Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 24, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024-22174 Filed 9-26-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24-295-000.

Applicants: Caballero CA Storage, LLC.

Description: Caballero CA Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 9/23/24.

Accession Number: 20240923-5064.

Comment Date: 5 p.m. ET 10/15/24.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24-140-000.

Applicants: Basin Electric Power Cooperative.

Description: Petition for Declaratory Order of Basin Electric Power Cooperative.

Filed Date: 9/17/24.

Accession Number: 20240917-5174.

Comment Date: 5 p.m. ET 10/17/24.

Docket Numbers: EL24-141-000.

Applicants: Big Shoulders Storage LLC v. PJM Interconnection, L.L.C.

Description: Complaint of Big Shoulders Storage LLC v. PJM Interconnection, L.L.C.

Filed Date: 9/20/24.

Accession Number: 20240920-5106.

Comment Date: 5 p.m. ET 10/10/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24-720-001; ER24-719-001.

Applicants: San Juan Solar 1, LLC, SJS 1 Storage, LLC.

Description: Notice of Change in Status of SJS 1 Storage, LLC, et al.

Filed Date: 9/20/24.

Accession Number: 20240920-5196.

Comment Date: 5 p.m. ET 10/11/24.

Docket Numbers: ER24-1658-002.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: Deficiency Response—Submission of Tariff to Establish Markets+ to be effective 12/31/9998.

Filed Date: 9/20/24.

Accession Number: 20240920–5182.

Comment Date: 5 p.m. ET 10/11/24.

Docket Numbers: ER24–2017–001.

Applicants: PacifiCorp.

Description: Compliance filing;

Supplemental Order No. 2023/2023–A
Compliance Filing to be effective 11/2/
2024.

Filed Date: 9/23/24.

Accession Number: 20240923–5063.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3090–000.

Applicants: EF Kenilworth LLC.

Description: Request for Limited
Waiver and Expedited Consideration of
EF Kenilworth LLC.

Filed Date: 9/19/24.

Accession Number: 20240919–5244.

Comment Date: 5 p.m. ET 10/10/24.

Docket Numbers: ER24–3091–000.

Applicants: PJM Interconnection,
L.L.C.

Description: 205(d) Rate Filing:
Original WMPA Service Agreement No.
7371, AG1–559 to be effective 8/23/
2024.

Filed Date: 9/23/24.

Accession Number: 20240923–5127.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3092–000.

Applicants: Basin Electric Power
Cooperative.

Description: Tariff Amendment: Basin
Electric Notice of Cancellation of
Service Agreements 60–65 to be
effective 12/1/2024.

Filed Date: 9/23/24.

Accession Number: 20240923–5129.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3093–000.

Applicants: PJM Interconnection,
L.L.C.

Description: 205(d) Rate Filing:
Amended WMPA, Service Agreement
No. 6470; AG1–198 to be effective 11/
23/2024.

Filed Date: 9/23/24.

Accession Number: 20240923–5133.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3094–000.

Applicants: PJM Interconnection,
L.L.C.

Description: 205(d) Rate Filing:
Original GIA, Service Agreement No.
7349; AF1–084 to be effective 8/22/
2024.

Filed Date: 9/23/24.

Accession Number: 20240923–5154.

Comment Date: 5 p.m. ET 10/15/24.

The filings are accessible in the
Commission's eLibrary system ([https://
elibrary.ferc.gov/idmws/search/
fercgensearch.asp](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](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](mailto:OPP@ferc.gov).

Dated: September 23, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22221 Filed 9–26–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2444–042]

Northern States Power Company; Notice of Intent To Prepare an Environmental Assessment

On July 21, 2023, Northern States
Power Company filed a relicense
application for the 1.2-megawatt White
River Hydroelectric Project No. 2444
(project). The project is located on the
White River in Ashland and Bayfield
Counties, New York.

In accordance with the Commission's
regulations, on June 14, 2024,
Commission staff issued a notice that
the project was ready for environmental
analysis (REA Notice). Based on the
information in the record, including
comments filed on the REA Notice, staff
does not anticipate that licensing the
project would constitute a major Federal
action significantly affecting the quality
of the human environment. Therefore,
staff intends to prepare an

Environmental Assessment (EA) on the
application to relicense the project.¹

The EA will be issued and circulated
for review by all interested parties. All
comments filed on the EA will be
analyzed by staff and considered in the
Commission's final licensing decision.

The Commission's Office of Public
Participation (OPP) supports meaningful
public engagement and participation in
Commission proceedings. OPP can help
members of the public, including
landowners, environmental justice
communities, Tribal members and
others, access publicly available
information and navigate Commission
processes. For public inquiries and
assistance with making filings such as
interventions, comments, or requests for
rehearing, the public is encouraged to
contact OPP at (202) 502–6595 or [OPP@
ferc.gov](mailto:OPP@ferc.gov).

The application will be processed
according to the following schedule.
The EA will be issued for a 30-day
comment period. Revisions to the
schedule may be made as appropriate.

Milestone	Target date
Commission issues EA.	May 30, 2025.

Any questions regarding this notice
may be directed to Nicholas Ettema at
(312) 596–4447 or [nicholas.ettema@
ferc.gov](mailto:nicholas.ettema@ferc.gov).

Dated: September 23, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22225 Filed 9–26–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL24–139–000]

Willowbrook Solar I, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On September 23, 2024, the
Commission issued an order in Docket
No. EL24–139–000, pursuant to section
206 of the Federal Power Act (FPA), 16
U.S.C. 824e, instituting an investigation
to determine whether Willowbrook
Solar I, LLC's (Willowbrook) Rate
Schedule is unjust, unreasonable,
unduly discriminatory or preferential,

¹ In accordance with the Council on
Environmental Quality's regulations, the unique
identification number for documents relating to this
environmental review is EAXX–019–20–000–
1725362410. 40 CFR 1501.5(c)(4) (2024).

or otherwise unlawful. *Willowbrook Solar I, LLC*, 188 FERC ¶ 61,201 (2024).

The refund effective date in Docket No. EL24-139-000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**, or the date Willowbrook's Rate Schedule becomes effective, whichever is later; provided, however, if the Rate Schedule does not become effective until after five months from the date of publication of the notice, the refund effective date shall be five months from the date of publication of the notice.

Any interested person desiring to be heard in Docket No. EL24-139-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2024), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy

Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: September 23, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-22224 Filed 9-26-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24-519-000]

Panhandle Eastern Pipe Line Company, LP; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on September 12, 2024, Panhandle Eastern Pipe Line Company, LP (Panhandle), 1300 Main St., Houston, Texas 77002, filed in the above referenced docket, a prior notice request pursuant to sections 157.205, and 157.208 of the Commission's regulations under the Natural Gas Act (NGA), and Panhandle's blanket certificate issued in Docket No. CP83-83-000, for authorization to reduce the Maximum Allowable Operating Pressure (MAOP) of a 16.5-mile-long, 6-inch-diameter lateral pipeline, from 960 psig to 900 psig located in Audrain and Montgomery Counties, Missouri (Wellsville Lateral MAOP Reduction Project). Panhandle states that the project will reduce the lateral inspection costs and provide operational flexibility to its system. There are no costs associated with the project, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<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.

Any questions concerning this request should be directed to Blair Lichtenwalter, Senior Director of Certificates, Panhandle Eastern Pipe Line Company, LP, 1300 Main Street, Houston, Texas 77002, or call (713) 989-2605, or fax (713) 989-1205, or by email to blair.lichtenwalter@energytransfer.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on November 22, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,¹ any person² or the Commission's

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is November 22, 2024. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is November 22, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to-intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the

Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before November 22, 2024. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP24–519–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP24–519–000.

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 method: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

by mail at: Blair Lichtenwalter, Senior Director of Certificates, Panhandle Eastern Pipe Line Company, LP, 1300 Main Street, Houston, Texas 77002, or by email (with a link to the document) at blair.lichtenwalter@energytransfer.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Dated: September 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–22223 Filed 9–26–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings in Existing Proceedings

Docket Numbers: RP24–1011–001.
Applicants: Crossroads Pipeline Company LLC.

Description: Tariff Amendment: Name Conversion—Correction to URL Map to be effective 9/1/2024.

Filed Date: 9/23/24.

Accession Number: 20240923–5071.

Comment Date: 5 p.m. ET 9/30/24.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members

and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: September 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-22222 Filed 9-26-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14851-003]

White Pine Waterpower, LLC; Notice of Application Accepted for Filing, Scoping Meetings, and Environmental Site Review; Soliciting Motions To Intervene and Protests; and Soliciting Scoping Comments

Take notice that the following application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* P-14851-003.

c. *Date filed:* February 27, 2023.

d. *Applicant:* rPlus Hydro, LLLP, on behalf of White Pine Waterpower, LLC (White Pine Waterpower).

e. *Name of Project:* White Pine Pumped Storage Project (White Pine Project or project).

f. *Location:* The proposed project would be located approximately 8 miles northeast of the City of Ely, in White

Pine County, Nevada. The project would occupy 1,096.01 acres of Federal land managed by the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Greg Copeland, Program Manager for rPlus Hydro, LLLP. Address: White Pine Waterpower, LLC c/o rPlus Hydro, LLLP 201 S Main St., Suite 2100, Salt Lake City, Utah 84111. Phone: (801) 759-2223. Email: gcopeland@rplusenergies.com.

i. *FERC Contact:* Evan Williams, (202) 502-8462, or email at evan.williams@ferc.gov.

j. *Deadline for filing scoping comments:* November 22, 2024.

The Commission strongly encourages electronic filing. Please file scoping comments and motions to intervene and protests using the Commission's eFiling system at <https://ferconline.ferc.gov/FERCONline.aspx>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. For assistance, please contact FERC Online Support at FERCONlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: White Pine Pumped Storage Project (P-14851-003).

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. *Project Description:* The proposed White Pine Project would involve constructing the following new facilities: (1) a 5,695-foot-long lined compacted rock-fill dam that would

create a 4,082-acre-foot upper reservoir that would be lined with an impermeable polyvinylchloride liner to reduce leakage and would be surrounded by a 10-foot-high wildlife and security fence; (2) a 6,629-foot-long compacted earth-fill embankment dam that would create a 4,241-acre-foot lower reservoir that would be lined with an impermeable liner to reduce leakage and would be surrounded by a 10-foot-high wildlife and security fence; (3) a water conveyance system connecting the upper and lower reservoirs that consists of the following structures: (a) an ungated vertical inlet/outlet bellmouth-type structure located at the bottom of the upper reservoir with a 65-foot-deep conical transition to provide flow into a 20-foot-diameter, 2,260-foot-high reinforced concrete-lined vertical headrace shaft; (b) a 20-foot-diameter, 240-foot-long horizontal steel-lined high-pressure headrace tunnel; (c) three 11-foot-diameter, 134- to 200-foot-long steel-lined underground penstocks, each with a turbine main inlet valve just upstream of each pump-turbine unit; (d) three 13-foot-diameter, 352- to 448-foot-long steel-lined draft tube tunnels of, that transition to concrete-lined tunnels of unknown length, downstream of the transformer cavern; (e) a 22-foot-diameter, 7,610-foot-long concrete-lined tailrace tunnel that terminates at the inlet/outlet structure; and (f) an approximately 92.5-foot-wide intake/outlet structure with trashracks, designed as a horizontal fan-shaped diffuser, that extends more than 100 feet from the tailrace tunnel and isolates the lower reservoir from the tailrace tunnel by a pair of 10.5-foot by 25-foot stoplogs in slots extending down from the intake/outlet structure; (4) a 367-foot-long, 83-foot-wide, 191-foot-high underground powerhouse cavern containing three 333-megawatt Francis pump-turbines and three generator-motors; (5) a 300-foot-long, 62-foot-wide, 93-foot-high underground transformer cavern containing three-phase step-up transformers connected to the powerhouse cavern by three busbar tunnels of unknown dimensions; (6) three 345-kilovolt underground circuits connecting from the unit transformers in the transformer cavern through a 4,950-foot-long, 24-foot-diameter, D-shaped cable tunnel to the new switchyard; (7) a 400-foot-long by 370-foot-wide fenced outdoor switchyard where the circuits would be combined into a single 345-kilovolt transmission line; (8) a 25-mile-long, 345 kilovolt overhead transmission line that connects to the grid at the existing NV Energy Robinson Summit substation (the point of

interconnection); (9) a 5,108-foot-long 30-foot-diameter, D-shaped shotcrete-lined main access tunnel to provide access to the powerhouse and transformer caverns; (10) six other secondary access tunnels for accessing the transformer and powerhouse caverns (4 tunnels), the tailrace, and the headrace; (11) access roads, including: (a) 4,872-foot-long lower reservoir perimeter road; (c) a 572-foot-long switchyard access road; (d) a 37,300-foot-long, permanent, dual-lane paved upper reservoir access road; (e) a 6,200-foot-long upper reservoir perimeter road; and (f) an unknown number of access roads for transmission line access; (12) a gated, signed, and signaled railroad crossing for construction vehicle traffic across the active Nevada Northern Railway HiLine track; (13) a permanent, approximately 1,005,000-cubic-yard spoil disposal site; (14) an unknown number of temporary explosives storage facilities of unknown dimensions; and (15) appurtenant facilities. A new, alternative upper reservoir access road is being considered that would utilize an approximately 3.5-mile long, permanent, dual-lane paved roadway that would connect the proposed upper reservoir location to White Pine County Road 29 (NV-486), through the Duck Creek Range and across Duck Creek. Additionally, a gated, signed, and signaled railroad crossing for construction vehicle traffic across the currently inactive Nevada Northern Railway Mainline track is also being considered, if the track is reactivated.

The project would also utilize existing portions of unknown lengths of U.S. highway 93 and an existing unimproved, unpaved vehicle track as the proposed western access road, and an unknown number of existing access roads and tracks of unknown length to access the proposed transmission line and temporary explosives storage facilities. Additionally, an unknown number of existing power distribution lines would need to be re-routed and upgraded before construction of the project to avoid impacts as a result of lower reservoir construction and to facilitate crossings at the western access road. Further, an unidentified ridge road of unknown length would need to be rerouted to bypass construction and permanent facilities. NV Energy would also need to design and construct a new bay at the Robinson Summit Substation for the interconnection of the project.

The water used for construction, to initially fill the new lower reservoir, and to provide make-up water would come from a proposed wellfield pumping array composed of four new

approximately 800-foot-deep, 14-inch-diameter groundwater wells. Each well would contain a submersible pump capable of continuously producing approximately 1,000 gallons per minute (gpm), resulting in 3,000 gpm for the system and a 1,000-gpm redundant reserve. Each well would connect to an approximately 4-mile-long buried pipeline that would increase from 8-inch to 16-inch-diameter and would connect to the lower reservoir through a buried concrete trench near the crest of the lower reservoir dam. The initial volume of water necessary to fill the lower reservoir is estimated to be 5,000 acre-feet and would be filled over a 12- to 18-month period. It is estimated that the project would need approximately 560 acre-feet of water each year to replenish water lost through seepage, leakage, and evaporation. Once the lower reservoir is filled, approximately 4,082 acre-feet could be cycled between the lower reservoir and upper reservoir each day. A proposed 2,600-foot-deep, 500 gpm well and water conveyance facilities would be constructed near the Duck Creek Range crest and upper reservoir to provide water for construction, hydrogeologic analysis, groundwater monitoring, and initial fill.

The project is designed to generate electricity on demand for up to 8 hours each day at the maximum generating capacity. The estimated annual generation is 2,400 gigawatt-hours per year.

m. A copy of the application can be viewed on the Commission's website at <https://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support (see item j above).

You may also register at <https://ferc.online.ferc.gov/FEROnline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, please contact FERC Online Support (see item j above).

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

When the application is ready for environmental analysis, the

Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. 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.

p. The Commission's scoping process will help determine the required level of analysis and satisfy the National Environmental Policy Act (NEPA) scoping requirements, irrespective of whether the Commission issues an environmental assessment or an environmental impact statement.

Scoping Meetings

In addition to written comments solicited by this notice, Commission staff will hold three public scoping meetings at the times and locations noted below. All interested individuals, resource agencies, Native American Tribes, and NGOs are invited to attend any of the meetings to assist Commission staff in identifying the scope of environmental issues that should be analyzed in the NEPA document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: Tuesday, October 22, 2024.

Time: 9:00 a.m. to 11:00 a.m. PST.

Location: Bristlecone Convention Center.

Address: 150 6th Street, Ely, Nevada 89301.

Evening Scoping Meeting

Date: Tuesday, October 22, 2024.

Time: 7:00 p.m. to 10:00 p.m. PST.

Location: Bristlecone Convention Center.

Address: 150 6th Street, Ely, Nevada 89301.

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at <http://www.ferc.gov>, using the "eLibrary" link. Follow the directions for accessing information in paragraph m.

Environmental Site Review

White Pine and Commission staff will conduct an environmental site review of the project beginning at 8:00 a.m. on Wednesday, October 23, 2024. All interested individuals, resource agencies, Native American Tribes, and NGOs are invited to attend the site review. Attendees are responsible for their own vehicle transport and should wear appropriate outdoor clothing and footwear. The existing road to the upper reservoir site is steep and rocky; therefore, attendees wishing to see the upper reservoir site should plan on driving their own 4x4, high clearance, off-road capable vehicle to access that particular site. Persons planning on participating in the site visit must RSVP to Mr. Gregory Copeland of rPlus Energies at gcopeland@rplusenergies.com or by phone at (801) 759-2223, no later than October 16, 2024, to register for the environmental site review. For administrative purposes, rPlus prefers interested persons to RSVP by email.

Meeting Procedures

Individuals, NGOs, Native American Tribes, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the NEPA document. At the start of each meeting, Commission staff will provide a brief overview of the meeting format and objectives. Individual oral comments will be taken on a one-on-one basis with a court reporter (with Commission staff present). This format is designed to receive the maximum number of oral comments in a convenient way during the timeframe allotted. If you wish to speak, Commission staff will hand out numbers in the order of your arrival. If

all individuals who wish to provide comments have had an opportunity to do so, Commission staff may conclude the meeting a half hour earlier than the scheduled time. Please see appendix 1 for additional information on the session format and conduct.¹

Scoping comments will be recorded by the court reporter and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system. If a significant number of people are interested in providing oral comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in writing or provided orally at a scoping session. Although there will not be a formal presentation, Commission staff will be available throughout the scoping session to answer your questions about the environmental review process. Representatives from White Pine will also be present to answer project-specific questions.

q. *Procedural schedule:* The application will be processed according to the following anticipated processing schedule. Revisions to the schedule will be made as appropriate. The schedule for issuing draft and final NEPA documents is consistent with the Commission's Notice of Revised Schedule issued November 15, 2023:

Scoping Document 1 Issued—September 2024.

Acceptance and Scoping Notice Issued—September 2024.

Scoping Document 1 Comments Due—November 2024.

Issue Scoping Document 2 (if needed)—December 2024.

Issue Notice of Ready for Environmental Analysis—April 2025.

Comments, Recommendations and Agency Terms and Conditions/Prescriptions Due—June 2025.

Applicant's Reply Comments Due—July 2025.

Commission Issues Draft NEPA Document—January 2026.

Commission Issues Final NEPA Document—July 2026.

¹ The appendix referenced in this notice will not appear in the **Federal Register**. Copies of the appendix were sent to all those receiving this notice in the mail and are available at <http://www.ferc.gov> using the "eLibrary" link. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or call (866) 208-3676 (toll free), or (202) 502-8659 (TTY).

Dated: September 23, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-22227 Filed 9-26-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 8377-030]

Isabella Partners; Notice of Intent To Prepare an Environmental Assessment

On February 20, 2024, Isabella Partners (licensee) filed an application for a capacity amendment for the Isabella Hydroelectric Project No. 8377. The project is located on the Kern River in Kern County, California at the U.S. Army Corps of Engineers (Corps)' Isabella Dam on lands administered by the Corps.

Isabella Partners proposes to construct and operate a new 5-megawatt (MW) generating unit which would be located in a new 40-foot-by-45-foot concrete structure adjacent to the existing powerhouse, resulting in an increase of the project's total installed capacity from 12.8 MW to 17.8 MW. Currently, flows greater than the 100 cubic feet per second (cfs) capacity of Unit 3 and less than the 500 cfs minimum operating range of Units 1 and 2 are discharged through the existing bypass channel. The proposed 5-MW addition (Unit 4) would allow Isabella Partners to generate power at flows between 100 and 500 cfs. Water released from the proposed unit would be discharged through the existing tailrace. Isabella Partners would continue to operate the project under the 1993 Corps Memorandum of Agreement and there would be no changes in water releases to the Kern River as a result of the proposed action.

On June 18, 2024, the Commission issued a public notice for the proposed amendment. On July 17, 2024, the California State Water Resources Control Board filed a motion to intervene.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the project.¹ The planned schedule for the completion of the EA is June 9, 2025. Revisions to the schedule may be made as appropriate. The EA will be issued and made available for review by all

¹ In accordance with the Council on Environmental Quality's regulations, the unique identification number for documents relating to this environmental review is EAXX-019-20-000-1725634364. 40 CFR 1501.5(c)(4) (2024).

interested parties and a 30-day public comment period. All comments filed on the EA will be reviewed by staff and considered in the Commission's final decision on the proceeding.

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 to access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Any questions regarding this notice may be directed to Zeena Aljibury at 202-502-6065 or zeena.aljibury@ferc.gov.

Dated: September 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-22226 Filed 9-26-24; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-12254-01-OW]

Notice of Public Meeting of the Environmental Financial Advisory Board (EFAB) With Webcast

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA) announces a public meeting with a webcast of the Environmental Financial Advisory Board (EFAB). The meeting will be shared in real-time via webcast and public comments may be provided in writing in advance or virtually via webcast. Please see **SUPPLEMENTARY INFORMATION** for further details. The purpose of the meeting will be for the EFAB to discuss current advisory charges, provide updates on previous EFAB deliverables, and to learn more about the Administration's infrastructure investment opportunities. The meeting will be conducted in a hybrid format of in-person and virtual via webcast.

DATES: The meeting will be held on:

1. October 15, 2024, from 9 a.m. to 3 p.m. Pacific time; and
2. October 16, 2024, from 9 a.m. to 4 p.m. Pacific time.

ADDRESSES:

In-Person: Arizona State University Fulton Center Lincoln Conference Room, 300 E. University Drive, Tempe, Arizona 85281.

Webcast: Information to access the webcast will be provided upon registration in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants information about the meeting may contact Tara Johnson via telephone/voicemail at (202) 809-7368 or email to efab@epa.gov. General information concerning the EFAB is available at www.epa.gov/waterfinancecenter/efab.

SUPPLEMENTARY INFORMATION:

Background: The EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2, to provide advice and recommendations to EPA on innovative approaches to funding environmental programs, projects, and activities. Administrative support for the EFAB is provided by the Water Infrastructure and Resiliency Finance Center within EPA's Office of Water. Pursuant to FACA and EPA policy, notice is hereby given that the EFAB will hold a public meeting with a webcast for the following purposes:

- (1) Discuss potential future EFAB charges;
- (2) Provide updates on recent EFAB deliverables; and
- (3) Learn more about the Administration's infrastructure investment opportunities.

Registration for the Meeting: To register for the meeting, please visit www.epa.gov/waterfinancecenter/efab#meeting. Interested persons who wish to attend the meeting must register by October 7, 2024, to attend in person or by October 10, 2024, to attend via webcast. Pre-registration is strongly encouraged. In the event the meeting cannot be held, an announcement will be made on the EFAB website at www.epa.gov/waterfinancecenter/efab and all registered attendees will be notified.

Availability of Meeting Materials: Meeting materials, including the meeting agenda and briefing materials, will be available on EPA's website at www.epa.gov/waterfinancecenter/efab.

Procedures for Providing Public Input: Public comment for consideration by EPA's Federal advisory committees has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a Federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees provide independent advice

to EPA. Members of the public may submit comments on matters being considered by the EFAB for consideration as the Board develops its advice and recommendations to EPA.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public meeting will be limited to three minutes each. Persons interested in providing oral statements at the October 2024 meeting should register in advance and provide notification, as noted in the registration confirmation, by October 7, 2024, to be placed on the list of registered speakers.

Written Statements: Written statements should be received by October 7, 2024, so that the information can be made available to the EFAB for its consideration prior to the meeting. Written statements should be sent via email to efab@epa.gov. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the EFAB website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities or to request accommodations for a disability, please register for the meeting and list any special requirements or accommodations needed on the registration form at least 10 business days prior to the meeting to allow as much time as possible to process your request.

Andrew D. Sawyers,

Director, Office of Wastewater Management, Office of Water.

[FR Doc. 2024-22170 Filed 9-26-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2019-0456; FRL-12296-01-OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Formaldehyde Emissions Standards for Composite Wood Products Act (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Formaldehyde Standards for Composite

Wood Products Act (EPA ICR Number 2446.04 and OMB Control Number 2070–0185), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). This is a proposed extension of the ICR, which is currently approved through September 30, 2024. Public comments were previously requested via the **Federal Register** on January 17, 2024 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments must be received on or before October 28, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OPPT–2019–0456, to EPA online using www.regulations.gov (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Katherine Sleasman, Office of Program Support (7602M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566–1204; email address: sleasman.katherine@epa.gov.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through September 30, 2024. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on January 17, 2024, during a 60-day comment period (89 FR 2946). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the

information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public, visit <http://www.epa.gov/dockets>.

Abstract: This ICR covers the recordkeeping and reporting requirements for all aspects of the mandates in Title VI of the Toxic Substances Control Act (TSCA) and implementing regulations in 40 CFR part 770 for Formaldehyde Emission Standards for Composite Wood Products, including actions relating to accreditation bodies (ABs) and third-party certifiers (TPCs) that participate in the third-party certification program.

Form Number: 9600–049.

Respondents/affected entities: Entities potentially affected by this ICR include regulated entities (e.g., manufacturers (defined by statute to include importers) and processors of composite wood products) and participants in the third-party certification program.

Respondent's obligation to respond: Mandatory, per TSCA Title VI and 40 CFR part 770.

Estimated number of respondents: 992,758 (total).

Frequency of response: On occasion.

Total estimated burden: 456,295 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated costs: \$121,806,311 (per year), which includes \$112,389,751 in annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an overall increase of 345,066 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This change, which is discussed in more detail in the ICR, reflects revisions to the estimates for producers, TPCs and ABs; inclusion of 2,241 laminators still using resins that will be defined as hardwood plywood producers and will incur costs and burden starting in 2024; and revisions to labor and cost estimates to reflect 2022 and 2023 prices. These changes are considered to be adjustments.

Courtney Kerwin,

Director, Information Engagement Division.

[FR Doc. 2024–22197 Filed 9–26–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–145]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or <https://www.epa.gov/nepa>. Weekly receipt of Environmental Impact Statements (EIS) Filed September 16, 2024 10 a.m. EST Through September 23, 2024 10 a.m. EST Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search>.

EIS No. 20240170, Final Supplement, FHWA, IL, U.S. Route 34 West of Carmen Road to East of TR 111, Combined SFEIS/ROD—Henderson County, Illinois, Contact: Darien Siddall 217–492–2615.

Under 23 U.S.C. 139(n)(2), FHWA has issued a single document that consists of a final environmental impact statement and record of decision. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20240171, Final, DOE, NY, Adoption—Sunrise Wind Project, Review Period Ends: 10/28/2024, **Contact:** Molly Cobbs 240–687–7266.

The Department of Energy (DOE) has adopted the Bureau of Ocean Energy Management's Final EIS No. 20230178 filed 12/11/2023 with the Environmental Protection Agency. The DOE was not a cooperating agency on this project. Therefore, republication of the document is necessary under Section 1506.3(b)(1) of the CEQ regulations.

EIS No. 20240172, Final, USACE, FL, Final Integrated Project Implementation Report and Environmental Impact Statement Western Everglades Restoration Project, Review Period Ends: 10/28/2024, **Contact:** Melissa Nasuti 904–232–1368.

EIS No. 20240173, Draft, TVA, TN, Integrated Resource Plan 2025, Comment Period Ends: 11/26/2024, **Contact:** Kelly Baxter 865–632–2444.

EIS No. 20240174, Draft, APHIS, ID, Predator Damage Management in Idaho, Comment Period Ends: 11/12/2024, **Contact:** Jared Hedelius 208–373–1630.

Dated: September 23, 2024.

Timothy Witman,

*Acting Director, NEPA Compliance Division,
Office of Federal Activities.*

[FR Doc. 2024–22167 Filed 9–26–24; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Thursday,
October 10, 2024.

PLACE: You may observe the open portions of this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or virtually. If you would like to observe, at least 24 hours in advance, visit *FCA.gov*, select “Newsroom,” then select “Events.” From there, access the linked

“Instructions for board meeting visitors” and complete the described registration process.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The following matters will be considered:

PORTIONS OPEN TO THE PUBLIC:

- Approval of Minutes for September 12, 2024.
- Proposed Rule—Annual Independent Audits and Internal Controls over Financial Reporting Requirements.

PORTIONS CLOSED TO THE PUBLIC:

- Office of Secondary Market Oversight Periodic Report.¹

CONTACT PERSON FOR MORE INFORMATION: If you need more information or assistance for accessibility reasons, or have questions, contact Ashley

Waldron, Secretary to the Board.
Telephone: 703–883–4009. TTY: 703–883–4056.

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2024–22317 Filed 9–25–24; 11:15 am]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate Receiverships

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for the institutions listed below, intends to terminate its receivership for said institutions.

NOTICE OF INTENT TO TERMINATE RECEIVERSHIPS

Fund	Receivership name	City	State	Date of appointment of receiver
10054	First Bank of Beverly Hills	Calabasas	CA	04/24/2009
10530	Washington Federal Bank for Savings	Chicago	IL	12/15/2017
10534	City National Bank of New Jersey	Newark	NJ	11/01/2019
10536	The First State Bank	Barboursville	WV	04/03/2020

The liquidation of the assets for each receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors. Based upon the foregoing, the Receiver has determined that the continued existence of the receiverships will serve no useful purpose. Consequently, notice is given that the receiverships shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of any of the receiverships, such comment must be made in writing, identify the receivership to which the comment pertains, and be sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Section, 600 North Pearl, Suite 700, Dallas, TX 75201. No comments concerning the termination of the above-mentioned receiverships will be considered which are not sent within this timeframe.

(Authority: 12 U.S.C. 1819)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 23, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024–22144 Filed 9–26–24; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of an Open Meeting of the FDIC Advisory Committee on Community Banking

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Community Banking. The Advisory Committee will provide advice and recommendations on a broad range of policy issues that have particular impact on community banks throughout the United States and the local communities they serve. The meeting is open to the public. The public's means to observe this meeting

of the Advisory Committee on Community Banking will be both in person and via a Webcast live on the internet. In addition, the meeting will be recorded and subsequently made available on-demand approximately two weeks after the event. To view the live event, visit <http://fdic.windrosemedia.com>.

DATES: Thursday, November 7, 2024, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the sixth floor of the FDIC building located at 550 17th Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Requests for further information concerning the meeting may be directed to Debra A. Decker, Committee Management Officer of the FDIC at (202) 898–8748.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will include a discussion of issues that are of interest to community banks. The agenda is subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the

¹ Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. Observers requiring auxiliary aids (e.g., sign language interpretation) for this meeting should email DisabilityProgram@fdic.gov to make necessary arrangements. This meeting of the Advisory Committee on Community Banking will also be Webcast live via the internet at <http://fdic.windrosemedia.com>. For optimal viewing, a high-speed internet connection is recommended. To view the recording, visit <http://fdic.windrosemedia.com/index.php?category=Community+Banking+Advisory+Committee>. Written statements may be filed with the Advisory Committee before or after the meeting.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 24, 2024.

James P. Sheesley,
Assistant Executive Secretary.

[FR Doc. 2024-22186 Filed 9-26-24; 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 October 15, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414. Comments can also be sent electronically to Comments.applications@chi.frb.org:

1. *The Michael Carl Martin BAA Irrevocable Trust, Michael Carl Martin, as trustee, both of Ann Arbor, Michigan, and Tye J. Klooster, as Trust Protector, Orland Park, Illinois; and the William Seth Martin BAA Irrevocable Trust, Ann Arbor, Michigan, William Seth Martin, as trustee, Wilmette, Illinois, and Tye J. Klooster, as Trust Protector, Orland Park, Illinois;* to join the Martin Family Control Group and acquire voting shares of Arbor Bancorp, Inc., and thereby indirectly acquire voting shares of Bank of Ann Arbor, both of Ann Arbor, Michigan.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,
Associate Secretary of the Board.

[FR Doc. 2024-22215 Filed 9-26-24; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at

the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

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 October 28, 2024.

A. Federal Reserve Bank of Cleveland (Nadine M. Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566. Comments can also be sent electronically to

Comments.applications@clev.frb.org:

1. *Wesbanco, Inc., Wheeling, West Virginia;* to acquire Premier Financial Corp., Defiance, Ohio, and thereby indirectly acquire Premier Bank, Youngstown, Ohio.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,
Associate Secretary of the Board.

[FR Doc. 2024-22214 Filed 9-26-24; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-4206-N]

Medicare Program; Medicare Appeals; Adjustment to the Amount in Controversy Threshold Amounts for Calendar Year 2025

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the annual adjustment in the amount in

controversy (AIC) threshold amounts for Administrative Law Judge (ALJ) hearings and judicial review under the Medicare appeals process. The adjustment to the AIC threshold amounts will be effective for requests for ALJ hearings and judicial review filed on or after January 1, 2025. The calendar year 2025 AIC threshold amounts are \$190 for ALJ hearings and \$1,900 for judicial review.

DATES: This annual adjustment takes effect on January 1, 2025.

FOR FURTHER INFORMATION CONTACT: Liz Hosna, (410) 786-4993.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1869(b)(1)(E) of the Social Security Act (the Act) established the amount in controversy (AIC) threshold amounts for Administrative Law Judge (ALJ) hearings and judicial review at \$100 and \$1,000, respectively, for Medicare Part A and Part B appeals. Additionally, section 1869(b)(1)(E) of the Act provides that beginning in January 2005, the AIC threshold amounts are to be adjusted annually by the percentage increase in the medical care component of the consumer price index (CPI) for all urban consumers (U.S. city average) for July 2003 to the July preceding the year involved and rounded to the nearest multiple of \$10. Sections 1852(g)(5) and 1876(c)(5)(B) of the Act apply the AIC adjustment requirement to Medicare Part C/Medicare Advantage (MA) appeals and certain health maintenance organization and competitive health plan appeals. Health care prepayment plans are also subject to MA appeals rules, including the AIC adjustment requirement, pursuant to 42 CFR 417.840. Section 1860D-4(h)(1) of the Act, provides that a Medicare Part D plan sponsor shall meet the requirements of paragraphs (4) and (5) of section 1852(g) of the Act with respect to benefits, including appeals and the application of the AIC adjustment requirement to Medicare Part D appeals.

A. Medicare Part A and Part B Appeals

The statutory formula for the annual adjustment to the AIC threshold amounts for ALJ hearings and judicial review of Medicare Part A and Part B appeals, set forth at section 1869(b)(1)(E) of the Act, is included in the applicable implementing regulations, 42 CFR 405.1006(b) and (c). The regulations at § 405.1006(b)(2) require the Secretary of Health and Human Services (the Secretary) to publish changes to the AIC threshold amounts in the **Federal Register**. To be

entitled to a hearing before an ALJ, a party to a proceeding must meet the AIC requirements at § 405.1006(b). Similarly, a party must meet the AIC requirements at § 405.1006(c) at the time judicial review is requested for the court to have jurisdiction over the appeal (§ 405.1136(a)).

B. Medicare Part C/MA Appeals

Section 1852(g)(5) of the Act applies the AIC adjustment requirement to Medicare Part C appeals. The implementing regulations for Medicare Part C appeals are found at 42 CFR 422, subpart M. Specifically, sections 422.600 and 422.612 discuss the AIC threshold amounts for ALJ hearings and judicial review. Section 422.600 grants any party to the reconsideration (except the MA organization) who is dissatisfied with the reconsideration determination a right to an ALJ hearing as long as the amount remaining in controversy after reconsideration meets the threshold requirement established annually by the Secretary. Section 422.612 states, in part, that any party, including the MA organization, may request judicial review if the AIC meets the threshold requirement established annually by the Secretary.

C. Health Maintenance Organizations, Competitive Medical Plans, and Health Care Prepayment Plans

Section 1876(c)(5)(B) of the Act states that the annual adjustment to the AIC dollar amounts set forth in section 1869(b)(1)(E)(iii) of the Act applies to certain beneficiary appeals within the context of health maintenance organizations and competitive medical plans. The applicable implementing regulations for Medicare Part C appeals are set forth in 42 CFR 422, subpart M and apply to these appeals in accordance with 42 CFR 417.600(b). The Medicare Part C appeals rules also apply to health care prepayment plan appeals in accordance with 42 CFR 417.840.

D. Medicare Part D (Prescription Drug Plan) Appeals

The annually adjusted AIC threshold amounts for ALJ hearings and judicial review that apply to Medicare Parts A, B, and C appeals also apply to Medicare Part D appeals. Section 1860D-4(h)(1) of the Act regarding Part D appeals requires a prescription drug plan sponsor to meet the requirements set forth in sections 1852(g)(4) and (g)(5) of the Act, in a similar manner as MA organizations. The implementing regulations for Medicare Part D appeals can be found at 42 CFR 423, subparts M and U. More specifically, § 423.2006 of the Part D appeals rules discusses the

AIC threshold amounts for ALJ hearings and judicial review. Sections 423.2002 and 423.2006 grant a Part D enrollee who is dissatisfied with the independent review entity (IRE) reconsideration determination a right to an ALJ hearing if the amount remaining in controversy after the IRE reconsideration meets the threshold amount established annually by the Secretary, and other requirements set forth in § 423.2002. Sections 423.2006 and 423.2136 allow a Part D enrollee to request judicial review of an ALJ or Medicare Appeals Council decision if the AIC meets the threshold amount established annually by the Secretary, and other requirements are met as set forth in these provisions.

II. Provisions of the Notice—Annual AIC Adjustments

A. AIC Adjustment Formula and AIC Adjustments

Section 1869(b)(1)(E)(iii) of the Act requires that the AIC threshold amounts be adjusted annually, beginning in January 2005, by the percentage increase in the medical care component of the CPI for all urban consumers (U.S. city average) for July 2003 to July of the year preceding the year involved and rounded to the nearest multiple of \$10.

B. Calendar Year 2025

The AIC threshold amount for ALJ hearings will rise from \$180 for CY 2024 to \$190 for CY 2025, and the AIC threshold amount for judicial review will increase from \$1,840 for CY 2024 to \$1,900 for CY 2025. These amounts are based on the 89.529 percent change in the medical care component of the CPI, which was at 297.600 in July 2003 and rose to 564.039 in July 2024. The AIC threshold amount for ALJ hearings changes to \$189.53 based on the 89.529 percent increase over the initial threshold amount of \$100 established in 2003. In accordance with section 1869(b)(1)(E)(iii) of the Act, the adjusted threshold amounts are rounded to the nearest multiple of \$10. Therefore, the CY 2025 AIC threshold amount for ALJ hearings is \$190.00. The AIC threshold amount for judicial review changes to \$1,895.21 based on the 89.529 percent increase over the initial threshold amount of \$1,000. This amount was rounded to the nearest multiple of \$10, resulting in the CY 2025 AIC threshold amount of \$1,900.00 for judicial review.

C. Summary Table of Adjustments in the AIC Threshold Amounts

In the following table we list the CYs 2021 through 2025 threshold amounts.

	CY 2021	CY 2022	CY 2023	CY 2024	CY 2025
ALJ Hearing	\$180	\$180	\$180	\$180	\$190
Judicial Review	1,760	1,760	1,850	1,840	1,900

III. Collection of Information Requirements

This document announces the annual adjustment in the AIC threshold amounts and does not impose any “collection of information” requirements as defined under 5 CFR 1320.3(c). Consequently, the notice is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Evell Barco, 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. 2024–22142 Filed 9–26–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Diaper Distribution Demonstration and Research Pilot Beneficiary Survey

AGENCY: Office of Community Services, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Community Services (OCS), Administration for Children and Families (ACF), U.S. Department of Health and Human Services, is proposing to continue to collect data to understand diaper need and outcomes for beneficiaries of the Diaper Distribution Demonstration and Research Pilot (DDDRP).

DATES: *Comments due* November 26, 2024. In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing infocollection@acf.hhs.gov. Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:
Description: The DDDRП beneficiary survey was developed to examine diaper need and outcomes for beneficiaries served by DDDRП. It was piloted under the Formative Data Collections for ACF Program Support information collection (Office of Management and Budget #0970–0531) with the first three cohorts of DDDRП grant recipients. The survey includes an enrollment version, which collects demographic data on the children served and caregivers enrolling the program, along with information about employment, education, and income as well as indicators of diaper need. The follow-up version reduces the number of demographic items to focus on change over time in employment, education, income, and diaper need.

Respondents: Respondents are the caregivers enrolling their family members with diaper needs in DDDRП services.

Annual Burden Estimates:

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Beneficiary Survey—Enrollment Version	63,750	1	.083	5,291.25	1,763.75
Beneficiary Survey—Follow-Up Version	22,500	1	.067	1,507.5	502.5

Estimated Total Annual Burden Hours: 2,266.25.

Comments: The Department specifically requests comments 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) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given

to comments and suggestions submitted within 60 days of this publication.

Authority: Section 1110, Social Security Act, 42 U.S.C. 1310.

Mary C. Jones,
ACF/OPRE Certifying Officer.

[FR Doc. 2024–22132 Filed 9–26–24; 8:45 am]

BILLING CODE 4184–24–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; State Maternal Health Innovation Maternal Health Annual Report

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information

Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than October 28, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Joella Roland, the HRSA Information Collection Clearance Officer, at

paperwork@hrsa.gov or call (301) 443–3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: State Maternal Health Innovation Maternal Health Annual Report, OMB No. 0906–xxxx–NEW.

Abstract: The State Maternal Health Innovation program is authorized by 42 U.S.C. 701(a)(2) (Title V, § 501(a)(2) of the Social Security Act), which authorizes awards for special projects of regional and national significance in maternal and child health. Special projects of regional and national significance support HRSA's mission to improve the health and well-being of America's mothers, children, and families. As of fiscal year 2024, HRSA is directly funding 35 states to implement maternal health innovation projects. The Maternal Health Annual Report will be completed by all grantees who receive funding under the program.

A 60-day notice published in the **Federal Register** on July 8, 2024, vol. 89, No. 130; pp. 55950–55951. There were no public comments.

Need and Proposed Use of the Information: HRSA will use the

information to monitor grantees' progress in accessing, analyzing, and using state-level maternal health data and to summarize the data-focused work that grantees accomplish.

Likely Respondents: Recipients of the HRSA State Maternal Health Innovation grants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized Burden Hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Maternal Health Annual Report: Respondents (Medical and Health Services Managers)	30	1	30	12	360
Total	30	.....	30	.....	360

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–22166 Filed 9–26–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: The Maternal, Infant, and Early Childhood Home Visiting Program Statewide Needs Assessment Update

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection

projects of the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than October 28, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email

Joella Roland, the HRSA Information Collection Clearance Officer, at paperwork@hrsa.gov or call (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: The Maternal, Infant, and Early Childhood Home Visiting Program Statewide Needs Assessment Update—Amendment, OMB No. 0906–0038—Revision.

Abstract: HRSA is requesting approval to collect amended statewide needs assessment updates from Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program awardees. The 2020 statewide needs assessment update approved under OMB control number 0906–0038 expired November 30, 2021, and is discontinued. The prior approval was discontinued as the requirement was for a one-time data collection in response to the 2018 reauthorizing statute. Eligible

entities that are states, jurisdictions, and non-profit organizations submitted statewide needs assessment updates in response to the 2020 Needs Assessment Update Supplemental Information Request (SIR) (and a corresponding SIR for jurisdiction awardees). While eligible entities are not required by law to update their statewide needs assessments, those that wish to amend their previously submitted needs assessment updates will have the opportunity to do so prior to submitting their fiscal year 2025 base and matching grant funding applications and in response to reissued instructions provided by the agency for this purpose. This request will reinstate this information collection with updated instructions. The updated instructions will be for awardees who request to amend their needs assessment update in advance of their fiscal year 2025 funding application.

The MIECHV Program, authorized by section 511 of the Social Security Act, 42 U.S.C. 711, and administered by HRSA in partnership with the Administration for Children and Families, supports voluntary, evidence-based home visiting services during pregnancy and to parents with young children up to kindergarten entry. States, jurisdictions, tribal entities, and nonprofit organizations, in certain circumstances, are eligible to receive funding through MIECHV and have the flexibility, within the parameters of the authorizing statute, to tailor the program to serve the specific needs of their communities. The statewide needs assessment is a critical and foundational resource that assists awardees in identifying and understanding how to meet the needs of eligible families living in at-risk communities in their states, especially as awardees make decisions about how to expand service delivery in their states with annual increases in MIECHV matching grants.

A 60-day notice was published in the **Federal Register** on May 24, 2024 at 89 FR 45903–04. HRSA received four comments from interested parties and MIECHV-funded program administrators. The first comment discussed interest in HRSA providing updated data tables (similar to those provided to awardees for the 2020 needs assessment update), subpopulation level data, requesting additional funding to facilitate the needs assessment update, and concerns about removing services from previously served communities. HRSA considered this comment; however, no changes will be made to the information collection, which allows for awardees to amend their statewide needs assessment update that

was submitted and approved in response to the 2020 SIR guidance by identifying additional at-risk communities and does not require that awardees conduct a full needs assessment update at this time. Because a full needs assessment update is not required, HRSA is not providing funding or updated data. HRSA is providing flexibility for awardees to cite their own data to identify at-risk communities. The primary focus of the current information collection allows MIECHV awardees to identify additional at-risk communities where families with the most need are located using national, state, or local data sources to support their selection, with no collection of information regarding potential removal of services from currently served communities.

The second comment discussed concerns regarding the structure of the needs assessment update submission timeline and limitations of the needs assessment criteria for serving specific populations, such as communities experiencing homelessness. HRSA considered this comment; however, no changes will be made to the information collection because instructions have already provided flexibility for awardees to leverage data sources across programs and systems, such as data regarding families' housing status, to provide justification for their selections of additional at-risk communities. Rather than completing a full needs assessment, HRSA is asking awardees for updated information on additional at-risk counties and minimal edits to previously approved statewide needs assessments and anticipates that the information collection can be achieved in a short timeline.

The third comment discussed the benefits of promoting coordination and referrals across early childhood systems and services within states and communities through the inclusion of other statewide needs assessments and additional data sources for identifying at-risk counties. The comment also suggested that HRSA's guidance allow for awardees to cite data from other needs assessment and state-level early childhood grants, such as those funded through the Preschool Development Grant Birth through Five. HRSA considered this comment; however, no changes will be made to the information collection because the 2020 SIR guidance has already provided flexibility for awardees to leverage national, state, or local data sources across programs and systems to provide justification for their selections of additional at-risk communities.

The fourth comment discussed the accuracy of the burden estimate and the usage of automated collection techniques to minimize the information collection burden. HRSA considered this comment; however, no changes will be made to the information collection because the burden estimate reflects that the instructions only require respondents to add additional communities and provide supporting data and narrative for only those additions, rather than completing a full needs assessment that will support an increased burden estimate, and based on similar data collection and grant reporting requirements, this burden estimate reflects and aligns with the experience of awardees.

Need and Proposed Use of the Information: Congress, through enactment of the Social Security Act, title V, section 511 (42 U.S.C. 711), as amended, established the MIECHV Program. The MIECHV Program is designed to: (1) strengthen and improve the programs and activities carried out under title V of the Social Security Act, (2) improve coordination of services for at-risk communities, and (3) identify and provide comprehensive services to improve outcomes for families who reside in at-risk communities. Section 511(b)(1) of the Social Security Act requires that states review and update their statewide needs assessments (which may be separate from, but in coordination with, the Title V statewide needs assessment) no later than October 1, 2020, as a condition of receiving payments from Title V Block Grant allotments. Since completing the needs assessment update, state and jurisdiction awardees may wish to amend their needs assessment update to identify additional communities where families with the most need are in their state or jurisdiction.

In response to the 2020 Needs Assessment Update SIR, state and jurisdiction awardees were required to submit an updated statewide needs assessment that identified all the following information, as required by the MIECHV authorizing statute:

(1) Communities with concentrations of (a) premature birth, low-birth weight infants, and infant mortality, including infant death due to neglect, or other indicators of at-risk prenatal, maternal, newborn, or child health; (b) poverty; (c) crime; (d) domestic violence; (e) high rates of high school drop-outs; (f) substance abuse; (g) unemployment; or (h) child maltreatment.

(2) The quality and capacity of existing programs or initiatives for early childhood home visitation in the state including the number and types of

individuals and families who are receiving services under such programs or initiatives, the gaps in early childhood home visitation in the state, and the extent to which such programs or initiatives are meeting the needs of eligible families.

(3) The state's capacity for providing substance abuse treatment and counseling services to individuals and families in need of such treatment or services.

The SIR provided guidance to states in updating their statewide needs assessments and submitting the required information to HRSA. States that elected not to apply or be awarded MIECHV funds were encouraged to work with nonprofit organizations that received awards to provide MIECHV-supported services within the state and determine whether they will submit their needs assessments directly or through the nonprofit organization awardee. HRSA and recipients providing MIECHV

services within states used the information collected through the needs assessment update to ensure the continued provision of MIECHV home visiting services in at-risk communities. The information is also used to support program planning, improvement, and decision-making. States wishing to amend their needs assessment will be asked to provide new information and supporting data. HRSA will provide specific instructions on timeline and the amendment process to awardees who request to amend their needs assessment update in advance of their fiscal year 2025 funding application. HRSA is not proposing any changes to the previously approved Needs Assessment SIR.

Likely Respondents: MIECHV Program Awardees that are states, jurisdictions, and where applicable, nonprofit organizations providing services within states. Based on preliminary interest expressed by MIECHV awardees to date, HRSA anticipates that approximately 35

of the 56 awardees may respond to this opportunity.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below. Burden hours reflect that existing needs assessments will be amended rather than fully developed.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Maternal, Infant, and Early Childhood Home Visiting Program Statewide Needs Assessment Update—Amended	35	1	35	30	1,050
Total	35	.....	35	.....	1,050

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–22182 Filed 9–26–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; NHLBI Single-Site and Pilot Clinical Trials Study Section.

Date: October 23–24, 2024.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton 940 Rose Avenue North Bethesda, MD 20852.

Contact Person: YingYing Li-Smerin, MD, Ph.D. Scientific Review Officer Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 207–P, Bethesda, MD 20892–7924 301–827–7942 email: lismerin@nhlbi.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 13, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22123 Filed 9–26–24; 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: November 26, 2024.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G56, Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Maryam Rohani, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G56, Rockville, MD 20892, (301) 761-6656, maryam.rohani@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 23, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-22139 Filed 9-26-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Chemical Probes and Drugs for Modulating HIV Transcription in the Context of Substance Use Disorders.

Date: October 21, 2024.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Meysam Yazdankhah, M.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse,

NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 402-6965, meysam.yazdankhah@nih.gov.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Mechanistic Research on Neuromodulation for SUD Treatment + Using Neuromodulation to Characterize the Continuum of Pathophysiology Between Substance Use and Mental Health.

Date: November 18, 2024.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ipolia R. Ramadan, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 827-4471, ramadanir@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 23, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-22137 Filed 9-26-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Biological Chemistry and Macromolecular Biophysics Integrated Review Group, Macromolecular Structure and Function B Study Section, October 22, 2024, 08:30 a.m. to October 23, 2024, 08:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on September 23, 2024, FR Doc. No. 2024-21617, 89 FR 77533.

This meeting is being amended to change the start time of the meeting from 8:30 a.m. to 9:00 a.m. The meeting is closed to the public.

Dated: September 23, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-22141 Filed 9-26-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Inclusion Enrollment Form (Office of the Director)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Ms. Mikia P. Currie, Program Analyst, Office of Policy for Extramural Research Administration, 6705 Rockledge Drive, Suite 350, Bethesda, Maryland 20892, or call a non-toll-free number 301-435-0941 or email your request, including your address to ProjectClearanceBranch@mail.nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on July 23, 2024, pages 59746–59747 (89 FR 59746) and allowed 60 days for public comment. No public comments were received. The purpose

of this notice is to allow an additional 30 days for public comment.

The Office of the Director, Office of Extramural Research (OER), National Institutes of Health (NIH), may not conduct or sponsor. The respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number.

In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, NIH has submitted to OMB a request for review

and approval of the information collection listed below.

Proposed Collection Title: The Inclusion Enrollment Report Form, OMB 0925–0770, Expiration Date 09/30/2024; Extension, Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection: NIH's Office of Extramural Research (OER) Office of Policy and Extramural Research Administration (OPERA) is renewing The Inclusion Enrollment Report Form without change. The Inclusion Enrollment Report Form is used for all applications

involving NIH-defined clinical research. This form is used to report both planned and cumulative (or actual) enrollment and describes the sex/gender, race, and ethnicity of the study participants. Since the last OMB approval, there has been no change to NIH policies on the inclusion of clinical research participants.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 203,664.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Inclusion Enrollment Report Form	Grant Applicant/Recipient	67,888	1	3	203,664
Total .....	.....	.....	67,888	.....	203,664

Dated: September 23, 2024.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2024–22235 Filed 9–26–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 30-Day Comment Request; Federally Funded Research Development Center Contract Administration System (FCAS) Vendor Portal National Cancer Institute (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide an opportunity for public comment on proposed data collection projects, the National Institutes of Health, National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

ADDRESSES: Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or using the search function.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact Scott Keasey, 428 Miller Drive, Suite 59 9742, Rockville, MD 20880, or call non-toll-free number 301–846–1115 or Email your request, including your address to: scott.keasey@nih.gov.

Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on June 4, 2024, 89 FR 47970 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with section 3507(a)(1)(D) of the Paperwork

Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection Title: Federally Funded Research Development Center Contract Administration System (FCAS) Vendor Portal National Cancer Institute (NCI), 0925–0773, Expiration Date 10/31/2024, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a request for OMB to approve the revised information collection for the Federally Funded Research Development Center Contract Administration System (FCAS) Vendor Portal. The National Cancer Institute (NCI) Office of Acquisitions (OA), located within the Office of the Director (OD) in the Office of Management (OM) at the National Cancer Institute (NCI), awards and administers contracts and simplifies acquisitions in support of the Institute's mission to prevent, diagnose and treat cancer. During the acquisition process, the OA ensures that customer service is paramount and communications are open and continuous. Currently, requests and correspondence are sent to and received from vendors through email, except the FFRDC Contractor, who submits through the FCAS Vendor Portal, which is in production. To streamline processes, increase transparency, and gain efficiencies, the OA uses the FCAS vendor portal to replace processes

handled through emailing FCAS Vendor Portal Users to individual OA recipients. The FCAS Vendor Portal will serve as a one-stop shop for the transmission of requests, reports, deliverables, and other correspondence due to numerous research and development in support of R&D contracts as well as those contract

vehicles awarded using various Federal Acquisition Procedures, including but not limited to FAR Part 8, Required Sources of Supplies and Services, FAR Part 13, Simplified Acquisition Procedures, and FAR Part 12, Acquisition of Commercial Items. These reports and deliverables cover a wide variety of topics in the areas of cancer

research, including prevention, detection, diagnosis, and control.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 77.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Survey	Individuals	1	1	6/60	0
Registration	Corporations	1	1	6/60	0
Data Field Information	Individuals	72	63	1/60	76
Add/Edit new Vendor	Corporations	6	1	6/60	1
Totals		80	4,544		77

Dated: September 24, 2024.
Diane Kreinbrink,
Project Clearance Liaison, National Cancer Institute, National Institutes of Health.
[FR Doc. 2024–22188 Filed 9–26–24; 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: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Research Study Section.
Date: October 23–24, 2024.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20852 (Video Assisted Meeting).

Contact Person: Noton Kumar Dutta, 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, Rockville, MD 20852, 240–669–2857, noton.dutta@nih.gov.
(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 23, 2024.
Lauren A. Fleck,
Program Analyst, Office of Federal Advisory Committee Policy.
[FR Doc. 2024–22140 Filed 9–26–24; 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: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases Research Study Section.
Date: October 28–29, 2024.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G74, Rockville, MD 20892 (Video Assisted Meeting).
Contact Person: Hailey P. Weerts, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G74, Rockville, MD 20852, (240) 669–5931, hailey.weerts@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 23, 2024.
Lauren A. Fleck,
Program Analyst, Office of Federal Advisory Committee Policy.
[FR Doc. 2024–22138 Filed 9–26–24; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Aging and Neurodegeneration Integrated Review Group; Cognitive Disorders and Brain Aging Study Section.

Date: October 22–23, 2024.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Phoenix Park Hotel, 520 N Capitol Street NE, Washington, DC 20001.

Contact Person: Simone Chebabo Weiner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1011K, Bethesda, MD 20892, (301) 435–1042, weinersc@csr.nih.gov.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Modeling and Analysis of Biological Systems Study Section.

Date: October 24–25, 2024.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Bethesdan Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Zarana Patel, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–9295, zarana.patel@nih.gov.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Chemical Synthesis and Biosynthesis Study Section.

Date: October 24–25, 2024.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: North Bethesda Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Shan Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–4390, shan.wang@nih.gov.

Name of Committee: Applied Therapeutics for Cancer Integrated Review Group; Mechanisms of Cancer Therapeutics A Study Section.

Date: October 24–25, 2024.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Careen K. Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214,

MSC 7804, Bethesda, MD 20892, (301) 435–3504, tothct@csr.nih.gov.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Glia Study Section.

Date: October 24–25, 2024.

Time: 8:00 a.m. to 10:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Sung-Wook Jang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 812P, Bethesda, MD 20892, (301) 435–1042, jangs2@csr.nih.gov.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Organization and Delivery of Health Services Study Section.

Date: October 24–25, 2024.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Mary Kate Baker, Ph.D., Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–5117, katie.baker2@nih.gov.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Viral Dynamics and Transmission Study Section.

Date: October 24–25, 2024.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kumud Singh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 761–7830, kumud.singh@nih.gov.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Learning, Memory and Decision Neuroscience Study Section.

Date: October 24–25, 2024.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Roger Janz, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8515, janrz2@csr.nih.gov.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Human Complex Mental Function Study Section.

Date: October 24–25, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Phoenix Park Hotel, 520 North Capitol Street NE, Washington, DC 20001.

Contact Person: Joanna Szczepanik, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000D, Bethesda, MD 20892, (301) 827–2242, szczepaj@csr.nih.gov.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Maximizing Investigators' Research Award—E Study Section.

Date: October 24–25, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Vandana Kumari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–3290, vandana.kumari@nih.gov.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Nutrition and Metabolism in Health and Disease Study Section.

Date: October 24–25, 2024.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jonathan Michael Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309, jonathan.peterson@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 24, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22175 Filed 9–26–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning the opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health

Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at (240) 276–0361.

Comments are invited on: (a) whether the proposed collections of information are 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 to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Substance Abuse Prevention and Treatment Block Grant Synar Report Format, FFY 2024–2026—(OMB No. 0930–0222)—Extension

Section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) stipulates Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUPTRS) funding agreements for alcohol and drug abuse programs for fiscal year 1994 and subsequent fiscal years require States to have in effect a law stating that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute

any such product to any individual under the age of 21. This section further requires that States conduct annual, random, unannounced inspections to ensure compliance with the law; that the State submit annually a report describing the results of the inspections, the activities carried out by the State to enforce the required law, the success the State has achieved in reducing the availability of tobacco products to individuals under the age of 21, and the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

Before making an award to a State under the Block Grant, the Secretary must make a determination that the State has maintained compliance with the regulations. If a determination is made that the State is not in compliance, penalties shall be applied. There are three (3) penalty options for failure to comply with the Synar requirements: (1) States may be fined a penalty up to 10 percent of the SUPTRS). (2) States may elect to submit a corrective action plan to the Assistant Secretary for Mental Health and Substance Use within 90 days of receipt of notice that they are not in compliance with the Synar regulations, which outlines strategies they will take to reduce the Retail Violation Rate to 20 percent or less. (3) States certify to the Secretary by May 1 of the fiscal year for which the funds are appropriated, consistent with subparagraph (B), that the State will commit additional State funds, in accordance with paragraph (1),

to ensure that retailers do not sell tobacco products to individuals under 21 years of age; (Pub. L. 116–94 Stat., sec. 604 pg. 593). Respondents include the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Palau, Micronesia, and the Marshall Islands. Red Lake Indian Tribe is not subject to tobacco requirements.

Regulations that implement this legislation are at 45 CFR 96.130, are approved by OMB under control number 0930–0163, and require that each State submit an annual Synar report to the Secretary describing their progress in complying with section 1926 of the PHS Act. The Synar report, due December 31 following the fiscal year for which the state is reporting, describes the results of the inspections and the activities carried out by the State to enforce the required law; the success the State has achieved in reducing the availability of tobacco products to individuals under the age of 21; and the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought. SAMHSA is requesting an extension of OMB approval of the current report format associated with section 1926 (42 U.S.C. 300x–26) to 2026. Extending OMB approval of the current report format will continue to facilitate consistent, credible, and efficient monitoring of Synar compliance across the States.

ANNUAL REPORTING BURDEN

45 CFR citation	Number of respondents ¹	Responses per respondents	Total number of responses	Hours per response	Total hour burden
Annual Report (Section 1—States and Territories) 96.130(e)(1–3)	59	1	59	15	885
State Plan (Section II—States and Territories) 96.130(e)(4,5)96.130(g)	59	1	59	3	177
Total	59	.....	118	.....	1,062

¹ Red Lake Indian Tribe is not subject to tobacco requirements.

Send comments to SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E45, Rockville, Maryland 20857, OR email a copy to samhsapra@samhsa.hhs.gov. Written comments should be received by November 26, 2024.

Alicia Broadus,
Public Health Advisor.

[FR Doc. 2024–22143 Filed 9–26–24; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent to Request Revision From OMB of One Current Public Collection of Information: Federal Flight Deck Officer Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0011, that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection requires interested volunteers to fill out an application to determine their qualification for participating in the

Federal Flight Deck Officer (FFDO) Program.

DATES: Send your comments by November 26, 2024.

ADDRESSES: Comments may be emailed to TSAPRA@tsa.dhs.gov or delivered to the TSA PRA Officer, Information Technology (IT), TSA-11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598-6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227-2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at <https://www.reginfo.gov> upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652-0011; Federal Flight Deck Officer Program. TSA initially required this information collection under the authority of the Arming Pilots Against Terrorism Act (APATA), which was enacted as title XIV, section 1402(a) of the Homeland Security Act (Pub. L. 107-296, 116 Stat. 2135, 2300, Nov. 25, 2002), as amended by title VI, section 609(b) of the Vision 100-Century of Aviation Reauthorization Act (Vision 100) (Pub. L. 108-176, 117 Stat. 2489, 2570, Dec. 12, 2003), as codified at 49 U.S.C. 44921. TSA is seeking to renew this information collection to continue collecting the information described in this notice to comply with its statutory mission. The APATA required TSA to

establish a program to deputize volunteer pilots of passenger air carriers as Federal law enforcement officers to defend the flight deck of their aircraft against acts of criminal violence or air piracy. With the enactment of Vision 100, eligibility to participate in the FFDO program expanded to include pilots of all-cargo aircraft, as well as flight engineers and navigators on both passenger and cargo aircraft.

To screen volunteers for entry into the FFDO program, TSA collects information from applicants, including name, address, prior address information, personal references, criminal history, limited medical information, financial information, and employment information, through comprehensive applications they submit to TSA.

TSA is revising the collection by discontinuing the TSA verbal interview and enabling online submission of answers to certification questions. TSA previously verbally interviewed each applicant who completed the questionnaire to certify their compliance with the FFDO program requirements. In lieu of a verbal interview, TSA has now added these certification questions to the "Certification and Release of Information" section of the questionnaire, allowing all the required information to be completed during the online application process. This revision reduces the burden to the collection by removing the burden time to complete the TSA verbal interview. In addition, the change eliminates duplication of certain questions that had been asked in the TSA verbal interview that were identical to questions asked by the background investigators who later interview applicants.

Based on the average number of new applicants to the FFDO program, TSA estimates a total of 1,700 respondents annually. TSA estimates that the online application will take one hour for each applicant to complete for a total burden of 1,700 hours.

Dated: September 23, 2024.

Christina A. Walsh,

*TSA Paperwork Reduction Act Officer,
Information Technology.*

[FR Doc. 2024-22124 Filed 9-26-24; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NM_FRN_MO4500180051; NMNM-035829]

Notice of Application for Withdrawal Extension, Public Meeting, and Availability of a Legislative Environmental Assessment; McGregor Range, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed extension.

SUMMARY: The Department of the Army (Army) filed an application with the Bureau of Land Management (BLM) for extension of the withdrawal of public lands for the Army's use for the McGregor Range, located in Otero County, New Mexico. The McGregor Range encompasses 608,385 acres that Congress withdrew from all forms of appropriation under the public land laws, including the mining, mineral leasing, and geothermal leasing laws, subject to valid existing rights, for a 25-year period and reserved for the Army's use. The current withdrawal will expire on November 6, 2026, unless Congress approves the extension. This notice advises the public of an opportunity to comment on the application, attend a public meeting, and review the legislative environmental assessment (EA).

DATES: Comments regarding this withdrawal application must be received by December 26, 2024. In addition, the BLM and the Army will host public meetings addressing the withdrawal application.

The BLM and the Army will hold a virtual public meeting in connection with the proposed withdrawal extension on November 20, 2024, via Zoom at 6 p.m. (Mountain Time). To register for the meeting, visit https://blm.zoomgov.com/webinar/register/WN_0NWB3vqpSUuJzi955PHQpw.

ADDRESSES: All comments should be sent to State Director, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, New Mexico 87508.

FOR FURTHER INFORMATION CONTACT: Jillian Aragon, Project Manager, Bureau of Land Management, New Mexico State Office, telephone: 505-564-7722 or email: jgaragon@blm.gov.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States

should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: Section 3011(d) of the Military Lands Withdrawal Act (MLWA) of 1999 (Pub. L. 106–65) withdrew approximately 608,385 acres of public land for the McGregor Range from all forms of appropriation under public land laws and reserved them for use by the Army. The withdrawal will expire on November 6, 2026, unless extended by Congress. The Army has filed an application for extension of the current withdrawal for 25 years. Extension of the withdrawal is warranted by the purpose of the withdrawal established by Congress: to allow for continued military use of the McGregor Range, which is used to train military personnel and test equipment to meet nationally directed missions and requirements.

The public land withdrawn under Public Law 106–65 encompasses approximately 608,385 acres in Otero County, New Mexico. As noted in a previous **Federal Register** notice (66 FR 26881, May 15, 2001), this land is accurately described under a previous **Federal Register** notice (52 FR 18960, May 20, 1987) and two **Federal Register** correction notices (52 FR 22577, June 12, 1987; 52 FR 26188, July 13, 1987).

The Engle Act (Pub. L. 85–337, 43 U.S.C. 155–157) requires withdrawals for defense purposes of more than 5,000 acres in the aggregate for any one defense project or facility to be authorized by an Act of Congress. Section 3016 of the MLWA requires the Army to notify the Secretary of the Interior and Congress whether there is a continuing military need for the withdrawn land. The Army and the Department of the Interior (DOI) intend to submit a legislative proposal for extension of the withdrawal and reservation to Congress not later than May 1, 2025.

As required by section 204(b)(1) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(b)(1), and BLM regulations at 43 CFR part 2300, the BLM is publishing notice of the Army's application. While the BLM and the DOI assist the Army with the processing of withdrawal applications, and the Secretary of the Interior makes a recommendation to Congress on applications for withdrawals of this size for defense purposes, Congress will decide whether to extend the existing withdrawal for the McGregor Range.

The Army is preparing a legislative EA in support of the legislative proposal

and is conducting public scoping under NEPA. The Army will host a joint virtual public scoping meeting and will accept comments on potential alternatives, potential environment impacts, information, and analyses relevant to the proposed action. The BLM is participating as a cooperating agency in the preparation of the legislative EA. Information on the environmental review process can be viewed using the link in the **ADDRESSES** section. This notice invites the public to comment on the application for withdrawal extension, notifies the public that a public meeting will occur, and provides the opportunity for the public to review the legislative EA.

For a period until December 26, 2024, all persons who wish to submit comments in connection with the withdrawal application and the legislative EA may present their comments in writing to the address listed in the **ADDRESSES** section. All comments received will be considered before the Secretary of the Interior makes any recommendation to Congress.

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.

The withdrawal extension application will be processed in accordance with MLWA, and to the extent consistent with MWLA, the regulations set forth in 43 CFR 2310.4.

(Authority: 43 CFR 2310.4)

Melanie G. Barnes,

State Director.

[FR Doc. 2024–22130 Filed 9–26–24; 8:45 am]

BILLING CODE 4331–23–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1419]

Certain Exercise Equipment and Subassemblies Thereof; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S.

International Trade Commission on August 15, 2024, under section 337 of the Tariff Act of 1930, as amended, on behalf of Balanced Body, Inc. of Sacramento, California. A supplement to the complaint was filed on September 6, 2024. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain exercise equipment and subassemblies thereof by reason of the infringement of certain claims of U.S. Patent No. 8,721,511 (“the ‘511 patent”); U.S. Patent No. D659,205 (“the D’205 patent”); and U.S. Patent No. D659,208 (“the D’208 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT:

Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION: *Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2024).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 23, 2024, *ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of

section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1–15, 19–21, and 23–26 of the '511 patent; the claim of the D'205 patent; and the claim of the D'208 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "exercise equipment known as Pilates reformers";

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Balanced Body, Inc., 5909 88th St., Sacramento, CA 95828.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Guangzhou Oasis, LLC, d/b/a

trysauna.com, 1942 Broadway St., Suite 314C, Boulder, CO 80302

Ciga Pilates, 22/F, Star House, 3 Salisbury Road, Tism Sha Tsui, KL, Hong Kong

Shandong Tmax Machinery Technology Co. Ltd., 2nd Floor, No. 21, Building 1, Qixi Market, Xinhua Sub-district, Dezhou City, Shandong Province, China 253024

Shandong VOG Sports Products Co. Ltd., South, 50 meters east of the intersection of Zhenhua Street and Commercial Street, Ningjin County, Dezhou City, Shandong Province, China 253400

Dezhou Bodi Fitness Equipment Co., Ltd., No. 17 Taishan Road, Small and Medium-sized Enterprise Park, Ningjin County Development Zone, Dezhou City, Shandong Province, China

Suzhou Selfcipline Sports Goods Co., Ltd., Unit 384, Room 1601, Building 1, Yueliangwan, International Business Center, No. 9 Cuiwei Street, Suzhou Industrial Park, China (Jiangsu), Pilot Free Trade Zone, Suzhou, Jiangsu Province, China

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge,

U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: September 23, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–22149 Filed 9–26–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1420]

Certain Smart Televisions; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 22, 2024, under section 337 of the Tariff Act of 1930, as amended, on behalf of Maxell, Ltd. of Japan. A letter supplementing the complaint was filed on September 10, 2024. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for

importation, and the sale within the United States after importation of certain smart televisions by reason of the infringement of certain claims of U.S. Patent No. 8,549,109 ("the '109 patent"); U.S. Patent No. 11,451,860 ("the '860 patent"); U.S. Patent No. 11,924,502 ("the '502 patent"); and U.S. Patent No. 10,958,971 ("the '971 patent"). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT:

Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2024).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 23, 2024, *ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claim 4 of the '109 patent; claims 7–11 of the '860 patent; claims 1, 4, 6, 11, 12, 15, 17, and 22 of the '502 patent; and claim 1 of the '971 patent, and whether an

industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "televisions with smart features and functionality";

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) *The complainant is:* Maxell, Ltd., 1. Koizumi, Oyamazaki, Oyamazaki-cho, Otokuni-gun, Kyoto, 618-8525 Japan.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

TCL Electronics Holdings Ltd. (f/k/a TCL, Multimedia Technology Holdings, Ltd.), 7th Floor, Building 22E, 22 Science Park East Avenue, Hong Kong Science Park, Shatin, New Territories, Hong Kong

TCL Industries Holdings Co., Ltd., 22nd Floor, TCL Technical Tower, Huifeng 3 Road, Zhongkai Development, Zone Huizhou, Guangdong, China, 516006

T.C.L. Industries Holdings (H.K.) Limited, 8th Floor, Building 22E, Phase Three, Hong Kong Science Park, Pak Shek Kok, New Territories, Hong Kong

TTE Technology, Inc. (d/b/a TCL North America), 1860 Compton Avenue, Corona, CA 92881

TTE Corporation, 7th Floor, Building 22E, 22 Science Park East Avenue, Hong Kong Science Park, Shatin, New Territories, Hong Kong

TCL King Electrical Appliances, (Huizhou) Co. Ltd., No. 78, Huifeng 4 Road, Zhongkai Development Zone Huizhou, China, 516006

Manufacturas Avanzadas S.A. de C.V., Blvd. Independencia No. 2151, Ciudad Juarez, Chihuahua, 32580, Mexico

TCL Smart Device (Vietnam) Co., Ltd., No. 26 VSIP II-A, Street 32, Vietnam Singapore Industrial Park II-A, Tan Binh Commune, Bac Tan Uyen District, Binh Duong Province, 75000, Vietnam

Shenzhen TCL New Technology Co., Ltd., 9th Floor, TCL Electronics Holdings Limited Building, TCL International E City, No. 1001 Zhongshan Park Road, Nanshan, China, 518067

TCL Optoelectronics Technology (Huizhou) Co., Ltd., No. 78, Huifeng 4 Road, Zhongkai Development Zone Huizhou, China, 516006

TCL Overseas Marketing Ltd., 5th Floor, Building 22E, 22 Science Park East Avenue, Hong Kong Science Park, Shatin, New Territories, Hong Kong

TCL Technology Group Corporation, (f/k/a TCL Corp.), TCL Technology Building, No. 17, Huifeng Third Road, Zhongkai High-Tech Development Zone, Huizhou, Guangdong, China 516001

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: September 24, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024-22187 Filed 9-26-24; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Theodore S. Wright Jr., M.D.; Decision and Order

On August 30, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Theodore S. Wright Jr., M.D., of Chicago, Illinois (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. AW2016651, alleging that Registrant's registration should be revoked because Registrant is "currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of Illinois, the state in which [he is] registered with DEA." *Id.* at 1-2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file with DEA a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* at 2 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.¹ "A default, unless excused, shall be deemed to constitute a waiver of the [registrant's] right to a hearing and an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Further, "[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are admitted. According to the OSC, effective February 21, 2023, the Illinois Department of Financial and Professional Regulation suspended

¹ Based on the Government's submissions in its RFAA dated October 17, 2023, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the included declaration from a DEA Diversion Investigator indicates that on August 31, 2023, Registrant was personally served with the OSC at his registered address. RFAAX 2, at 1; *see also id.* at 3 (Form DEA-12 signed by Registrant on August 31, 2023).

Registrant's Illinois medical license. RFAAX 1, at 1. According to Illinois's online records, of which the Agency takes official notice, Registrant's Illinois medical license remains suspended.² Illinois Department of Financial and Professional Regulation License Search, <https://online-dfpr.micropact.com/lookup/licenselookup.aspx/> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice medicine in Illinois, the state in which he is registered with DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, D.O.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, D.O.*, 43 FR 27616, 27617 (1978).³

² Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding—even in the final decision.” United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

³ This rule derives from the text of two provisions of the Controlled Substances Act (CSA). First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner

Pursuant to the Illinois Controlled Substances Act, a practitioner in good faith (“the regular course of professional treatment”) may dispense a controlled substance. 720 Ill. Comp. Stat. 570/312(a), 570/102(u) (2024).⁴ A “practitioner” means “a physician licensed to practice medicine in all its branches . . . or other person licensed, registered, or otherwise lawfully permitted by the United States or [Illinois] to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.” *Id.* 570/102(kk).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Illinois. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in Illinois. Thus, because Registrant lacks authority to practice medicine in Illinois, and, therefore, is not authorized to handle controlled substances in Illinois, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. AW2016651 issued to Theodore S. Wright Jr., M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Theodore S. Wright Jr., M.D., to renew or modify this registration, as well as any other pending application of Theodore S. Wright Jr., M.D., for additional registration in Illinois. This Order is effective October 28, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 19, 2024, by Administrator Anne Milgram. That

under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR 71371–72; *Sheran Arden Yeates, D.O.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, D.O.*, 58 FR 51104, 51105 (1993); *Bobby Watts, D.O.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR 27617.

⁴ “Dispense” means “to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a prescriber, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.” *Id.* 570/102(p).

document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2024–22200 Filed 9–26–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 24–46]

Wagner Gervais, P.A.; Decision and Order

On May 7, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Wagner Gervais, P.A., of Tucson, Arizona (Respondent). OSC, at 1, 4. The OSC proposed the revocation of Respondent's DEA Certificate of Registration No. MG7845778, alleging that Respondent's DEA registration should be revoked because Respondent is “without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of Arizona, the state in which [he is] registered with DEA.” *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

On May 21, 2024, Respondent requested a hearing and filed an Answer. On June 4, 2024, the Government filed a Motion for Summary Disposition, to which Respondent did not respond.¹ On June 24, 2024, Administrative Law Judge Teresa A. Wallbaum (the ALJ) granted the Government's Motion for Summary Disposition and recommended the revocation of Respondent's registration, finding that because Respondent lacks state authority to handle controlled substances in Arizona, the state in which he is registered with DEA, “[t]here is no genuine issue of material fact in this case.” Order Granting the Government's Motion for Summary Disposition, and Recommended

¹ On June 14, 2024, Respondent sought to continue the DEA proceedings while appealing the loss of his state authority; consistent with past precedent, the Administrative Law Judge denied the continuance.

Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (RD), at 4–5. Respondent did not file exceptions to the RD.

Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ's rulings, findings of fact, conclusions of law, and recommended sanction as found in the RD and summarizes and expands upon portions thereof herein.

Findings of Fact

On November 29, 2023, the Arizona Regulatory Board of Physician Assistants revoked Respondent's Arizona physician assistant license. RD, at 3.² According to Arizona online records, of which the Agency takes official notice, Respondent's Arizona physician assistant license remains revoked.³ Arizona Regulatory Board of Physician Assistants, Find Your PA, <https://www.azpa.gov/PASearch/PASearch> (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not currently licensed to practice as a physician assistant in Arizona, the state in which he is registered with DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA) “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in

which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁴

According to Arizona statute, “[e]very person who manufactures, distributes, dispenses, prescribes or uses for scientific purposes any controlled substance within th[e] state or who proposes to engage in the manufacture, distribution, prescribing or dispensing of or using for scientific purposes any controlled substance within th[e] state must first: (1) [o]btain and possess a current license or permit as a medical practitioner as defined in § 32–1901” *Ariz. Rev. Stat. Ann. section 36–2522(A)(1)* (2024). Section 32–1901 defines a “[m]edical practitioner” as “any medical doctor . . . or other person who is licensed and authorized by law to use and prescribe drugs and devices to treat sick and injured human beings or animals or to diagnose or prevent sickness in human beings or animals in [Arizona] or any state,

⁴ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR 71371–72; *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR 27617. Moreover, because “the controlling question” in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration “is currently authorized to handle controlled substances in the [S]tate,” *Hooper*, 76 FR 71371 (quoting *Anne Lazar Thorn*, 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy*, 72 FR 18273, 18274 (2007); *Wingfield Drugs*, 52 FR 27070, 27071 (1987). Thus, it is of no consequence that Respondent is still challenging the underlying action here, *see* Respondent's Answer, at 1; Respondent's Motion to Continue Show Cause Hearing. Rather, the Agency's finding that Respondent is not currently authorized to dispense controlled substances in Arizona, the state in which he is registered with DEA, is controlling. *Adley Dasilva, P.A.*, 87 FR 69341, 69341 n.2 (2022); *see also* Order Denying Respondent's Motion to Continue.

territory or district of the United States.” *Id.* section 32–1901.

Here, the undisputed evidence in the record is that Respondent lacks authority to practice as a physician assistant in Arizona. As discussed above, only a licensed medical practitioner can dispense controlled substances in Arizona. Thus, because Respondent lacks authority to practice as a physician assistant in Arizona, and therefore is not a licensed medical practitioner, Respondent is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Respondent's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. MG7845778 issued to Wagner Gervais, P.A. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Wagner Gervais, P.A., to renew or modify this registration, as well as any other pending application of Wagner Gervais, P.A., for additional registration in Arizona. This Order is effective October 28, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 16, 2024, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2024–22190 Filed 9–26–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Lawrence Rudolph, D.M.D.; Decision and Order

On July 12, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show

² *See also* Government's Notice of Filing of Evidence of Lack of State Authority; Service of Order to Show Cause; and Motion for Summary Disposition, Declaration of [Diversion Investigator], Exhibit A, at 8–9.

³ Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding—even in the final decision.” United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Respondent may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

Cause (OSC) to Lawrence Rudolph, D.M.D., of Pittsburgh, PA, Washington, PA, and Cranberry TWP, PA (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 3, at 1, 3. The OSC proposed the revocation of Registrant's Certificates of Registration Nos. FR0070538, FR7760728, and FR7760730, alleging that Registrant's registrations should be revoked because Registrant is "currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the Commonwealth of Pennsylvania, the state in which [he is] registered with DEA." *Id.* at 1–2 (citing 21 U.S.C. 824(a)(3)).¹

The OSC notified Registrant of his right to file with DEA a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* at 2 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.² "A default, unless excused, shall be deemed to constitute a waiver of the registrant's/applicant's right to a hearing and an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Further, "[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are admitted. According to the OSC, Registrant's Pennsylvania dental license expired on March 31, 2023. RFAAX 3, at 2. According to Pennsylvania online records, of which the Agency takes

official notice, Registrant's dental license remains expired.³ Pennsylvania Licensing System Verification Service, <https://www.pals.pa.gov/#!/page/search> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice dentistry in Pennsylvania, the state in which he is registered with DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 "upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, D.O.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, D.O.*, 43 FR 27,616, 27,617 (1978).⁴

³ Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

⁴ This rule derives from the text of two provisions of the CSA. First, Congress defined the term "practitioner" to mean "a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice." 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that "[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices." 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR 71371–72; *Sheran Arden*

According to Pennsylvania statute, "dispense" means "to deliver a controlled substance, other drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare such item for that delivery." 35 Pa. Stat. and Cons. Stat. Ann. § 780–102(b) (West 2024). Further, a "practitioner" means "a physician . . . dentist . . . or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance, other drug or device in the course of professional practice or research in the Commonwealth of Pennsylvania." *Id.*

Here, the undisputed evidence in the record is that Registrant lacks authority to practice dentistry in Pennsylvania. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in Pennsylvania. Thus, because Registrant lacks authority to practice dentistry in Pennsylvania and, therefore, is not authorized to handle controlled substances in Pennsylvania, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registrations be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificates of Registration Nos. FR0070538, FR7760728, and FR7760730 issued to Lawrence Rudolph, D.M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Lawrence Rudolph, D.M.D., to renew or modify this registration, as well as any other pending application of Lawrence Rudolph, D.M.D., for additional registration in Pennsylvania. This Order is effective October 28, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 20, 2024, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register

Yeates, D.O., 71 FR 39130, 39131 (2006); *Dominick A. Ricci, D.O.*, 58 FR 51104, 51105 (1993); *Bobby Watts, D.O.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR 27617.

¹ According to Agency records, Registrant's registrations expired on April 30, 2024. The fact that a registrant allows his registration to expire during the pendency of an OSC does not impact the Agency's jurisdiction or prerogative under the Controlled Substances Act (CSA) to adjudicate the OSC to finality. *Jeffrey D. Olsen, M.D.*, 84 FR 68474, 68476–79 (2019).

² Based on the Government's submissions in its RFAA dated March 20, 2024, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the submitted Declaration from a DEA Diversion Investigator indicates that Registrant was personally served with the OSC on August 23, 2023. RFAAX 2, at 2.

Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2024–22204 Filed 9–26–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 24–30]

Adam L. Larson, M.D.; Decision and Order

On February 23, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Adam L. Larson, M.D., of Draper, Utah (Respondent). OSC, at 1, 3. The OSC proposed the revocation of Respondent's DEA Certificate of Registration No. FL0432815, alleging that Respondent is “without authority to handle controlled substances in Utah, the state in which [he is] registered with DEA.” *Id.* at 1–2 (citing 21 U.S.C. 824(a)(3)).

Respondent requested a hearing and filed an Answer. On March 15, 2024, the Government filed a Submission of Evidence and Motion for Summary Disposition. On April 9, 2024, Administrative Law Judge Paul E. Soeffing (the ALJ) granted the Government's Motion for Summary Disposition and recommended the revocation of Respondent's registration, finding that because Respondent lacks authority to handle controlled substances in Utah, the state in which he is registered with DEA, “there is no other fact of consequence for this tribunal to decide.” Order Granting the Government's Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (RD), at 6. Respondent did not file exceptions to the RD.

Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ's rulings, findings of fact, conclusions of law, and recommended sanction as found in the RD and summarizes and expands upon portions thereof herein.

Findings of Fact

On January 3, 2024, Respondent surrendered his Utah medical license

and Utah controlled substance license. RD, at 3; *see also* Government's Submission of Evidence and Motion for Summary Disposition, Exhibit (GX) 2, at 7, 11. According to Utah online records, of which the Agency takes official notice, Respondent's Utah medical license and Utah controlled substance license both remain surrendered.¹ Utah Division of Professional Licensing, Licensee Lookup & Verification System, <https://secure.utah.gov/llv/search/search.html> (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not licensed to practice medicine nor to handle controlled substances in Utah, the state in which he is registered with DEA.²

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA) “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled

substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).³

According to Utah statute, “[e]very person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within [the] state . . . shall obtain a license issued by the [Division of Professional Licensing].” Utah Code Ann. section 58–37–6(2)(a)(i) (2024).

Here, the undisputed evidence in the record is that Respondent lacks authority to handle controlled substances in Utah because he surrendered both his Utah medical license and his Utah controlled substance license. As discussed above, an individual must hold a controlled substance license to dispense a controlled substance in Utah. Thus, because Respondent lacks authority to handle controlled substances in Utah, Respondent is not eligible to maintain a DEA registration in Utah. RD, at 5–6. Accordingly, the Agency will order that Respondent's DEA registration in Utah be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FL0432815 issued to Adam L. Larson, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications

³ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR 71371–72; *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR 27617.

¹ Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding—even in the final decision.” United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Respondent may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

² In his Answer, Respondent contends that the correct registered address for his DEA Certificate of Registration No. FL0432815 is in Arizona. Answer of Respondent [] and Evidence of State Authority (Respondent's Answer), at 1. However, Agency records show that the registered address for Respondent's DEA Certificate of Registration FL0432815 is 12340 South 450 East, Draper, Utah 84020.

Respondent also argues that despite lacking authority to handle controlled substances in Utah, he has authority to handle controlled substances elsewhere, referencing a different DEA Certificate of Registration with a Texas address. Respondent's Answer, at 1. Because Respondent's DEA registration at issue is based on his Utah licenses, which have undeniably been surrendered, it is of no consequence that he may maintain valid authority and a separate DEA registration elsewhere. *Ralph Reach, M.D.*, 89 FR 24036, 24037 n.5 (2024); *Omar Garcia, M.D.*, 87 FR 32186, 32187 n.6 (2022).

of Adam L. Larson, M.D., to renew or modify this registration, as well as any other pending application of Adam L. Larson, M.D., for additional registration in Utah. This Order is effective October 28, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 17, 2024, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2024-22191 Filed 9-26-24; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Michael Fletcher, M.D.; Decision and Order

On June 29, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Michael Fletcher, M.D., of Cincinnati, OH (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 4. The OSC proposed the revocation of Registrant's Certificate of Registration No. FF0291005, alleging that Registrant's registration should be revoked because Registrant is "currently without authority to handle controlled substances in the State of Ohio, the state in which [he is] registered with DEA." RFAAX 1, at 2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file with DEA a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* at 2–3 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.¹ "A

default, unless excused, shall be deemed to constitute a waiver of the registrant's/applicant's right to a hearing and an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Further, "[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are admitted. According to the OSC, effective May 11, 2023, the State Medical Board of Ohio issued an order prohibiting Registrant from prescribing, dispensing, or otherwise professionally utilizing controlled substances. RFAAX 1, at 2. According to Ohio online records, of which the Agency takes official notice,² Registrant's Ohio medical license is active but "limited and restricted by a prohibition against prescribing, dispensing, [and/or] utilizing controlled substances in the course of practice." eLicense Ohio Professional Licensure License Look-Up, https://elicense.ohio.gov/oh_verifylicense (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to handle controlled substances in Ohio, the state in which he is registered with DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued

email on July 7, 2023, and Registrant acknowledged receipt on July 9, 2023. RFAAX 3–4.

² Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

under 21 U.S.C. 823 "upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, D.O.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, D.O.*, 43 FR 27616, 27617 (1978).³

According to Ohio statute, "[n]o person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog," except pursuant to a "prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose." Ohio Rev. Code Ann. sections 2925.11(A), (B)(1)(d) (West 2024). Further, a "[l]icensed health professional authorized to prescribe drugs" or "prescriber" means "an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice." *Id.* section 4729.01(I). The definition further provides a limited list of authorized prescribers, the relevant provision of which is "[a] physician authorized under Chapter 4731[] of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery." *Id.* section 4729.01(I)(5). Additionally, Ohio law permits "[a]

³ This rule derives from the text of two provisions of the CSA. First, Congress defined the term "practitioner" to mean "a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice." 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that "[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices." 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR 71371–72; *Sheran Arden Yeates, D.O.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, D.O.*, 58 FR 51104, 51105 (1993); *Bobby Watts, D.O.*, 53 FR 11919, 11120 (1988); *Frederick Marsh Blanton*, 43 FR 27617.

¹ Based on the Government's submissions in its RFAA dated November 16, 2023, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the RFAA's included exhibits indicate that Registrant was served a copy of the OSC via

licensed health professional authorized to prescribe drugs, if acting in the course of professional practice, in accordance with the laws regulating the professional's practice" to prescribe or administer schedule II, III, IV, and V controlled substances to patients. *Id.* section 3719.06(A)(1)(a)–(b).

Here, the undisputed evidence in the record is that although Registrant is currently authorized to practice medicine in Ohio, Registrant is not authorized to handle controlled substances in accordance with his practice of medicine. Thus, because Registrant lacks authority to handle controlled substances in Ohio, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FF0291005 issued to Michael Fletcher, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Michael Fletcher, M.D., to renew or modify this registration, as well as any other pending application of Michael Fletcher, M.D., for additional registration in Ohio. This Order is effective October 28, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 20, 2024, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2024–22205 Filed 9–26–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Charles Sangmoah, P.A.; Decision and Order

On January 18, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Charles Sangmoah, P.A., of Huntington Park, CA (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. MS2342842, alleging that Registrant's registration should be revoked because Registrant is "currently without authority to handle controlled substances in California, the state in which [he is] registered with DEA." *Id.* (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file with DEA a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* at 2 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 3.¹ "A default, unless excused, shall be deemed to constitute a waiver of the [registrant's] right to a hearing and an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Further, "[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(d)–

(f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are admitted. According to the OSC, effective May 31, 2023, Registrant surrendered his California physician assistant license. RFAAX 1, at 1. According to California online records, of which the Agency takes official notice, Registrant's California physician assistant license remains surrendered.² California DCA License Search, <https://search.dca.ca.gov> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice as a physician assistant in California, the state in which he is registered with DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 "upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, D.O.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, D.O.*, 43 FR 27616, 27617 (1978).³

² Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

³ This rule derives from the text of two provisions of the Controlled Substances Act (CSA). First, Congress defined the term "practitioner" to mean "a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a

¹ Based on the Government's submissions in its RFAA dated March 12, 2024, the Agency finds that service of the OSC on Registrant was adequate. The included declaration from a DEA Diversion Investigator indicates that on February 2, 2024, the OSC was unsuccessfully mailed to both Registrant's registered address and mail-to address. RFAAX 2, at 1–2. On February 9, 2024, the DEA Diversion Investigator received an email from the "Mail Delivery Subsystem" account, confirming successful delivery of the OSC to Registrant. *Id.* at 2; *see also id.*, Attachment 3–4. On February 12, 2024, the OSC was unsuccessfully mailed to a third address verified by the US Postal Inspection Service to be associated with Registrant. RFAAX 2, at 2–3. The Agency finds that Registrant was successfully served the OSC by email and that the Diversion Investigator's efforts to serve Registrant by other means were "reasonably calculated, under all the circumstances, to apprise [Registrant] of the pendency of the action." *Jones v. Flowers*, 547 U.S. 220, 226 (2006) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). Therefore, due process notice requirements have been satisfied.

According to California statute, “dispense” means “to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, furnishing, packaging, labeling, or compounding necessary to prepare the substance for that delivery.” Cal. Health & Safety Code section 11010 (West 2024). Further, a “practitioner” means a person “licensed, registered, or otherwise permitted, to distribute, dispense, conduct research with respect to, or administer, a controlled substance in the course of professional practice or research in [the] state.” *Id.* section 11026(c).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice as a physician assistant in California. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in California. Thus, because Registrant currently lacks authority to practice as a physician assistant in California and, therefore, is not currently authorized to handle controlled substances in California, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant’s DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. MS2342842 issued to Charles Sangmoah, P.A. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Charles Sangmoah, P.A., to renew or modify this registration, as well as any other pending application of Charles Sangmoah, P.A., for additional registration in California. This Order is effective October 28, 2024.

controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR 71371–72; *Sheran Arden Yeates, D.O.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, D.O.*, 58 FR 51104, 51105 (1993); *Bobby Watts, D.O.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR 27617.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 20, 2024, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2024–22202 Filed 9–26–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0240]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection: 2024 Law Enforcement Management and Administrative Statistics (LEMAS) Survey

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Bureau of Justice Statistics (BJS), Department of Justice (DOJ) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until October 28, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Sean E. Goodison (email: Sean.Goodison@usdoj.gov; telephone: 202–307–0765), Bureau of Justice Statistics, 999 North Capitol Street NE, Washington, DC 20531.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal**

Register, 89 FR 58765–6, on July 19, 2024. No comments were received.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the information collection or the OMB Control Number [1121–0240]. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Abstract: The LEMAS core survey, conducted every 3 to 4 years since 1987, is currently based on a nationally representative sample of approximately 3,500 general-purpose law enforcement agencies (LEAs). The 2024 LEMAS has been revised to remove questions to help reduce burden and increase clarity. The LEMAS survey has been used to

produce national estimates for a wide range of topics, including LEA responsibilities, operating expenditures, job functions of sworn and civilian employees, officer salaries and special pay, demographic characteristics of officers, weapons policies, education and training requirements, special units, and community policing activities. BJS plans to publish this information in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justice statistics.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement, with change, of a previously approved collection.

2. *Title of the Form/Collection:* 2024 Law Enforcement Management and Administrative Statistics (LEMAS) survey.

3. *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number for the questionnaire is CJ-44. The applicable component within the Department of Justice is the Bureau of Justice Statistics (BJS), in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* State and local government. Respondents will be general purpose state, county, and local law enforcement agencies (LEAs), including local and county police departments, sheriff's offices, and primary state law enforcement agencies. The 2024 LEMAS is revised from the 2020 LEMAS. The obligation to respond is voluntary.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An agency-level survey will be sent to approximately 3,500 LEAs. We estimate responses from 81% (2,835) of LEAs sampled for the 2024 LEMAS. The expected burden placed on these respondents is 110 minutes spent on completing the survey. Additionally, an estimated 50% of respondents (1,417) will be contacted for data quality follow-up at 10 minutes per respondent.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 5,435 total burden hours associated with this information collection.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* \$360,500.

TOTAL ESTIMATED BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Participation time (minutes)	Total annual burden (hours)
Data collection	2,835	1	2,835	110	5,198
Data quality follow-up	1,417	1	1,417	10	237
Total	2,835	.....	2,835	.....	5,435

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: September 23, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024-22119 Filed 9-26-24; 8:45 am]

BILLING CODE 4410-18-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 24-068]

NASA Heliophysics Advisory Committee

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration (NASA) announces a

meeting of the Heliophysics Advisory Committee.

DATES: Tuesday, October 22, 2024, 10 a.m.–5 p.m., Wednesday, October 23, 2024, 9:30 a.m.–5 p.m., and Thursday, October 24, 2024, 9:30 a.m.–12 p.m. All times are eastern time.

ADDRESS: Public attendance will be virtual only. See dial-in and Webinar information below under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Dr. Janet Kozyra, Designated Federal Officer, Heliophysics Advisory Committee, NASA Headquarters, Washington, DC 20546, via email at janet.kozyra@nasa.gov or 202-875-3278.

SUPPLEMENTARY INFORMATION: As noted above, this meeting will be open to the public via Webinar and telephonically. Webinar connectivity information is provided below. For audio, when you join the Webinar event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed.

On Tuesday October 22, 2024, the event address for attendees is: <https://nasaevents.webex.com/nasaevents/>

[j.php?MTID=mb4ce4524647d08965b8cc38eca1fce45](https://nasaevents.webex.com/nasaevents/j.php?MTID=mb4ce4524647d08965b8cc38eca1fce45).

The webinar number is 2831 489 9839 and the webinar password is KwprFaXc934. If needed, the U.S. toll conference number is 1-415-527-5035 or 1-312-500-3163 and access code is 283 148 99839 and password is 59773292.

On Wednesday October 23, 2024, the event address for attendees is: <https://nasaevents.webex.com/nasaevents/j.php?MTID=mc9115ec5198e03fc6757901104f5cfb7>.

The webinar number is 2818 795 0282 and the webinar password is (iAkGQAvp762). If needed, the U.S. toll conference number is 1-415-527-5035 or 1-312-500-3163 and access code is 281 879 50282 and password is 42547287.

On Thursday October 24, 2024, the event address for attendees is: <https://nasaevents.webex.com/nasaevents/j.php?MTID=mb8424f487346a8ad5f3eb0b5a9958abe>.

The webinar number is (2819 521 4155) and the webinar password is (JGrAjPiW892). If needed, the U.S. toll conference number is (1-415-527-5035) or (1-312-500-3163) and access code is (281 952 14155) and password is (54725749).

The agenda for the meeting includes the following topics:

- Heliophysics Program Annual Performance Review According to the Government Performance and Results Act Modernization Act
- Heliophysics Division Update

It is imperative that these meeting be held on these days to accommodate the scheduling priorities of the key participants.

For more information, please visit the committee website link at <https://science.nasa.gov/researchers/nac/science-advisory-committees/hpac#meetingdocs>.

Jamie M. Krauk,

*Advisory Committee Management Officer,
National Aeronautics and Space
Administration.*

[FR Doc. 2024–22176 Filed 9–26–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 24–066]

Name of Information Collection: NASA Special Events

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, under the Paperwork Reduction Act, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by October 28, 2024.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain.

Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email hq-ocio-pra-program@mail.nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) is committed to effectively performing the Agency’s communication function in accordance with the Space Act Section 203(a)(3) to “provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof,” and to enhance public understanding of, and participation in, the nation’s space program in accordance with the NASA Strategic Plan. The Space Act of 1958, directs the Agency to expand human knowledge of Earth and space phenomena. Organizing outreach events is one way NASA intends to leverage excitement about the nation’s space program and expand human knowledge of Earth and space phenomena. In order to organize effective outreach events and registration opportunities for members of the public, it is necessary to collect information from perspective guests and those that will check-in the guests at events. The NASA Special Events System is a tool to allow invitees to register for and check-in to NASA event opportunities (launch viewing, agency engagements, etc.) in a single location.

II. Methods of Collection

The NASA Special Events tool is a web-based application on a Salesforce platform that enables the NASA OCOMM team to manage guest information, communication, and reporting agency-wide. The intent of using electronic collection techniques is to increase the accuracy of information gathered and to streamline the process for guests and workforce alike.

III. Data

Title: NASA Special Events.
OMB Number: 2700–new.
Type of review: New Information Collection.
Affected Public: 35,300.
Estimated Annual Number of Activities: 15.
Estimated Number of Respondents per Activity: 650.
Annual Responses: 10,000.
Estimated Time per Response: 11 minutes.
Estimated Total Annual Burden Hours: 4,046 hours.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA’s estimate of the burden

(including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–22148 Filed 9–26–24; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0145]

Interim Staff Guidance: Radiological Survey and Dose Modeling of the Subsurface To Support License Termination

AGENCY: Nuclear Regulatory Commission.

ACTION: Final guidance; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing the Division of Decommissioning, Uranium Recovery, and Waste Programs (DUWP), Interim Staff Guidance (ISG), DUWP–ISG–02, “Radiological Survey and Dose Modeling of the Subsurface to Support License Termination.” The purpose of this ISG is to provide guidance on surveys of open surfaces in the subsurface, including open excavations, materials planned for reuse, and substructures. This ISG also provides guidance on the use of commonly used decommissioning dose modeling codes for submerged and partially submerged substructures to develop clean-up levels, and on methods to evaluate risk from existing groundwater contamination. This ISG supplements guidance found in NUREG–1757, Volume 2, Revision 2, which pertains to licensees subject to the license termination rule found in NRC regulations. This ISG is intended for use by applicants, licensees, and NRC staff. The guidance is also available to Agreement States and the public.

DATES: This guidance is effective on October 28, 2024.

ADDRESSES: Please refer to Docket ID NRC–2023–0145 when contacting the

NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2023–0145. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The ISG "Radiological Survey and Dose Modeling of the Subsurface to Support License Termination," is available in ADAMS under Accession No. ML24197A219.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Cynthia Barr, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–4015; email: Cynthia.Barr@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC is issuing this ISG to supplement guidance provided in NUREG–1757, Volume 2, Revision 2, "Consolidated Decommissioning Guidance, Characterization, Survey, and Determination of Radiological Criteria," which was issued in July 2022 (ADAMS Accession No. ML22194A859). The ISG provides additional guidance developed after Revision 2 to NUREG–1757, Volume 2, was published related to surveys of open surfaces in the

subsurface, including open excavations, materials planned for reuse, and substructures. The ISG also provides guidance on the use of commonly used decommissioning dose modeling codes to develop clean-up levels for submerged and partially submerged substructures, and on methods to evaluate risk from existing groundwater contamination. NRC staff held two subsurface investigations workshops on July 14–15, 2021, and May 11, 2022, to help support the development of this ISG, and contracted with Oak Ridge Associated Universities to develop guidance on acceptable survey methods.

On October 19, 2023, the NRC issued a **Federal Register** notice (88 FR 72112) soliciting public comment on its draft ISG, "Radiological Survey and Dose Modeling of the Subsurface to Support License Termination." The NRC received comments from the Nuclear Energy Institute, by letter dated December 13, 2023 (ADAMS Accession No. ML24009A037); *EnergySolutions*, by letter dated December 18, 2023 (ADAMS Accession No. ML23353A243); and the State of New Jersey Department of Environmental Protection, by email dated December 21, 2023 (ADAMS Accession No. ML24009A080). No other comments were submitted. The NRC staff considered those comments in developing the final version of the ISG. The staff's responses to the comments are provided in Appendix D, "Comment Responses," of the final ISG. The NRC also issued a draft Regulatory Analysis for the draft ISG for public comment (ADAMS Accession No. ML23177A009). No comments were received on the draft Regulatory Analysis. The final Regulatory Analysis is available in ADAMS under ML24200A233.

II. Backfitting, Forward Fitting, and Issue Finality

Issuance of this ISG will not (i) constitute backfitting as defined in sections 50.109, 70.76, or 72.62 of title 10 of the *Code of Federal Regulations* (10 CFR), "Backfitting," and as described in Management Directive (MD) 8.4, "Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests"; (ii) affect issue finality of any approval issued under 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants"; or (iii) constitute forward fitting as that term is defined and described in MD 8.4. This ISG states the NRC staff's position on acceptable methods for surveys of open surfaces in the subsurface, including open excavations, materials planned for reuse, and substructures, as well as guidance on the use of commonly used

decommissioning dose modeling codes for submerged and partially submerged substructures to develop clean-up levels, and on methods to evaluate risk from existing groundwater contamination. Applicants and licensees will not be required to comply with the positions set forth in this ISG.

III. Congressional Review Act

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

Dated: September 23, 2024.

For the Nuclear Regulatory Commission.

Jennifer Whitman,

Acting Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2024–22117 Filed 9–26–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of September 30, October 7, 14, 21, 28, and November 4, 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at Anne.Silk@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at Betty.Thweatt@nrc.gov or Samantha.Miklaszewski@nrc.gov.

MATTERS TO BE CONSIDERED:

Week of September 30, 2024

There are no meetings scheduled for the week of September 30, 2024.

Week of October 7, 2024—Tentative

Tuesday, October 8, 2024

10:00 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting) (Contact: Jeffrey Lynch: 301-415-5041)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Week of October 14, 2024—Tentative

There are no meetings scheduled for the week of October 14, 2024.

Week of October 21, 2024—Tentative

There are no meetings scheduled for the week of October 21, 2024.

Week of October 28, 2024—Tentative

Wednesday, October 30, 2024

1 p.m. Today and Tomorrow Across Region II Business Lines (Public Meeting) (Contact: Katie McCurry: 404-997-4438)

Additional Information: The meeting will be held in the 8th Floor Conference Center, Marquis One Tower, 245 Peachtree Center Avenue NE, Suite 1200, Atlanta, Georgia. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Week of November 4, 2024—Tentative

There are no meetings scheduled for the week of November 4, 2024.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at Wesley.Held@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: September 25, 2024.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.
[FR Doc. 2024-22409 Filed 9-25-24; 4:15 pm]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024-718 and K2024-11; MC2024-719 and K2024-12; MC2024-720 and K2024-13; MC2024-721 and K2024-14; MC2024-722 and K2024-15; MC2024-723 and K2024-16; MC2024-724 and K2024-17; MC2024-725 and K2024-18; MC2024-726 and K2024-19]

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:* September 30, 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

Pursuant to 39 CFR 3041.405, 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):* MC2024-718 and K2024-11; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 366 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 20, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 30, 2024.

2. MC2024-719 and K2024-12; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 367 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 20, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 30, 2024.

3. *Docket No(s):* MC2024-720 and K2024-13; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 368 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 20, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Jennaca D. Upperman; *Comments Due:* September 30, 2024.

4. *Docket No(s):* MC2024-721 and K2024-14; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground

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).

Advantage Contract 358 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 20, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Katalin K. Clendenin; *Comments Due*: September 30, 2024.

5. *Docket No(s)*: MC2024–722 and K2024–15; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 369 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 20, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Kenneth R. Moeller; *Comments Due*: September 30, 2024.

6. *Docket No(s)*: MC2024–723 and K2024–16; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 359 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 20, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Katalin K. Clendenin; *Comments Due*: September 30, 2024.

7. *Docket No(s)*: MC2024–724 and K2024–17; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 370 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 20, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Gregory S. Stanton; *Comments Due*: September 30, 2024.

8. *Docket No(s)*: MC2024–725 and K2024–18; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 371 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 20, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Jennaca D. Upperman; *Comments Due*: September 30, 2024.

9. *Docket No(s)*: MC2024–726 and K2024–19; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 372 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 20, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Kenneth R. Moeller; *Comments Due*: September 30, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2024–22116 Filed 9–26–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101132; File No. SR–DTC–2024–010]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Decommission the ID Net Service

September 23, 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 September 12, 2024, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is to (1) amend the DTC Settlement Service Guide (“Settlement Guide”)³ to retire the ID Net Service (“ID Net”), a joint service offering of DTC and National Securities Clearing Corporation (“NSCC”), a DTC affiliate,⁴ and, consequently, (2) remove from the Guide to the DTC Fee Schedule (“Fee Guide”)⁵ the related fee (“ID Net Fee”) associated with ID Net, as described in greater detail below.⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ Available at www.dtcc.com/-/media/Files/Downloads/legal/service-guides/Settlement.pdf. The Settlement Guide is a Procedure of DTC. Pursuant to the DTC Rules, the term “Procedures” means the Procedures, service guides, and regulations of DTC adopted pursuant to DTC Rule 27, as amended from time to time. See DTC Rule 1, Section 1, *infra* note 6. They are binding on DTC and each Participant in the same manner that they are bound by the DTC Rules.

⁴ NSCC also filed a proposed rule change with the Commission in connection with the retirement of ID Net. See NSCC filing SR–NSCC–2024–008.

⁵ Available at www.dtcc.com/-/media/Files/Downloads/legal/fee-guides/DTC-Fee-Schedule.pdf.

⁶ Each capitalized term not otherwise defined herein has its respective meaning as set forth the Rules, By-Laws and Organization Certificate of DTC (the “Rules”), available at www.dtcc.com/legal/rules-and-procedures.

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to (1) amend the Settlement Guide to retire the ID Net, a joint service offering of DTC and NSCC and, consequently, (2) remove from the Fee Guide the ID Net Fee associated with ID Net.

Background

DTC may accept affirmed institutional transactions (“Affirmed Transactions”)⁷ from a matching utility (“Matching Utility”).⁸ An Affirmed Transaction submitted to DTC is processed on a trade-for-trade basis at DTC, unless it is designated for ID Net processing by the Matching Utility and meets certain eligibility requirements, as described below.

In order for an Affirmed Transaction to be eligible for processing in ID Net, (i) both counterparties to the Affirmed Transaction must be a Member of NSCC and a Participant of DTC, or a bank that is a Participant of DTC, that has subscribed to ID Net; and (ii) the transaction must be (a) in a security eligible for processing through NSCC’s Continuous Net Settlement (“CNS”)

⁷ An institutional transaction is one between a broker/dealer and its institutional customer. Such institutional customers are not Participants. Therefore, the counterparties on an Affirmed Transaction submitted by a Matching Utility to DTC are (i) DTC Participant, acting as clearing broker to the Affirmed Transaction and (ii) DTC Participant bank, acting as the custodian for an institutional customer.

⁸ The Matching Utility must be (i) a clearing agency registered with the Commission (ii) an entity that has obtained an exemption from such registration from the Commission, or (iii) a “qualified vendor” for trade confirmation/affirmation services as defined by the rules of a self-regulatory organization. See Settlement Guide, *supra* note 3 at 38. DTCC ITP Matching (US) LLC (“ITP”), a DTC affiliate, is currently the only Matching Utility that submits Affirmed Transactions to DTC.

system⁹ and (b) affirmed within established timeframes set forth in the Settlement Guide.¹⁰

If an Affirmed Transaction is designated for ID Net by the Matching Utility and meets the eligibility criteria described above, then DTC will direct the transaction to ID Net, which facilitates the netting of a broker/dealer's side of an Affirmed Transaction with that broker/dealer's CNS activity via omnibus accounts that are maintained by NSCC at DTC and designated for ID Net activity. If a bank is a counterparty to the ID Net-eligible Affirmed Transaction, then it will either receive or deliver the subject shares versus payment, on a trade-for-trade basis, via the ID Net omnibus accounts.

While ID Net was designed to allow broker/dealers to realize the benefit of netting for Affirmed Transactions by allowing the broker/dealer to net its ID Net-eligible Affirmed Transactions with its transactions in CNS, banks using ID Net settle ID Net transactions on a trade-for-trade basis as they would for other Affirmed Transactions, as described above. In this regard, ID Net's main benefit is to streamline clearance and settlement of ID Net-eligible Affirmed Transactions for broker/dealers.

Proposed Changes

NSCC and DTC continually evaluate the efficiency and effectiveness of the services they each provide. As part of these evaluations, and in furtherance of their ongoing modernization efforts, both DTC and NSCC are seeking to streamline and simplify their services and processes, including through the elimination of underutilized services. DTC and NSCC have identified ID Net as an underused service that may be eliminated as part of their modernization efforts. They each propose to retire ID Net due to (i)

limited uptake and usage of the service since its adoption¹¹ and (ii) complexity of the processing logic required to maintain the service,¹² especially given its limited usage.

DTC believes that the retirement of ID Net would have minimal impact on its Participants because (1) only 13 broker/dealers and 20 banks subscribe to ID Net, with not all of them even using the service, and (2) Affirmed Transactions can simply settle trade-for-trade, directly between the counterparties, if not eligible for ID Net, like they do today.

To implement the proposed change, DTC would remove all provisions relating to ID Net from the Settlement Guide, including (i) the entire text of the section titled "ID Net," which contains the DTC Procedures for processing of ID Net transactions,¹³ and (ii) a reference to ID Net relating to messaging in the section titled "Affirmed Transactions."¹⁴

DTC has performed direct outreach to Participants that use ID Net and has also announced its plans to decommission ID Net through Important Notice. There have been no material objections or concerns raised by Participants.

In addition, DTC would delete the associated ID Net Fee of 2 cents per transaction from the Fee Guide¹⁵ because the fee would be obsolete. Instead, such transactions would, by default, be charged the standard fee charged for Affirmed Transactions of 4 cents per transaction.¹⁶

Implementation Timeframe

Subject to approval by the Commission, DTC and NSCC would implement the proposed rule change using a phased approach. First, DTC Participants and NSCC Members have been informed that they may be unsubscribed from ID Net voluntarily at any time prior to termination of the service on November 15, 2024. Second, upon approval of the proposed rule change by the Commission prior to

November 15, 2024, any DTC Participants and NSCC Members that have been inactive in the service for at least the last twelve (12) months will be offboarded from the service. Finally, NSCC and DTC will continue to fully support ID Net processing for any remaining active users until November 15, 2024, at which time the service will be fully retired. NSCC and DTC will work with their respective Members and Participants to support all required offboarding activities.

2. Statutory Basis

DTC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Section 17A(b)(3)(F) of the Act¹⁷ requires that the rules of a clearing agency be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions. DTC believes the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act for the reasons stated below.

The proposed rule change would amend the Settlement Guide to decommission ID Net, and remove the ID Net Fee from the Fee Guide, because the service is hardly used yet challenging to maintain. As discussed above, DTC believes that the retirement of ID Net would have minimal impact on its Participants given the limited usage of the service. Furthermore, Affirmed Transactions that would have otherwise been directed to ID Net can simply settle trade-for-trade, directly between the counterparties, like most other Affirmed Transactions do today. As a result, these Affirmed Transactions would continue to settle promptly and accurately, as other Affirmed Transactions do, outside of ID Net. For these reasons, DTC believes its Rules would continue to promote the prompt and accurate clearance and settlement of securities transactions in accordance with Section 17A(b)(3)(F) of the Act.¹⁸

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act¹⁹ requires that the rules of the clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the Act.

DTC does not believe the proposed rule change to decommission ID Net would present a burden on competition. While the few broker/dealer Participants

⁹ CNS is NSCC's system for accounting and settling CNS-eligible securities. See NSCC Rule 11 (describing the CNS System) and Procedure VII (describing the CNS Accounting Operation), available at www.dtcc.com/-/media/Files/Downloads/legal/rules/nscc_rules.pdf. To be CNS-eligible, a security must be eligible for book-entry transfer on the books of DTC and must be capable of being processed in the CNS system. All eligible compared and recorded transactions for a particular settlement date are netted by issue into one net long (buy), net short (sell) or flat position for each NSCC Member. As a continuous net system, those positions are further netted with positions of the same issue that remain open after their originally scheduled settlement date. NSCC becomes the contra-party for settlement purposes, assuming the obligation of its Members that are receiving securities to receive and pay for those securities, and the obligation of Members that are delivering securities to make the delivery. CNS netting thus reduces the costs associated with securities transfers by reducing the number of securities movements required to settle transactions.

¹⁰ See Settlement Guide, *supra* note 3 at 40–41.

¹¹ ID Net-related transactions currently comprise less than 1 percent of all activity processed by CNS. DTC believes that ID Net usage has been limited since its implementation in 2008 because, in part, the service needs both parties to an ID Net transaction to be subscribers of ID Net, as described above, which is not always the case.

¹² This complexity includes (i) special eligibility checks versus the ID Net eligibility criteria described above, and (ii) leveraging of the above-mentioned omnibus accounts to simultaneously allow (a) a bank to process ID Net-eligible transactions on a trade-for-trade basis and (b) the broker/dealer side of an ID Net-eligible transaction to settle via CNS.

¹³ See Settlement Guide, *supra* note 3 at 40–46.

¹⁴ *Id.* at 38.

¹⁵ See Fee Guide, *supra* note 5 at 18.

¹⁶ *Id.*

¹⁷ 15 U.S.C. 78q–1(b)(3)(F).

¹⁸ *Id.*

¹⁹ 15 U.S.C. 78q–1(b)(3)(I).

using the service may see a reduced netting benefit, since Affirmed Transactions will no longer be processed through NSCC's CNS, DTC does not believe such reduction would rise to the level of a burden given the limited usage of the service. Meanwhile, banks using ID Net would continue to process affected Affirmed Transactions trade-for-trade, albeit directly with their counterparties rather than the ID Net omnibus accounts, described above.

Furthermore, DTC does not believe the removal of the ID Net Fee, which would become obsolete with the decommissioning of ID Net, would impose a burden on competition. Upon the decommissioning of ID Net, Affirmed Transactions that were previously processed via ID Net will now be subject to the existing standard charge for Affirmed Transactions of 4 cents²⁰ per transaction instead of the ID Net Fee of 2 cents.²¹ Notwithstanding the increased fee, DTC does believe the application of the standard fee applied to Affirmed Transactions will be significant or burdensome for Participants because of the limited amount of activity that was processed through ID Net.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received by DTC, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at www.sec.gov/regulatory-actions/how-to-submit-comments. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

DTC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-DTC-2024-010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.
- All submissions should refer to file number SR-DTC-2024-010. 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 DTC and on DTCC's website (www.dtcc.com/legal/sec-rule-filings). 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-DTC-2024-010 and should be submitted on or before October 18, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-22128 Filed 9-26-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101135; File No. SR-PEARL-2024-43]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Equities Fee Schedule

September 23, 2024.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 10, 2024, MIAX PEARL, LLC ("MIAX Pearl" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a 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 is filing a proposal to amend the MIAX Pearl Equities Exchange Fee Schedule (the "Fee Schedule") to amend Section 2(e), Member and Non-Member Technical Support Request Fee.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/>

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁰ See Fee Guide, *supra* note 5 at 18.

²¹ *Id.*

us-equities/pearl-equities/rule-filings, at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange³ proposes to amend Section 2(e), Member and Non-Member Technical Support Request Fee, to now include in the fee to be assessed to Equity Members⁴ and non-Members the cost of materials necessary for the Exchange's data center personnel to complete such technical support.

Background

The Exchange established the technical support request fee at the current hourly rate of \$200 per hour in 2020.⁵ The Exchange has an infrastructure comprised of low latency and ultra-low latency proximity solutions in several offsite data center locales offering universal access to all Exchange services via a single common connection across a variety of high speed network interfaces. The Exchange offers connectivity in and between its data center facilities and supports direct attachment of all network equipment or direct attached host systems of both Equity Member and non-Member users of the Exchange.

Technical support refers to the use of Exchange engineers to perform on-site technical support tasks in the data centers for Equity Members and non-Members, including the following support-related tasks: (1) power cycling

of equipment; (2) patching and plugging in cabling and circuits; (3) observing, describing or reporting on display indicators; (4) configuration of hardware components instructed by the customer; (5) diagnosis and repairs as instructed by the customer; (6) swapping hardware components with Exchange-supplied or customer-supplied spares or upgrades; (7) troubleshooting heat related issues as instructed by customers; and (8) returning defective equipment to the manufacturer or customer.

Proposal

The Exchange proposes to amend Section 2(e), Member and Non-Member Technical Support Request Fee, to now include in the fee to be assessed to Equity Members and non-Members that request technical support the cost of materials necessary for the Exchange to complete such technical support in any of the Exchange's data centers. Some examples of materials for such technical support may include, but are not limited to, fiber optic cables, fiber spool, optical connectors (a device used to connect fiber optic cables), and patch cables.

The Exchange does not propose to assess any amount in excess of the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support. The Exchange simply proposes to pass through the costs of the materials, if necessary, to complete such technical support. At least one competing exchange group similarly passes through the cost of materials to their customers when performing similar types of services in their data centers.⁶

2. Statutory Basis

The Exchange believes that the proposed fees are consistent with Section 6(b) of the Act⁷ in general, and furthers the objectives of Section 6(b)(4) of the Act⁸ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Equity Members and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the

proposed fees further the objectives of Section 6(b)(5) of the Act⁹ in that they are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest and are not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes it is reasonable to include in the cost of the technical support request fee the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support because the Exchange will only pass through the actual costs it is charged by external vendors of such materials. The Exchange will not pass through any amount in excess of the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support.

The Exchange believes the proposal is equitable and not unfairly discriminatory because the Exchange will pass through the costs of materials for requested technical support in an equal manner to all Equity Members and non-Members that request technical support in the data centers that requires the Exchange to purchase materials to complete such request. The cost for materials provided by the Exchange's external vendors supplying the materials will be passed through directly to the Equity Member or non-Member requesting technical support.

Furthermore, Equity Members and non-Members are not required to use the technical support service. The Exchange offers this service as a convenience to all Equity Members and non-Members. The Exchange believes the proposal is reasonable because it will permit both Equity Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity to the Exchange via its data centers, while paying for the cost of any materials the Exchange is required to purchase to complete such requests.

Additionally, at least one competing options exchange group passes through the cost of materials to their customers when performing similar types of services in their data centers.¹⁰

Accordingly, the Exchange believes the proposal is reasonable, equitable and not unfairly discriminatory.

³ References to "MIAX Pearl" in this filing are to the equities trading facility of MIAX PEARL, LLC. See Exchange Rule 1901.

⁴ The term "Equity Member" is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

⁵ See Securities Exchange Act Release No. 90651 (December 11, 2020), 85 FR 81971 (December 17, 2020) (SR-PEARL-2020-33). See also Fee Schedule, Section 2(e).

⁶ See Nasdaq PHLX LLC Rules, General 8 Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary); The Nasdaq Stock Market LLC Rules, General 8: Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary); Nasdaq ISE, LLC Rules, General 8: Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ See *supra* note 6.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange believes the proposal to pass through the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange will only pass-through the actual costs it is charged by third-party external vendors for such materials. At least one competing options exchange group similarly passes along charges assessed to those exchanges by third-party external vendors supplying materials on behalf of that exchange group's customers.¹¹

Additionally, the pass through of costs for materials will be assessed equally to all Equity Members and non-Members who request technical support that requires the Exchange to purchase materials to complete the requested support. The Exchange notes that Equity Members and non-Members are not required to use the service. The Exchange offers this service as a convenience to all Equity Members and non-Members. The Exchange believes the proposal will not impose any burden on intra-market competition because it will permit both Equity Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity to the Exchange via its data centers.

Inter-Market Competition

The Exchange believes that the proposed changes will not result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, market participants are not forced to connect to and trade on all exchanges. The Exchange believes that the proposed pass-through of costs for materials for technical support will not cause any burden on inter-market competition because none of these changes impact other exchanges' ability to compete.

Accordingly, the Exchange does not believe its proposed fee changes impose 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,¹² and Rule 19b-4(f)(2) thereunder¹³ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-PEARL-2024-43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-PEARL-2024-43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PEARL-2024-43 and should be submitted on or before October 18, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-22129 Filed 9-26-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101131; File No. SR-NSCC-2024-008]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Decommission the ID Net Service

September 23, 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 September 12, 2024, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the NSCC Rules & Procedures ("Rules") to decommission the ID Net service ("ID Net Service" or

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹¹ See *id.*

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

¹³ 17 CFR 240.19b-4.

“ID Net”), as described in greater detail below.³

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the NSCC Rules to permit NSCC to decommission the ID Net Service, a joint service of NSCC and its affiliate, The Depository Trust Company (“DTC”). The proposed rule change is discussed in detail below.

(i) Background

The ID Net Service is a joint service offering of NSCC and DTC that allows broker/dealer users to net their affirmed institutional equity trades with other trades that they may have in NSCC’s Continuous Net Settlement system (“CNS”).⁴ CNS is NSCC’s system for accounting and settling CNS-eligible securities.⁵ To be CNS-eligible, a security must be eligible for book-entry transfer on the books of DTC and must be capable of being processed in the CNS system. All eligible compared and recorded transactions for a particular settlement date are netted by issue into one net long (buy), net short (sell) or flat position for each Member. As a continuous net system, those positions are further netted with positions of the same issue that remain open after their originally scheduled settlement date. NSCC, as central counterparty, becomes the contra-party for settlement purposes, assuming the obligation of its Members that are receiving securities to receive and pay for those securities, and the

obligation of Members that are delivering securities to make the delivery. CNS netting thus reduces the costs associated with securities transfers by reducing the number of securities movements required to settle transactions. ID Net is a voluntary service available to broker/dealers that are participants of both NSCC and DTC and banks that are participants of DTC.

DTC may accept affirmed institutional transactions⁶ (“Affirmed Transactions”) from a matching utility (“Matching Utility”).⁷ An Affirmed Transaction submitted to DTC is processed on a trade-for-trade basis at DTC, unless it is designated for ID Net processing by the Matching Utility and meets certain eligibility requirements, as described below.

In order for an Affirmed Transaction to be eligible for processing in ID Net, (i) both counterparties to the Affirmed Transaction must be a Member of NSCC and a Participant of DTC, or a bank that is a Participant of DTC, that has subscribed to ID Net and (ii) the transaction must be (a) in a security eligible for processing through CNS and (b) affirmed within established timeframes set forth in the DTC Settlement Service Guide.⁸

If an Affirmed Transaction is designated for ID Net and meets the eligibility criteria described above, then DTC will direct the transaction to ID Net, which facilitates the netting of a broker/dealer’s side of an Affirmed Transaction with that broker/dealer’s CNS activity, via omnibus accounts, that are maintained by NSCC at DTC and designated for ID Net activity. If a bank is a counterparty to the ID Net-eligible Affirmed Transaction, then it will either receive or deliver the subject shares versus payment, on a trade-for-trade basis, via the ID Net omnibus accounts.

⁶ An institutional transaction is one between a broker/dealer and its institutional customer. Such institutional customers are not Participants of DTC. Therefore, the counterparties on an Affirmed Transaction submitted by a Matching Utility to DTC are a (i) DTC Participant, acting as clearing broker to the Affirmed Transaction and (ii) DTC Participant bank, acting as the custodian for an institutional customer.

⁷ The Matching Utility must be (i) a clearing agency registered with the Commission (ii) an entity that has obtained an exemption from such registration from the Commission, or (iii) a “qualified vendor” for trade confirmation/affirmation services as defined by the rules of a self-regulatory organization. See DTC Settlement Service Guide at 38, available at www.dtcc.com/-/media/Files/Downloads/legal/service-guides/Settlement.pdf. DTCC ITP Matching (US) LLC (“ITP”), an NSCC and DTC affiliate, is currently the only Matching Utility that submits Affirmed Transactions to DTC.

⁸ See DTC Settlement Service Guide, *supra* note 7 at 40–41.

While ID Net was designed to allow broker/dealers to realize the benefit of netting for Affirmed Transactions by allowing the broker/dealer to net its ID Net-eligible Affirmed Transactions with its transactions in CNS, banks using ID Net settle ID Net transactions on a trade-for-trade basis as they would for other Affirmed Transactions, as described above. In this regard, ID Net’s main benefit is to streamline clearance and settlement of ID Net-eligible Affirmed Transactions for broker/dealers.

The ID Net Service is primarily described in NSCC Rule 65 and Procedure XVI of the Rules.

(ii) Proposed Changes to the Rules

NSCC and DTC continually evaluate the efficiency and effectiveness of the services they each provide. As part of these evaluations, and in furtherance of their ongoing modernization efforts, NSCC and DTC are seeking to streamline and simplify their services and processes, including through the elimination of underutilized services. NSCC and DTC have identified ID Net as an underused service that may be eliminated as part of these modernization efforts. They each propose to retire the ID Net Service due to a number of factors, which include: (i) limited uptake and usage of the service since its adoption; (ii) the operational complexity of maintaining the service, which also connects with and impacts other core clearance and settlement processes;⁹ and (iii) the prior elimination of the NSCC Clearing Fund offset for ID Net transactions.¹⁰

To implement the proposed change, NSCC would remove Rule 65 and Procedure XVI from the Rules and make other conforming changes throughout the Rules to reflect the retirement of the service. The ID Net Service is primarily described in NSCC Rule 65 and Procedure XVI, and these rules would no longer be necessary or relevant upon the retirement of the ID Net Service. As a result, Rule 65 and Procedure XVI would be deleted in their entirety and would be reserved for future use by NSCC.

⁹ This complexity includes (i) special eligibility checks versus the ID Net eligibility criteria described above and (ii) leveraging of the above-mentioned omnibus accounts to simultaneously allow (a) a bank to process ID Net-eligible transactions on a trade-for-trade basis and (b) the broker/dealer side of an ID Net-eligible transaction to settle CNS.

¹⁰ In 2021, NSCC adopted a proposed rule change to remove transactions processed through the ID Net Service from the calculation of Members’ Required Deposits to the Clearing Fund. See Securities Exchange Act Release No. 93070 (Sep. 20, 2021), 86 FR 53125 (Sep. 24, 2021) (SR–NSCC–2021–011).

³ Capitalized terms not defined herein shall have the meaning assigned to such terms in the Rules, available at www.dtcc.com/legal/rules-and-procedures.aspx.

⁴ DTC also filed a proposed rule change with the Commission in connection with the retirement of the ID Net Service. See DTC filing SR–DTC–2024–010.

⁵ See NSCC Rule 11 (describing the CNS System) and Procedure VII (describing the CNS Accounting Operation), *supra* note 3.

NSCC would also remove associated defined terms “Eligible ID Net Security” and “ID Net Subscriber” from Rule 1 and remove a reference to ID Net transactions from the definition of “Net Unsettled Position” in Rule 1. In addition, NSCC would remove Section 1(f) of Rule 3, concerning certain lists required to be maintained by NSCC, to reflect that NSCC would no longer be required to maintain a list of Eligible ID Net Securities and would make a conforming change to renumber existing Section 1(g) of Rule 3 to Section 1(f). NSCC would also remove Section 2(a)(vii) of Rule 18, which concerns procedures for when NSCC ceases to act for a Member, to reflect that uncompleted ID Net Service transactions would no longer be considered for purposes of determining excluded transactions in a cease to act scenario.

Additionally, NSCC would modify Procedure VII, concerning its CNS Accounting Operation, to remove various references to the ID Net Service and ID Net transactions. Specifically, NSCC would revise the Introduction in Section A to remove a reference to Eligible ID Net Securities being included in CNS Securities for purpose of Procedure VII. NSCC would also modify Section D.1., concerning the process for exemptions from deliveries, to remove a statement regarding the treatment of securities available in an agency account established at a Qualified Securities Depository for the processing of transactions through the ID Net Service. In addition, NSCC would modify Section E.4, concerning the allocation algorithm for CNS deliveries, to remove a statement regarding the treatment of long positions in a receiving ID Net Subscriber's agency account established at a Qualified Securities Depository. NSCC would also delete Section H.5. of Procedure VII concerning the reporting of ID Net transactions on NSCC's Miscellaneous Activity Report and make conforming changes to renumber subsequent rules in Section H.

Finally, NSCC would update Section I.(A)(1)(b) of Procedure XV, concerning NSCC's Clearing Fund calculations, to remove a reference to ID Net transactions from the Mark-to-Market component of the Clearing Fund formula.

NSCC believes that the retirement of the ID Net Service would have minimal impact on its Members. Only 13 broker/dealers and 20 banks are subscribed to the ID Net Service, and the service is not used by all of those broker/dealers and

banks.¹¹ Furthermore, Affirmed Transactions can simply settle trade-for-trade, directly between the counterparties, if not eligible for ID Net, like they do today. NSCC also notes that there would be minimal impact to risk management from both an NSCC and Member perspective given that the ID Net Service is a non-guaranteed service of NSCC¹² and there is no longer a Clearing Fund offset for ID Net transactions.¹³

NSCC has performed direct outreach to Members that use the ID Net Service and has also announced its plans to decommission the ID Net Service through Important Notice. There have been no material objections or concerns raised by Members.

Implementation Timeframe

Subject to approval by the Commission, DTC and NSCC would implement the proposed rule change using a phased approach. First, DTC Participants and NSCC Members have been informed that they may be unsubscribed from ID Net voluntarily at any time prior to termination of the service on November 15, 2024. Second, upon approval of the proposed rule change by the Commission prior to November 15, 2024, any DTC Participants and NSCC Members that have been inactive in the service for at least the last twelve (12) months will be offboarded from the service. Finally, NSCC and DTC will continue to fully support ID Net processing for any remaining active users until November 15, 2024, at which time the service will be fully retired. NSCC and DTC will work with their respective Members and Participants to support all required offboarding activities.

2. Statutory Basis

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Section 17A(b)(3)(F) of the Act¹⁴ requires that the rules of a clearing agency be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions. NSCC believes the proposed rule change is consistent with

the requirements of Section 17A(b)(3)(F) of the Act for the reasons stated below.

The proposed rule change would modify the NSCC Rules to decommission the ID Net Service because the service is hardly used yet challenging to maintain. As discussed above, NSCC believes that the retirement of the ID Net Service would have minimal impact on its Members, particularly given the limited usage of the service. Furthermore, Affirmed Transactions that would have otherwise been directed to ID Net can simply settle trade-for-trade, directly between the counterparties, like most other Affirmed Transactions do today. As a result, these transactions would continue to settle promptly and accurately, as other Affirmed Transactions do, outside of the ID Net Service. For these reasons, NSCC believes its Rules would continue to promote the prompt and accurate clearance and settlement of securities transactions in accordance with Section 17A(b)(3)(F) of the Act.¹⁵

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act¹⁶ requires that the rules of the clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the Act. NSCC does not believe the proposed rule change would present a burden on competition. While there may be some operational impact to the small segment of Members using the ID Net Service, NSCC believes the operational impact to these Members and their clients would be minimal. While broker/dealer Members using the service may see some reduced netting benefit from eligible Affirmed Transactions being processed through CNS, NSCC does not believe the elimination of this service would rise to the level of a burden on Members given the limited usage of the service. Meanwhile, banks using ID Net would continue to process affected Affirmed Transactions trade-for-trade, albeit directly with their counterparties rather than the ID Net omnibus accounts, described above. Furthermore, NSCC notes that there would be no risk management impact for the proposed rule change given that the ID Net Service is a non-guaranteed service of NSCC and there is no Clearing Fund offset for ID Net transactions.¹⁷ NSCC therefore believes the proposed rule change would not present any burden on competition.

¹¹ Active users of the ID Net service constitute less than 10% of NSCC's full-service Members. NSCC believes that ID Net usage has been limited since its implementation in 2008 because, in part, the service needs both parties to an ID Net transaction to be subscribers of ID Net, as described above, which is not always the case.

¹² See NSCC Rule 65, Section 5(c), *supra* note 3.

¹³ See *supra* note 10.

¹⁴ 15 U.S.C. 78q-1(b)(3)(F).

¹⁵ *Id.*

¹⁶ 15 U.S.C. 78q-1(b)(3)(I).

¹⁷ See *supra* notes 10 and 12.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at* www.sec.gov/regulatory-actions/how-to-submit-comments. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

NSCC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or

- Send an email to rule-comments@sec.gov. Please include file number SR-NSCC-2024-008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR-NSCC-2024-008. 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 NSCC and on DTCC's website (www.dtcc.com/legal/sec-rule-filings). 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-NSCC-2024-008 and should be submitted on or before October 18, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-22127 Filed 9-26-24; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20645 and #20646; LOUISIANA Disaster Number LA-20005]

Presidential Declaration Amendment of a Major Disaster for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA-4817-DR), dated September 16, 2024.

DATES: Issued on September 23, 2024.

Physical Loan Application Deadline Date: November 18, 2024.

Economic Injury (EIDL) Loan Application Deadline Date: June 16, 2025.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT:

Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Louisiana, dated September 16, 2024, is hereby amended to include the following areas as adversely affected by the disaster:

Incident: Hurricane Francine.

Incident Period: September 9, 2024 through September 12, 2024.

Primary Parishes (Physical Damage and Economic Injury Loans):

Jefferson.

Contiguous Parishes (Economic Injury Loans Only):

Louisiana: Orleans, Plaquemines, St. Tammany.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024-22212 Filed 9-26-24; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the Optional Peg Rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted

¹⁸ 17 CFR 200.30-3(a)(12).

average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 4.38 percent for the October–December quarter of FY 2025.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any Third Party Lender’s commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

David Parrish,
Chief, Secondary Market Division.
[FR Doc. 2024–22164 Filed 9–26–24; 8:45 am]
BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20666 and #20667;
LOUISIANA Disaster Number LA–20007]
**Presidential Declaration of a Major
Disaster for Public Assistance Only for
the State of Louisiana**

AGENCY: U.S. Small Business
Administration.
ACTION: Notice.

SUMMARY: This is a Notice of the
Presidential declaration of a major
disaster for Public Assistance Only for
the State of Louisiana (FEMA–4817–
DR), dated September 23, 2024.

DATES: Issued on September 23, 2024.
Physical Loan Application Deadline
Date: November 22, 2024.
Economic Injury (EIDL) Loan
Application Deadline Date: June 23,
2025.

ADDRESSES: Visit the MySBA Loan
Portal at <https://lending.sba.gov> to
apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT:
Alan Escobar, Office of Disaster
Recovery & Resilience, U.S. Small
Business Administration, 409 3rd Street
SW, Suite 6050, Washington, DC 20416,
(202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is
hereby given that as a result of the
President’s major disaster declaration on
September 23, 2024, Private Non-Profit
organizations that provide essential
services of a governmental nature may
file disaster loan applications online
using the MySBA Loan Portal <https://lending.sba.gov> or other locally
announced locations. Please contact the

SBA disaster assistance customer
service center by email at
disastercustomerservice@sba.gov or by
phone at 1–800–659–2955 for further
assistance.

The following areas have been
determined to be adversely affected by
the disaster:

Incident: Hurricane Francine.
Incident Period: September 9, 2024
through September 12, 2024.

Primary Parishes:
Ascension, Assumption, East Baton
Rouge, East Feliciana, Lafourche,
Livingston, Orleans, Plaquemines,
St. Charles, St. Helena, St. Martin,
St. Mary, St. Tammany, Terrebonne,
Washington, West Feliciana.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations with Credit Available Elsewhere ...	3.250
Non-Profit Organizations with- out Credit Available Else- where	3.250
<i>For Economic Injury:</i>	
Non-Profit Organizations with- out Credit Available Else- where	3.250

The number assigned to this disaster
for physical damage is 206668 and for
economic injury is 206670.

(Catalog of Federal Domestic Assistance
Number 59008)

Francisco Sánchez, Jr.,
*Associate Administrator, Office of Disaster
Recovery & Resilience.*
[FR Doc. 2024–22211 Filed 9–26–24; 8:45 am]
BILLING CODE 8026–09–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2024–0033]

**Agency Information Collection
Activities: Proposed Request**

The Social Security Administration
(SSA) publishes a list of information
collection packages requiring clearance
by the Office of Management and
Budget (OMB) in compliance with
Public Law 104–13, the Paperwork
Reduction Act of 1995, effective October
1, 1995. This notice includes a request
for a new information collection.

SSA is soliciting comments on the
accuracy of the agency’s burden
estimate; the need for the information;
its practical utility; ways to enhance its
quality, utility, and clarity; and ways to
minimize burden on respondents,
including the use of automated
collection techniques or other forms of

information technology. Mail, email, or
fax your comments and
recommendations on the information
collection(s) to the OMB Desk Officer
and SSA Reports Clearance Officer at
the following addresses or fax numbers.

(OMB) Office of Management and
Budget, Attn: Desk Officer for SSA
You may submit your comments online
through [https://www.reginfo.gov/public/
do/PRAMain](https://www.reginfo.gov/public/do/PRAMain), referencing Docket ID
Number [SSA–2024–0033].

(SSA) 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

Or you may submit your comments
online through [https://www.reginfo.gov/
public/do/PRAMain](https://www.reginfo.gov/public/do/PRAMain) by clicking on
Currently under Review—Open for
Public Comments and choosing to click
on one of SSA’s published items. Please
reference Docket ID Number [SSA–
2024–003] in your submitted response.

The information collections below are
pending at SSA. SSA will submit them
to OMB within 60 days from the date of
this notice. To be sure we consider your
comments, we must receive them no
later than November 26, 2024.
Individuals can obtain copies of the
collection instruments by writing to the
above email address.

1. *Developing Opportunities for ABLE
Owners (DO–ABLE)—0960–NEW.*

Background

SSA is requesting clearance to collect
data necessary to evaluate the
Developing Opportunities for ABLE
Owners (DO–ABLE) under the
Interventional Cooperative Agreement
Program (ICAP). On May 6, 2021, the
Social Security Administration (SSA)
announced a new funding opportunity,
the Interventional Cooperative
Agreement Program (ICAP), in the
Federal Register, 86 FR 24427. ICAP
allows SSA to partner with various non-
federal groups and organizations to
advance interventional research
connected to the Supplemental Security
Income (SSI) and Social Security
Disability Insurance (SSDI) programs.
On September 28, 2023, SSA awarded a
cooperative agreement to the University
of Chicago’s Inclusive Economy Lab
(IEL) through the Interventional
Cooperative Agreement Program (ICAP).
Through the cooperative agreement, IEL
will conduct the Developing
Opportunities for Achieving a Better
Life Experience Owners (DO–ABLE)
demonstration project.

DO-ABLE Project Description

DO-ABLE intends to promote take-up and use of ABLE accounts among Supplemental Security Income (SSI) recipients in Illinois and Wisconsin through a three-phased randomized controlled trial (RCT). ABLE accounts are tax-advantaged savings accounts, which offer people with disabilities the opportunity to accumulate assets and use funds for a broad range of expenses without threatening SSI benefits eligibility. Up to \$100,000 saved in an ABLE account is exempt from the SSI resource limit.¹ Regardless of the benefits ABLE accounts offer to SSI recipients, very few people have accounts. To be eligible for ABLE, one must have a disability that (1) meets SSA's definition of disability; and (2) started before age 26. Our study will therefore include current adult SSI recipients in Illinois and Wisconsin who are ages 18 to 59 who first received SSI before age 26, all of whom are eligible for ABLE accounts. We will exclude existing ABLE account owners from the study.

The DO-ABLE evaluation uses a three-phased randomized controlled trial (RCT) to promote take-up and use of ABLE accounts. We designed each of the three phases of the proposed RCT to address and engage with a key barrier identified through our previous research as preventing uptake of ABLE accounts: (1) limited knowledge of the program; (2) administrative burden associated with opening and using the accounts; (3) limited resources to save. To collect this information, we will first send letters to approximately 85,000 of the roughly 100,000 eligible SSI recipients in Illinois and Wisconsin. Eligible SSI recipients are those actively receiving SSI payments who are ages 18 to 59 who first received SSI before age 26. This outreach will be Phase 1 of the intervention. In addition to providing information encouraging people to sign

up for an ABLE account, these letters will invite people to participate in an intake survey. For people who agree to participate, we will collect three different types of data:

- *Intake Survey:* We will send a link to this online survey in the initial letter we send. This survey will contain four parts:
 - *Consent Form:* This form will ask respondents for their consent to participate in the study.
 - *Program-specific Modules:* These will gather information on participants' perceptions of ABLE accounts and will also cover metrics related to employment intentions and financial well-being.
 - *Short Informational Video:* This video will highlight the advantages of ABLE accounts for SSI recipients and will include closed captions for those who require them.
 - *Random Assignment for Second Phase:* After people complete the consent form, we will randomly assign them to either a seeding group (in which case they would be eligible for \$250 to be placed into a newly opened ABLE account) or the no seeding group. At the end of the survey, we will inform people to which group they are assigned.
- *Follow-up Survey:* The DO-ABLE evaluation team will administer a follow-up survey to everyone who provided informed consent (regardless of whether they completed the full intake survey, and regardless of their assignment status for phases two and three) two years after their enrollment date. The survey will collect information about similar topics as the intake survey to allow us to assess changes over time, as well as more comprehensive measures of work activity and general well-being. These data will help offer a comprehensive assessment of how the intervention and participation in ABLE affects

participants' self-sufficiency and well-being.

- *Qualitative Interviews:* To offer additional context on the overall process, we will conduct two waves of semi-structured qualitative interviews. Each round will include 40 unique individuals, including a mix of people with disabilities and their supporters, caregivers, and loved ones. We expect the interviews to last about 45 minutes, and will explore respondents' planned use of their ABLE accounts, including contributions and uses of funds. We will also explore key facilitators and barriers to opening and using ABLE accounts that are difficult to assess through surveys and administrative data. In addition, for individuals who did not sign up for an account, we will examine the barriers that prevented them from opening an account and what would need to change for them to sign up. We expect these interviews will assess participants' initial expectations of the value of ABLE accounts in promoting employment, independence, and well-being, and explore how these expectations compare to the participants' actual experience of using ABLE accounts.

SSA is partnering with the University of Chicago's IEL and the Illinois State Treasurer's Office (ILSTO) to implement and evaluate DO-ABLE. The evaluation will provide empirical evidence on (1) the barriers that currently prevent people from opening ABLE accounts; and (2) the impacts of opening and saving money in an ABLE account. We are primarily interested in impacts on financial security, self-sufficiency, and, ultimately, employment. The respondents are current SSI recipients (or their guardians) who are ages 18 to 59 who first received SSI before age 26, and who are thus eligible to open an ABLE account.

Type of Request: Request for a new information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time for teleservice centers (minutes)**	Total annual opportunity cost (dollars)***
Intake survey—Online	4,760	1	15	1,190	* \$31.48	.....	*** \$37,461
Intake survey—Telephone	2,040	1	15	510	* 31.48	** 19	*** 36,391
Follow-up survey—Online	2,856	1	15	714	* 31.48	.....	*** 22,477
Follow-up survey—Telephone	1,224	1	15	306	* 31.48	** 19	*** 21,847
Qualitative interviews	80	1	45	60	* 31.48	** 19	*** 2,676
Totals	10,960	.....	.....	2,780	.....	.....	*** 120,852

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (https://www.bls.gov/oes/current/oes_nat.htm).

** We based this figure by averaging the average FY 2024 wait times for teleservice centers, based on SSA's current management information data.

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

¹ SSI cash benefits are suspended if ABLE account balances exceed this \$100,000 threshold;

however, ABLE account balances do not affect Medicaid eligibility.

Dated: September 24, 2024.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2024-22178 Filed 9-26-24; 8:45 am]

BILLING CODE 4191-02-P

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21119]

Van Pool Transportation LLC— Acquisition of Control—Transaction Corporate Shuttles, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: Van Pool Transportation LLC (Van Pool or Applicant), a noncarrier, filed an application to acquire control of an interstate passenger motor carrier, TransAction Corporate Shuttles, Inc. (TCS), from its sole shareholder, the Cynthia Cain Frené Revocable Trust (Seller). The Board is tentatively approving and authorizing the transaction subject to the owners of Van Pool filing to join the application. If the owners' filing is satisfactory and no opposing comments are timely filed, this notice will be the final Board action.

DATES: Van Pool's owners' filing to join the application is due by October 11, 2024. Comments must be filed by November 8, 2024. If any comments are filed, Van Pool may file a reply by November 26, 2024. If no opposing comments are filed by November 8, 2024, this notice shall be effective on November 9, 2024.

ADDRESSES: Comments may be filed with the Board either via e-filing or in writing addressed to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, send one copy of comments to Van Pool's representative: Kiefer A. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W Market Street, Suite 1400, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Sarah Fancher at (202) 740-5507. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: According to the application,¹ Van Pool is a Delaware limited liability company

headquartered in Wilbraham, Mass. (Appl. 1.) Applicant states that it is not a federally regulated carrier but that it indirectly owns and controls all equity and voting interest in 10 interstate passenger motor carriers (Affiliate Regulated Carriers) that are among its operating subsidiaries. (*Id.* at 2; Suppl. 1.) The Affiliate Regulated Carriers are:²

- NRT Bus, Inc., which primarily provides non-regulated student transportation services for schools in Massachusetts (Essex, Middlesex, Norfolk, Suffolk, and Worcester counties), and occasional charter services;

- Trombly Motor Coach Service, Inc., which primarily provides non-regulated student transportation services for schools in Massachusetts (Essex and Middlesex counties), and occasional charter services;

- Salter Transportation, Inc., which primarily provides non-regulated student transportation services for schools in Massachusetts (Essex County) and southern New Hampshire, and occasional charter services;

- Easton Coach Company, LLC, which provides (i) intrastate paratransit, shuttle, and line-run services under contracts with regional transportation authorities and other organizations, primarily in New Jersey and eastern Pennsylvania, and (ii) private charter motor coach and shuttle services (interstate and intrastate), primarily in eastern Pennsylvania;

- F. M. Kuzmeskus, Inc., d/b/a Travel Kuz, which provides (i) non-regulated school bus transportation services, (ii) intrastate and interstate motor coach and limousine charter services, and (iii) limited intrastate and interstate charter services, all in western Massachusetts and southern Vermont;

- Alltown Bus Service Inc., which primarily provides non-regulated student transportation services for schools in the metropolitan area of Chicago, Ill., and its northern suburbs, and occasional charter services;

- DS Bus Lines, Inc., which primarily provides (i) non-regulated student transportation services for schools in Kansas (Beloit, Kansas City, Lincoln, Olathe, and Shawnee), Missouri (Belton and Smithville), Colorado (the metropolitan area of Denver), and Oklahoma (the metropolitan area of Tulsa), (ii) intrastate employee shuttle services in Colorado and Texas, and (iii) occasional charter services;

- Royal Coach Lines, Inc., which primarily provides (i) non-regulated student transportation services for schools in the metropolitan area of Westchester County, N.Y., and southern Connecticut, and (ii) contract and charter transportation services;

- PLSIII LLC, which primarily provides (1) disabled transportation services under contracts with private nonprofit organizations for fixed route and shuttle services in New York (Buffalo, western New York, Rochester, Utica and surrounding areas, and Poughkeepsie and surrounding areas), and (ii) very limited group day trip charter transportation services; and

- Local Motion, LLC, d/b/a Local Motion of Boston, which provides non-regulated school bus, charter, and shuttle services in the metropolitan area of Boston.

According to the application, Van Pool also has operating subsidiaries that provide transportation services that do not involve regulated interstate transportation or require interstate passenger authority, primarily in the northeastern and central portions of the United States. (Appl. 2.) Van Pool states that it is indirectly owned and controlled by investment funds affiliated with Audax Management Company, LLC, (Audax Management), a Delaware limited liability company.³ (*Id.* at 8.) Collectively, these parent companies of Applicant will be referred to as the Owners.

The application explains that TCS, the carrier being acquired, operates as a motor carrier primarily providing fixed-route commuter and municipal shuttle bus services and on-demand transportation for employees of businesses and communities in Massachusetts. (*Id.* at 6-7.) TCS also provides mini-bus, van, and limousine charter services for activities such as corporate and group outings, day trips, weddings, Bar/Bat Mitzvahs, and local events in Massachusetts. (*Id.* at 7.) In providing its services, TCS uses

³ Specifically, Van Pool states that it is wholly owned by VP Intermediate Company (VP Intermediate), a Delaware corporation and noncarrier holding company, and that VP Intermediate is wholly owned by Beacon Mobility Corp. (Beacon), a Delaware corporation and noncarrier holding company. (*Id.* at 8.) Beacon is wholly owned by Van Pool Intermediate, Inc. (Intermediate Inc.), a Delaware corporation and noncarrier holding company. (*Id.*) Intermediate Inc. is wholly owned by Van Pool Group Holdings, L.P. (Group Holdings), a Delaware limited partnership and noncarrier holding company, and Group Holdings is majority-owned and controlled by AG Van Pool Holdings, LP (AG Holdings), a Delaware limited partnership and noncarrier holding company. (*Id.*) AG Holdings is owned by investment funds affiliated with Audax Management. (*Id.*)

¹ Van Pool originally filed the application on August 15, 2024, but it then filed a supplement on August 29, 2024. Therefore, for purposes of determining the procedural schedule and statutory deadlines, the filing date of the application is August 29, 2024. See 49 CFR 1182.4(a).

² Additional information about these motor carriers, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application and the supplement. (See Appl. 3-6, Ex. A; Suppl. 2.)

approximately 102 passenger vehicles and employs 81 drivers. (*Id.*) Furthermore, the USDOT number assigned to TCS is 1366324, and for purposes of its interstate passenger operations, TCS holds interstate carrier operating authority under FMCSA MC-522885. (*Id.*) According to the application, TCS is solely owned by Seller, who does not directly or indirectly own or control any other interstate passenger motor carrier. (*Id.* at 6.)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least (1) the effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges that result from the proposed transaction, and (3) the interest of affected carrier employees. Van Pool has submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded \$2 million during the 12-month period immediately preceding the filing of the application, *see* 49 CFR 1182.2(a)(5). (*See* Appl. 9.)

Van Pool asserts that the proposed transaction will not have a material, detrimental impact on the adequacy of transportation services available for the public. (*Id.*) According to Van Pool, TCS will continue to provide the same services it currently provides under the same name; however, going forward, TCS will operate within the holdings of Applicant, an organization experienced in passenger transportation operations. (*Id.* at 9–10.) The transaction, combined with the passenger carrier management capacity of Applicant, is expected to result in improved operating efficiencies, increased equipment utilization rates, and cost savings derived from economies of scale within the Applicant subsidiaries, all of which will help ensure the provision of adequate service to the public. (*Id.* at 10.) Van Pool also asserts that the addition of TCS will enhance the viability of Applicant's organization and its subsidiaries. (*Id.*)

Van Pool states that the impact of the transaction on the regulated motor carrier industry will be minimal at most and that neither competition nor the public interest will be adversely affected. (*Id.* at 13.) According to Van Pool, the population and demand for commuter scheduled route, shuttle, on-

demand, and charter services in Massachusetts are expected to continue to increase in the foreseeable future. (*Id.* at 12.) TCS competes directly with other passenger service providers in Massachusetts, which is a competitive market because of the significant number of national, regional, and local providers operating within the area. (*Id.*) Other providers include A&A Metro Transportation, M & L Transit Systems, Boston Coach, Academy Bus, WeDriveU, and DPV Transportation. (Appl. 12; Suppl. 2.) Van Pool adds that TCS's service area is geographically dispersed from those of the Affiliate Regulated Carriers and there is very limited overlap in the customer bases among the Affiliate Regulated Carriers and TCS. (Appl. 13.)

Van Pool asserts that the proposed transaction will increase fixed charges in the form of interest expenses because funds will be borrowed to assist in financing the transaction; however, Van Pool states that the increase will not impact the provision of transportation services to the public. (*Id.* at 10–11.) Van Pool also asserts that it does not expect the transaction to have substantial impacts on employees or labor conditions, and it does not anticipate a measurable reduction in force or changes in compensation levels or benefits at TCS. (*Id.* at 11.) Van Pool submits, however, that staffing redundancies could result in limited downsizing of back-office and/or managerial-level personnel. (*Id.*)

The Board notes that the Owners have not joined in Van Pool's application despite their ability to exercise control over Van Pool. 49 U.S.C. 13102(5); *see Morgan Stanley Grp.—Control Exemption—NCC L.P.*, MCF 20250 (ICC served Feb. 17, 1993) (focusing “on the ability to control as reflected in the power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee”). Therefore, the Owners will be directed to submit a filing joining the application and providing all information required of an applicant under the Board's regulations. *See, e.g., Bus Co. Holdings Topco LP—Acquis. of Control of Assets—Chenango Valley Bus Lines, Inc.*, MCF 21117 (STB served Aug. 23, 2024). Such a filing may incorporate the existing application by reference, to the extent appropriate.

Based on Van Pool's representations, the Board finds that the acquisition as proposed in the application is consistent with the public interest. The application will be tentatively approved and authorized, subject to the Owners submitting a satisfactory filing, as described above, that is consistent with the Board's public interest finding by

October 11, 2024. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed and the Board does not issue a decision finding the Owners' submission unsatisfactory by expiration of the comment period, this notice, including authority for the Owners as applicants, will take effect automatically and will be the final Board action in this proceeding.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at www.stb.gov.

It is ordered:

1. The proposed transaction is approved and authorized, subject to the Owners submitting a satisfactory filing to join the application by October 11, 2024, and the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective on November 9, 2024, unless the Board finds the Owners' submission unsatisfactory or opposing comments are filed by November 8, 2024. If any comments are filed, Van Pool may file a reply by November 26, 2024.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: September 23, 2024.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.

Tammy Lowery,
Clearance Clerk.

[FR Doc. 2024–22185 Filed 9–26–24; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36811]

**Oklahoma & Kansas Railroad, LLC—
Change of Operator Exemption—
Oklahoma Department of
Transportation and Blackwell
Industrial Authority**

Oklahoma & Kansas Railroad, LLC (OKRL), a noncarrier, has filed a verified

notice of exemption under 49 CFR 1150.31 to lease and operate approximately 37.26 miles of rail line owned by Oklahoma Department of Transportation (OKDOT) and Blackwell Industrial Authority (BIA) extending from milepost 0.09 at Wellington, Kan., to milepost 35.35 at Blackwell, Okla., and from milepost 127.0 at Blackwell to milepost 125.0 also at Blackwell (the Line). OKRL states that OKDOT owns the portions of the Line extending from milepost 18.32 at Hunnewell, Kan., to milepost 35.35, and from milepost 127.0 to milepost 126.45. OKRL further states that BIA owns the portions of the Line extending from milepost 0.09 to milepost 18.32 and from milepost 126.45 to milepost 125.0. The verified notice states that under the proposed transaction OKRL will replace Blackwell Northern Gateway Railroad Company (BNGR), the current common carrier service provider on the Line. *See State of Okla.—Alt. Rail Serv.—Line of Blackwell N. Gateway R.R.*, FD 36762 (STB served July 26, 2024).

According to the verified notice, the transaction involves OKRL's proposed lease of, and commencement of common carrier service over, the Line. OKRL further states that once the proposed lease transaction is effectuated, OKRL will assume a common carrier status over the Line in place of BNGR.¹

This transaction is related to a concurrently filed verified notice of exemption in *Chicago Rock Island & Pacific Railroad—Continuance in Control Exemption—Oklahoma & Kansas Railroad*, Docket No. FD 36812, in which Chicago Rock Island & Pacific Railroad LLC seeks to continue in control of OKRL upon OKRL's becoming a Class III rail carrier.

OKRL certifies that the agreement governing the transaction does not include any provision that may limit future interchange with a third-party connecting carrier. OKRL also certifies that its projected annual revenues as a result of this transaction will not result in its becoming a Class II or Class I rail carrier and that its projected annual revenue will not exceed \$5 million.

Under 49 CFR 1150.32(b), a change in operator requires that notice be given to shippers. OKRL certifies that it has provided a copy of its verified notice of exemption to all customers on the Line in accordance with the Board's change of operator rules.

The transaction may be consummated on or after October 13, 2024, the

effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than October 4, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36811, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on OKRL's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to OKRL, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: September 24, 2024.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,
Clearance Clerk.

[FR Doc. 2024–22216 Filed 9–26–24; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36812]

Chicago Rock Island & Pacific Railroad LLC—Continuance in Control Exemption—Oklahoma & Kansas Railroad, LLC

Chicago Rock Island & Pacific Railroad LLC (Rock Island), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Oklahoma & Kansas Railroad, LLC (OKRL), upon OKRL's becoming a Class III rail carrier. Rock Island currently controls the Gulf & Ship Island Railroad LLC (G&SI) and Ottawa Northern Railroad LLC (ONR), both Class III rail carriers. Rock Island operates in Mississippi; G&SI operates in Mississippi; ONR operates in Kansas; and OKRL intends to operate in Oklahoma and Kansas.

This transaction is related to a concurrently filed verified notice of exemption in *Oklahoma & Kansas Railroad—Change of Operator*

Exemption—Oklahoma Department of Transportation, Docket No. FD 36811, in which OKRL seeks Board approval to lease and operate approximately 37.26 miles of rail line owned by the Oklahoma Department of Transportation and Blackwell Industrial Authority extending from milepost 0.09 at Wellington, Kan., to milepost 35.35 at Blackwell, Okla., and from milepost 127.0 at Blackwell to milepost 125.0 also at Blackwell.

Rock Island represents that: (1) none of Rock Island's railroad lines, G&SI's lines, or ONR's lines will connect with OKRL's; (2) the transaction is not part of a series of anticipated transactions that would result in such interconnection; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Accordingly, because this transaction involves Class III rail carriers only, the Board may not impose labor protective conditions here.

The earliest this transaction may be consummated is October 13, 2024, the effective date of the exemption (30 days after the verified notice was filed). If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(g) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by October 4, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36812, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rock Island's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

Board decisions and notices are available at www.stb.gov.

Decided: September 24, 2024.

¹ The verified notice states that OKRL understands that BNGR does not object to the proposed change in operator.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2024-22219 Filed 9-26-24; 8:45 am]

BILLING CODE 4915-01-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2024-0011]

Cancellation of Public Hearing Concerning Russia's Implementation of Its WTO Commitments

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice; cancellation of public hearing.

SUMMARY: The interagency Trade Policy Staff Committee (TPSC) sought public comments to assist USTR in the preparation of its annual report to Congress on Russia's compliance with its obligations as a Member of the World Trade Organization (WTO). Because USTR received no requests to testify, USTR is canceling the public hearing that was scheduled to take place on October 10, 2024.

DATES: The public hearing scheduled for October 10, 2024 is cancelled.

FOR FURTHER INFORMATION CONTACT: Silvia Savich, Deputy Assistant U.S. Trade Representative for Russia and Eurasia at Silvia.Savich@ustr.eop.gov or 202.395.2256.

SUPPLEMENTARY INFORMATION: On August 5, 2024, the TPSC sought public comments to assist USTR in the preparation of its annual report to Congress on Russia's compliance with its obligations as a Member of the WTO. See 89 FR 63463 (Aug 5, 2024). The notice included a September 18, 2024 deadline for the submission of written comments and requests to testify at a public hearing that was scheduled to take place on October 10, 2024. In response to the notice, USTR received two submissions and no requests to testify. Therefore, USTR is canceling the October 10, 2024 public hearing.

Laura Buffo,

*Chair of the Trade Policy Staff Committee,
Office of the United States Trade Representative.*

[FR Doc. 2024-22165 Filed 9-26-24; 8:45 am]

BILLING CODE 3390-F4-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA-2024-0066]

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 invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by November 26, 2024.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0066 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: Melissa Corder, 202-366-5853, Office of Real Estate Services, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 7 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Relocation Assistance Personal Interviews for FHWA Federal and Federally Assisted Programs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act).

Background: This program implements 42 U.S.C. 4602, concerning acquisition of real property and relocation assistance for persons displaced by FHWA Federal and

federally assisted programs. It requires the provision of relocation assistance and payments to U.S. citizens and persons legally present in the United States. The information collected consists of a personal interview of affected persons to establish eligibility for relocation assistance and payments. Displacing agencies will request each person who is to be displaced by a FHWA Federal or federally assisted project to voluntarily assist the agency in determining the benefits that their household, business, farm, or non-profit organization may be eligible to receive through the personal interview to determine their needs and preferences related to the move. This information is not required from the displaced person for the agency to proceed.

Respondents: Any of the 56 State Departments of Transportation (52, including the District of Columbia, Puerto Rico), and the United States territories of American Samoa, Guam, N. Mariana Is., and the Virgin Islands of the United States (4 territories), local government agencies, persons administering projects or programs receiving financial assistance for expenditures of Federal funds on acquisition and relocation payments and required services to displaced persons that are subject to the Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Act) for determination of Uniform Act relocation program benefit amounts, and file maintenance.

Frequency: The information will be collected once per displacement of a household, business, farm, or non-profit organization.

Estimated Average Burden per Response: 1.5 hours per respondent per personal interview.

Estimated Total Annual Burden

Hours: It is expected that the respondents will complete approximately 4,800 personal interviews for an estimated total of 6,900 annual burden 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: September 24, 2024.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2024–22193 Filed 9–26–24; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Final Federal Agency Actions on Proposed Railroad Project in California on Behalf of the California High-Speed Rail Authority

AGENCY: Federal Railroad Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Federal Railroad Administration (FRA), on behalf of the California High-Speed Rail Authority (Authority), is issuing this notice to announce actions taken by the Authority that are final agency actions. The actions relate to the California High-Speed Rail (HSR) Palmdale to Burbank Project Section (Project). The Project will provide the public with electric-powered HSR service that provides predictable and consistent travel times between the Antelope Valley and the San Fernando Valley; provide connectivity to airports, mass transit systems, and the highway network in the Antelope Valley and the San Fernando Valley; and connect the Northern and Southern portions of the planned statewide HSR system. These actions grant permits, approvals, or authorizations for the Project.

DATES: By this notice, FRA, on behalf of the Authority, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions for the Project will be barred unless the claim is filed on or before September 28, 2026. If the Federal law that authorizes judicial review of a claim provides a time period of less than two years for filing such claim, then the shorter time period applies.

FOR FURTHER INFORMATION CONTACT: For the Authority: Stefan Galvez-Abadia, Director of Environmental Services, California High Speed Rail Authority, telephone: (916) 908–1184; email: Stefan.galvez@hsr.ca.gov. For FRA: Lana Lau, Supervisory Environmental Protection Specialist, Office of Railroad

Development (RRD), telephone: (202) 923–5314, email: Lana.Lau@dot.gov.

SUPPLEMENTARY INFORMATION: Effective July 23, 2019, and as subsequently renewed on July 22, 2024, FRA assigned, and the State of California, acting through the Authority, assumed environmental responsibilities for the Project pursuant to 23 U.S.C. 327. Notice is hereby given that the Authority has taken final agency actions subject to 23 U.S.C. 139(l)(1) and 49 U.S.C. 24201(a)(4) by issuing approvals for the Project. The actions on the Project, as well as the laws under which such actions were taken, are described in the documentation issued for the Project to comply with the National Environmental Policy Act (NEPA) and related environmental laws.

This notice applies to all decisions on the Project as of the issuance date of this notice and all Federal laws under which such actions were taken, including but not limited to, NEPA (42 U.S.C. 4321 *et seq.*), section 4(f) requirements (23 U.S.C. 138, 49 U.S.C. 303), section 6(f) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 *et seq.*), section 106 of the National Historic Preservation Act (54 U.S.C. 306108), the Clean Air Act (42 U.S.C. 7401–7671q), the Endangered Species Act (16 U.S.C. 1531 *et seq.*), the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Clean Water Act (33 U.S.C. 1251 *et seq.*). This notice does not, however, alter or extend a shorter limitation period that may exist for challenges of project decisions covered by this notice.

The purpose of the California HSR System is to provide a reliable, high-speed, electric-powered train system that links the major metropolitan areas of California, delivering predictable and consistent travel times. A further objective is to provide an interface with commercial airports, mass transit, and the highway network, and to relieve capacity constraints of the existing transportation system as increases in intercity travel demand in California occur, in a manner sensitive to and protective of California's unique natural resources.

For the Project, the Authority has selected the SR14A Alternative. The selected alternative consists of approximately 38 miles of electrified, high-speed train system that will be constructed from Spruce Court in the City of Palmdale and extending south to Winona Avenue in the City of Burbank. The Project will connect the approved Bakersfield to Palmdale and Burbank to Los Angeles Project Sections. The selected alternative and the laws under

which the Authority's actions were taken are described in the Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS), published on May 24, 2024, and in the Record of Decision (ROD) for the Project, executed on August 30, 2024. The Final EIR/EIS, ROD, and other documents are available by contacting the Authority at the addresses provided above or via the web at <http://www.hsr.ca.gov/>.

Authority: 49 U.S.C. 24201(a)(4) and 23 U.S.C. 139(l)(1).

Marlys Ann Osterhues,

Director, Office of Environmental Program Management.

[FR Doc. 2024–22199 Filed 9–26–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Enhanced Mobility of Seniors and Individuals With Disabilities: Grant Program Guidance, Final Circular

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of availability of final circular and response to comments.

SUMMARY: The Federal Transit Administration (FTA) is issuing an updated Enhanced Mobility for Seniors and Individuals with Disabilities Program Guidance (Section 5310) Circular (C. 9070.1H). The updated circular incorporates changes in the law since the previous circular update and does not include any changes in policy.

DATES: The applicable date of this circular is November 1, 2024.

FOR FURTHER INFORMATION CONTACT: For circular questions, Destiny Buchanan, Section 5310 Program Manager, Office of Transit Programs, Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590 phone, (202) 493–8018 or email, destiny.buchanan@dot.gov. For legal questions, Bonnie Graves, Office of Chief Counsel, phone, (202) 366–0944, or email, Bonnie.Graves@dot.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Overview
- II. Chapter-by-Chapter Analysis
 - A. Chapter I—Introduction and Background
 - B. Chapter II—Program Overview
 - C. Chapter III—General Program Information
 - D. Chapter IV—Eligible Projects and Requirements

- E. Chapter V—Planning and Program Development
- F. Chapter VI—Program Management and Administrative Requirements
- G. Chapter VII—State and Program Management Plans
- H. Appendices

I. Overview

FTA is updating its Circular C 9070, last revised in 2014, to incorporate changes in the law since the previous revision and reformat for consistency with other FTA program and award management circulars. This circular provides guidance to recipients of funds under the Enhanced Mobility for Seniors and Individuals with Disabilities Program, often referred to as the Section 5310 program. This notice provides a summary of changes to Circular 9070, and this update (C 9070.1H) will supersede the previous version (C 9070.1G).

Since 2014, Congress has made only one substantive statutory change to 49 U.S.C. 5310. The Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94) made States and local governmental entities that operate public transportation service eligible direct recipients. FTA communicated this change at the time of implementation in 2015, and the updated circular now incorporates this change. FTA has incorporated other cross-cutting changes to 49 U.S.C. Chapter 53 made by the FAST Act and the Infrastructure Investment and Jobs Act (Pub. L. 117–58) into this circular for reference, for example, disposition of assets in 49 U.S.C. 5334(h) is addressed in Chapter VI. In addition to statutory changes, the Office of Management and Budget (OMB) issued Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) in December, 2013 (78 FR 78590), which superseded the DOT's Common Grant Rule, codified at the now-rescinded 49 CFR parts 18 and 19. Due to the timing of the previous circular update and the publication of the Uniform Guidance, the prior version (C 9070.1G) continued to reference 49 CFR parts 18 and 19. FTA has updated these references, including definitions, in C 9070.1H.

In addition, FTA has made changes to the content and format of the circular for consistency with changes in other program circulars. For example, FTA has removed Chapter VIII, “Other Provisions” and included the content of that Chapter in the proposed Award Management Requirements Circular (C 5010.1F).

Section 5334(k) of title 49, U.S.C., requires FTA to follow applicable

rulemaking procedures before issuing a statement that imposes a “binding obligation” on FTA recipients. The term “binding obligation” means a substantive policy statement, rule, or guidance document issued by FTA that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy. The updated circular is largely a restatement and reorganization of the prior version and does not impose any new binding obligations on recipients. Therefore, FTA is issuing this circular update without notice and comment.

II. Chapter-by-Chapter Analysis

A. Chapter I—Introduction and Background

Chapter I of C 9070.1H is substantially similar to Chapter I of C 9070.1G. The Chapter includes information about FTA, the most recent authorizing legislation, and definitions. FTA has updated pertinent definitions to be consistent with the Uniform Guidance, Chapter 53 of title 49, and other circulars.

B. Chapter II—Program Overview

Chapter II of C 9070.1H is similar to Chapter II of C 9070.1G. As with C 9070.1G, the updated circular contains information on statutory authority, program goals and measures, designated recipient and FTA role in program administration, and relationship to other programs. Information related to recipient designation was moved from Chapter III to Chapter II. The goals and measures for the Section 5310 program have not changed. FTA has updated the relationship to other programs section to reflect changes in the law, including the removal of the repealed Job Access/Reverse Commute and New Freedom programs.

C. Chapter III—General Program Information

As with Chapter III of C 9070.1G, Chapter III of C 9070.1H contains the following information: apportionment of funds, funds availability, transfer of apportionments, consolidation of grants to insular areas, eligible direct recipients and subrecipients, private taxi operators as subrecipients, recipient administrative expenses, and local share of project costs. The content has been reordered but remains substantially similar to the content in C 9070.1G. As stated in the summary of Chapter II, FTA has moved information related to designated recipients to Chapter II. In addition, FTA has moved information

related to eligible activities to Chapter IV.

FTA has clarified in the updated circular that local match is waived for insular areas. FTA has updated the section pertaining to eligible direct recipients to be consistent with the change to 49 U.S.C. 5310. Further, FTA has included Transportation Network Companies (TNCs) in the section related to private taxi operators and their eligibility as subrecipients and contractors. FTA has historically treated TNCs the same as taxis, given they both provide on-demand, exclusive ride service, primarily in automobiles. As with taxi operators, depending on the nature of the service—exclusive or shared ride—TNCs may be contractors or subrecipients.

D. Chapter IV—Eligible Projects and Requirements

Chapter IV in Circular 9070.1G was titled “Program Development.” FTA has moved much of the information found in Chapter IV of C 9070.1G to Chapter V of C 9070.1H or to the proposed C 5010.1F (see, 89 FR 11334). For example, FTA removed language on certifications and assurances and pre-award authority and included that information in Chapter III of the proposed C 5010.1F. The renamed Chapter IV now includes only information related to eligible projects, including capital reserve accounts. Eligible activities remain the same as in C 9070.1G.

E. Chapter V—Planning and Program Development

The updated circular consolidates Chapters IV and V of C 9070.1G into one renamed chapter. The new Chapter V includes information related to coordination and planning requirements, development of the program of projects, development of the public transit-human services coordinated transportation plan, relationship of the coordinated plan to other planning processes, and labor protections. FTA has updated the sections on coordinated planning to reflect repeal of the JARC and New Freedom programs, and to reflect that the requirement to develop a coordinated plan remains the same but is no longer new. While FTA has made clarifying edits to the text, the language remains substantially similar to that found in C 9070.1G.

F. Chapter VI—Program Management and Administrative Requirements

Chapter VI in the new C 9070.1H contains much of the same information as that found in Chapter VI of C

9070.1G. Included in the new chapter are the following topics: program administrative requirements and other provisions, equipment management, vehicle use, leasing and title to vehicles, satisfactory continuing control requirements, reporting requirements, management plan, and drug and alcohol testing requirements. FTA has updated the section on equipment management to reflect a change in 49 U.S.C. 5334(h). As stated above, FTA has moved information related to capital reserve accounts to Chapter IV. Information related to Federal Funding Accountability and Transparency Act (FFATA) (Pub. L. 109–282) requirements is located in the program of projects information in Chapter V. Other sections in Chapter VI of C 9070.1G have been removed and can be found in the updated C 5010.1F. Those sections include procurement, debarment and suspension, financial management, FTA’s electronic grant management system, system for award management (SAM) requirements, Electronic Clearing House Operation (ECHO) requirements, allowable costs, closeout, audit, real property, and construction management and oversight.

G. Chapter VII—State and Program Management Plans

Chapter VII of the updated circular is substantially similar to Chapter VII of C 9070.1G, with minor clarifying edits. As stated above, FTA has removed Chapter VIII, Other Provisions from the updated circular and pertinent information can now be found in the updated C 5010.1F. Drug and alcohol requirements, formerly in Chapter VIII, have been moved to Chapter VI of this circular.

H. Appendices

FTA has removed many of the appendices found in C 9070.1G, as the information is available in other circulars and resources and can be easily referenced. However, FTA has retained Appendix B, Sample Section 5310 Program of Projects, which is renamed as Appendix A. FTA has also retained Appendix D, Relationship Between Coordinated Planning and Metropolitan and Statewide Planning (Table), but is renamed as Appendix B.

Veronica Vanterpool,
Deputy Administrator.

[FR Doc. 2024–22162 Filed 9–26–24; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–FTA–2024–0003]

Award Management Requirements, Final Circular

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of availability of final circular and response to comments.

SUMMARY: The Federal Transit Administration (FTA) has made available on its website the final updated Award Management Requirements Circular (C 5010.1). The updated circular combines requirements applicable to all FTA financial assistance awards (referred to as “cross-cutting” requirements) and supersedes the previous Award Management Requirements Circular C 5010.1E. This notice responds to the comments FTA received on the proposed circular, which was published in the **Federal Register** on February 14, 2024.

DATES: The applicable date of this circular is November 1, 2024.

ADDRESSES: One may view the comments at docket number FTA–2024–0003. For access to the docket, please visit <https://www.regulations.gov> or the Docket Operations office located in the West Building of the United States Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For award management questions, Latrina Trotman, Office of Program Management, Federal Transit Administration, 1200 New Jersey Ave. SE, Room E46–301, Washington, DC 20590, phone: (202) 366–2328, or email, Latrina.Trotman@dot.gov. For legal questions, Jerry Stenquist, Office of Chief Counsel, same address, Room E56–314, phone: (202) 493–8020, or email, Jerry.Stenquist@dot.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Overview
- II. Responses to Public Comments
 - A. Comments for Which No Changes Were Made
 - B. Changes Based on Public Comments
 - C. Comment Requesting Technical Assistance
- III. Other Updates

I. Overview

This notice announces the availability of FTA Circular C 5010.1F, Award Management Requirements. C 5010.1F

replaces C 5010.1E, with an applicable date of November 1, 2024. This circular incorporates provisions of Federal law enacted since the publication of C 5010.1E, including the Infrastructure Investment and Jobs Act (Pub. L. 117–58); the Office of Management and Budget’s (OMB) and United States Department of Transportation’s (USDOT) updated Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200 (89 FR 30046, effective October 1, 2024) and 2 CFR part 1201, respectively; USDOT’s regulation implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) (49 CFR part 24); and USDOT’s Disadvantaged Business Enterprise (DBE) regulation (49 CFR part 26).

The purpose of Circular 5010.1 is to summarize generally applicable FTA administrative requirements for financial assistance awards (colloquially referred to as “cross-cutting requirements”) while consolidating other pre-existing cross-cutting guidance historically included in other FTA program circulars, including the pre-existing “Formula Grants for Rural Areas” (C 9040.1G), “Enhanced Mobility of Seniors and Individuals with Disabilities” (C 9070.1G), “Bus and Bus Facilities Formula Program” (C 5100.1), “State of Good Repair Grants Program” (C 5300.1), and “Urbanized Area Formula Program” (C 9030.1E) circulars, reducing duplicative, redundant, and conflicting information in separate circulars. The last three of these circulars have been consolidated and superseded by a new circular, “Urbanized Areas Formula Grant Programs Guidance” (C 9050.1A), which is being published contemporaneously with this updated C 5010.1F. The first two are also being updated and superseded with circulars published contemporaneously.

Additionally, the revisions update or clarify descriptions of policy to explain current FTA practices. The circular updates include FTA policies regarding real property status reporting, the incidental use of FTA-funded project property, and transfer of real property to third parties for affordable housing. The circular updates also increase the use of graphics, tables, and weblinks to improve clarity. A copy of the circular is in the docket and is posted on FTA’s Circulars page (<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/circulars>).

II. Responses to Public Comments

FTA published notice for the proposed C 5010.1F in the **Federal Register** on February 14, 2024 (89 FR 11334), seeking public comment. FTA received seventy-four comments from twelve unique commenters. FTA reviewed the comments and discusses below the changes that FTA made in the final circular based on public comments. FTA also addresses comments for which no changes were made in the final circular. FTA appreciates the commenters who expressed support for updates in the circular, as well as those who provided feedback on administrative non-substantive changes, such as recommending corrections for typographical errors and document formatting. FTA has reviewed and made these changes to the final circular, as necessary. In cases where a commenter found FTA's guidance confusing or requested clarification and FTA declined to amend the circular, the commenter should contact the FTA regional office responsible for administering its awards for assistance.

A. Comments for Which No Changes Were Made

Comments Outside the Scope of FTA C 5010.1F

FTA declined to make changes in response to some comments because the comments' subject matter was outside the scope of this circular. Topics that were outside the scope of the circular include: State DOT policies for subrecipients' completion of National Environmental Policy Act (NEPA) requirements for non-federally funded projects and notes on circular changes apparently intended for the commenter's internal communication.

Cloud-Based Computing Technology

Comment: One commenter requested FTA clarify whether cloud-based computing technology is a capital or operating expense.

FTA Response: FTA declines to make a change based on this comment. C 5010.1F sufficiently establishes that cloud-based computing technology is included under the definition of "Information Technology Systems," which, by extension, is included under the definition of "Equipment." If cloud-based computing technology qualifies as "Equipment," it may be considered a capital expense as opposed to an operating expense.

Major Capital Project Construction Oversight

Comment: One commenter suggested FTA institute a time limit for FTA's review of technical plans and specifications for a major capital project so as not to delay a project from construction. The commenter also expressed concerns that the proposed C 5010.1F does not specify the milestones during the design of a project at which FTA may request to review the technical plans and specifications.

FTA Response: FTA declines to make a change in response to the comment. FTA declines to establish generally applicable design milestones and corresponding time limits because the stages of design at which technical plans and specifications should be reviewed, and the duration of time it takes to review them, are better determined on a case-by-case basis. FTA reviews the design of major capital projects at various stages during a project's lifecycle, which is established in consultation with project sponsors. This project-specific approach retains flexibility and efficiency in FTA's review, benefiting both FTA and recipients.

FTA Technical and Construction Oversight Review

Comment: One commenter asked how quickly FTA's reviews of technical plans and specifications of a project will occur if FTA deems such a review necessary. The commenter expressed concern that designs that may need to be reviewed could be time sensitive. The commenter also mentioned that there is no guidance on what "projects" the oversight review requirement may concern and asked whether there are there specific cost thresholds for projects that would trigger a review.

FTA Response: FTA declines to make a change in response to this comment. If deemed necessary, FTA may review technical plans and specifications of a project to ensure proper execution, consistency with the scope of work and need, and incorporation of FTA requirements. The duration of such a review necessarily depends on multiple factors that are distinct to the project in question and cannot be prescribed. For the referenced provision, there is no set cost threshold for projects that could trigger such a review. However, all projects that meet the definition of a "Major Capital Project" are subject to design reviews at different stages during a project's lifecycle.

Incidental and Shared Use

Comment: One commenter thanked FTA for the updated definition of

"Equipment." The comment also requested FTA reference the definition of "Equipment" in other parts of the circular related to the concept of incidental use.

FTA Response: FTA declines to make a change in response to the comment. The definitions section controls the use of the term "Equipment" throughout the circular. No additional identification of the term is required.

Comment: One commenter asked that FTA clarify that incidental use and shared use can apply to property other than just real property.

FTA Response: FTA declines to make a change in response to this comment. The circular is sufficiently clear that the incidental use provisions apply to equipment. The definition of "Incidental Use" is "the limited non-transit use of project property that does not conflict with the original authorized purpose of the project property or the recipient's ability to maintain satisfactory continuing control." The circular defines "Project Property" to include both real property and personal property.

Comment: FTA's definitions of "Incidental Use" and "Shared Use" authorize certain non-transit uses of transit property. One commenter asked FTA to modify these definitions so that uses that support or relate to public transportation in some way would not be categorized as non-transit uses.

FTA Response: FTA declines to make a change in response to this comment. FTA's definitions of "Incidental Use" and "Shared Use" sufficiently identify FTA's intended treatment of property uses that support public transportation, which provides recipients with flexibility to use project property for both transit and non-transit purposes. The commenter's proposed recategorization of property uses would not create additional flexibilities and conflict with the definition of "Public Transportation" at 49 U.S.C. 5302.

Comment: A commenter asked FTA to provide further guidance for establishing the allocation of applicable costs of a shared use of project property.

FTA Response: FTA declines to make a change in response to this comment. The circular says the costs of shared uses are tied to the pro rata share of the construction, acquisition, maintenance, and operating costs that the shared use represents. The method of determining pro rata costs will vary depending on the particular shared use. FTA declines to be more prescriptive as to determining pro rata share because the circular's purpose is to provide general guidance and allow for flexibility.

Comment: One commenter expressed concern that FTA's incidental use policy in Chapter IV restricts leases of FTA-assisted real property to a one-year term.

FTA Response: FTA declines to make a change based on this comment. The policy in the circular does not limit leases for the incidental use of FTA-assisted real property to one year. Rather, the revision modifies FTA policy by changing FTA's review of incidental uses from a concurrence process to a notice process. Except in cases of utility, ingress, and egress use, FTA now requires 30-day prior notice for incidental uses that will: (1) encumber title to the project property, (2) exceed a term of one year, or (3) allow for the installation of real property fixtures onto project property by third parties.

If none of these apply to an incidental use, a 30-day notice is not required. Nevertheless, recipients must keep a record of all incidental uses, which may be reviewed during a compliance review or audit.

Real Property

Comment: One commenter requested that FTA add property use restrictions to the list of items included in an appraisal report that may affect the appraised value.

FTA Response: FTA declines to make a change in response to this comment. 49 CFR 24.103 establishes the requirements for appraisals, which are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP) and already require the appraiser to consider factors like land use restrictions and encumbrances when determining market value.

Comment: Three commenters expressed support for the circular's exemption from FTA's concurrence on real property appraisals for major capital projects when FTA has determined that a recipient's Real Property Acquisition and Management Plan (RAMP) establishes that the recipient is adequately prepared to comply with Federal requirements when acquiring project property. One of the three commenters requested that FTA provide additional information to guide recipients' drafting of a RAMP and the changes to the existing circular.

FTA Response: FTA declines to make a change based on these comments. A RAMP is required of all FTA-designated major capital projects. FTA provides technical assistance and feedback to project sponsors through its project management oversight contractor (PMOC) program on the development of

a project-specific RAMP document. Appendix D of the circular includes a model outline for the development of a RAMP document. FTA is also exploring other ways to provide training and technical assistance to major capital project sponsors on the RAMP development process.

Comment: One commenter opined that, by deleting the definitions of "Global Settlement" and "Legal Settlement," FTA may have caused a conflict with the circular's provisions for property acquisition and relocation assistance.

Response: FTA declines to make a change based on this comment. While the definitions for "Global Settlement" and "Legal Settlement" were removed from the Definitions section of the proposed circular, the circular's use of the terms are unambiguous. The circular refers to legal settlements arrived at after filing for property condemnation as "administrative settlements" for purposes of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act), because that is the term used in USDOT's implementing regulation. 49 CFR 24.102(i). The circular states that a "global settlement" means the consolidation of all payments, including acquisition and relocation assistance, into one payment. Global settlements conflict with the purpose of the Uniform Act because relocation assistance benefits are a reimbursement of eligible actual, reasonable, and necessary expenses, while the payment to acquire real property relates to the payment of just compensation and is subject to negotiation. Uniform Act relocation assistance benefits must not be used as consideration for a settlement of a dispute regarding property value. Therefore, the circular's uses of "Legal Settlement," "Administrative Settlement," and "Global Settlement" do not conflict with each other or the purposes of the Uniform Act. The words are used according to their ordinary meanings, and it is not necessary to give them special definitions in the circular.

Comment: One comment opined that FTA's allowance of acquisition incentives payments (AIPs) to exceed a recipient's just compensation determination may conflict with language prohibiting global settlements. The commenter expressed concern with the risk of the global settlement prohibition conflicting with state law and that a comparison of local government acquisition requirements should take place prior to full implementation.

FTA Response: FTA declines to make a change based on this comment. AIPs

are payments for interests in real property above a recipient's established just compensation determination applied equally project-wide, based on pre-established criteria, if initial offers are timely accepted. FTA has determined that the proper use of AIPs does not conflict with the Uniform Act or the circular's restriction on global settlements because their use is limited to compensating owners for the value of property, and they serve to "encourage and expedite acquisition by agreements." 49 CFR 24.1(a). To avoid any conflict, FTA will concur on AIP programs prior to their implementation, including a review of the proposing agency's documentation that the AIP program is permissible under state law. AIPs may not be used for relocation assistance benefits because a pre-determined incentive for displaced persons to relocate may potentially incentivize premature displacement of a person or otherwise incentivize actions inconsistent with the purpose of the Uniform Act. Recipients still may not use global settlements, regardless of whether an AIP payment is offered or paid.

Comment: One commenter recommended that FTA restore a paragraph that had appeared in C 5010.1E allowing for alternative real property valuation methods in exceptional circumstances.

FTA Response: FTA declines to make a change based on this comment. C 5010.1F retains the same provision in Chapter IV under a subsection titled "Valuation of Property Pending Disposal."

Comment: One commenter asked that FTA remove leases exceeding a one-year term and third-party fixture installation from the requirement for recipients to provide 30-day advance notice of an incidental use. The commenter asserted that these conditions should only be for incidental uses that do not require FTA concurrence and should be removed because all incidental use agreements must be terminable and most, if not all, require FTA concurrence.

FTA Response: FTA declines to make a change based on this comment because the updated language regarding incidental uses of real property no longer requires concurrence as the commenter describes. Rather, the revision modifies FTA policy by changing FTA's review of incidental uses from a concurrence process to a notice process. Except in cases of utility, ingress, and egress use, FTA now requires 30-day prior notice for incidental uses that will: (1) encumber title to the project property, (2) exceed a term of one year, or (3) allow for the

installation of real property fixtures onto project property by third parties. If none of these apply to an incidental use, a 30-day notice is not required. FTA's concurrence is not required for any incidental use unless another provision of law or the circular applies. Nevertheless, recipients must keep a record of all incidental uses, which FTA may review during a compliance review or audit. Lastly, FTA advises that recipients should include termination provisions in their incidental use agreements, but FTA does not prescribe any particular terms or notice periods. Recipients should use commercially reasonable terms that ensure satisfactory continuing control over the transit use of the property.

Project Signage

Comments: FTA received two comments on project signage. One commenter supported FTA's encouragement of recipients to prominently display project signage to identify projects approved and funded by USDOT but recommended that FTA clarify that the suggestion applies to signs pertaining to permanent projects, as opposed to signage for wayfinding or planned service disruptions. Another commenter recommended that FTA only apply the recommendation to projects with a cost of greater than \$200,000.

FTA Response: FTA declines to make a change based on this comment. FTA encourages, but does not require, project signage that identifies projects approved and funded by USDOT. FTA encourages recipients to use their discretion in determining which projects are most appropriate for such signage, as well as the sizes and formats of signs. C 5010.1F permits this flexibility through the provided guidelines. The inclusion of a specific cost or project type threshold would limit this flexibility.

Activity Line Item (ALI) Tree

Comment: One commenter requested that FTA update and streamline its Activity Line Item (ALI) tree, which is an inventory of scope codes and associated ALIs for which funds may be obligated in FTA's award management system (TrAMS), as part of the updated C 5010.1F.

FTA Response: FTA declines to make a change based on this comment. FTA seeks to use C 5010.1F for cross-cutting guidance on award management, not to provide administrative direction on the use of TrAMS. However, FTA currently is working on an update to the ALI tree.

Disadvantaged Business Enterprise (DBE) Program

Comment: In response to language in Chapter II stating that FTA-funded contracts subject to FTA's procurement rules are also subject to USDOT's DBE regulation, one commenter requested that FTA clarify that micro-purchases (those transactions not in excess of \$10,000) are not "contracts" for DBE purposes. The comment further argues that 40 CFR part 26 provides that applicable DBE regulations apply to competitive bids and proposals as opposed to micro-purchases (which are excepted from competition because of their small size), and otherwise applying DBE requirements to micro-purchase procurements is burdensome.

FTA Response: FTA declines to make a change based on this comment. The term "contract," for purposes of the USDOT DBE program, is defined in regulation at 49 CFR 26.5. There is no contract dollar value threshold in 49 CFR part 26. An FTA Tier 1 recipient that is required to set a DBE goal must set its goal as a percentage "of all FTA or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that [the recipient] will expend". 49 CFR 26.45(e). The DBE rule does not exclude micro-purchases. FTA has issued guidance on reporting multiple purchases from the same vendor (see FAQ CR10 at <https://www.transit.dot.gov/frequently-asked-questions-fta-grantees-regarding-coronavirus-disease-2019-covid-19#COVID-19Civil>).

FTA Minimum Useful Life Policy for Rolling Stock and Ferries

Comment: A commenter urged FTA to add examples of common vehicle makes and models used in public transit/human services transportation to the table detailing the minimum useful life for FTA-funded rolling stock and ferries in Chapter IV of the circular.

FTA Response: FTA declines to make a change based on this comment. FTA does not include specific vehicle makes and models in guidance because vehicle manufacturers, makes, and models often change. Furthermore, this inclusion could suggest FTA's endorsement of particular vehicle manufacturers, which is inappropriate and goes beyond the scope of FTA's role, mission and purview.

Comment: A commenter stated that there should be a nexus between FTA minimum useful life requirements and Altoona testing.

FTA Response: FTA declines to make a change based on this comment. FTA's bus testing rule, 49 CFR 665.11(e),

already requires that "[b]uses shall be tested according to the service life requirements identified in the prevailing published version of FTA Circular 5010." While it is unclear what further nexus the commenter is suggesting, FTA declines to amend the circular beyond the requirements of 49 CFR part 665.

Comment: A commenter requested that FTA add minimum useful life thresholds for bus shelters and other common transit features.

FTA Response: FTA declines to make a change based on this comment. Useful life serves as a benchmark representing a reasonable expectation of the duration of time for which FTA-funded assets should be used by recipients for transit purposes. Any benefit of FTA prescribing useful life for the many different types of bus shelters or other common transit features would likely be outweighed by the loss of flexibility to account for unforeseen factors and allow for innovation, as well as the burden on FTA and recipients to follow useful life standards for inexpensive assets. In Chapter IV, FTA seeks to maximize flexibility by allowing recipients to identify reasonable and common methods for determining minimum useful life for assets other than vehicles and certain facilities and lists examples of acceptable methods.

Rolling Stock Rebuilds and Overhauls

Comment: One commenter asked FTA for additional clarification on distinguishing between overhauls and rebuilds. The commenter asked whether it is the recipient who determines whether vehicle work is a rebuild or an overhaul.

FTA Response: FTA declines to make a change based on this comment. Whether vehicle work is an overhaul or a rebuild is determined by the remaining useful life of the vehicle at the time of the work, and the amount of remaining useful life the vehicle will have after the work is completed. The circular establishes that an overhaul is a capital activity enabling a vehicle to perform until the end of the vehicle's original, expected useful life. On the other hand, the circular explains that rebuilds are intended to extend the vehicle's useful life beyond its original useful life. The commenter should contact the FTA regional office responsible for administering its grants for further assistance.

Like-Kind Exchange of Equipment

Comment: A commenter opined that FTA should include examples of calculations for like-kind exchanges of equipment involving insurance

proceeds, as were provided in the pre-existing C 5010.1E.

FTA Response: FTA declines to make a change based on this comment. FTA consolidated the pre-existing like-kind exchange examples into the Equipment Disposition Scenarios in Appendix G to C 5010.1F.

Use of Insurance Proceeds Toward Damaged or Destroyed FTA-Assisted Equipment

Comment: A commenter requested FTA change its policy that subrecipients may keep all insurance proceeds obtained from claims for loss of damaged or destroyed equipment in excess of a remaining Federal interest. According to the commenter, FTA's interest in a vehicle extinguishes when the vehicle has reached its minimum useful life, although the vehicle may still be in good condition, and "this creates an incentive for a [recipient] to deliberately total a federally funded" vehicle when it has reached the end of its useful life to obtain insurance proceeds.

FTA Response: FTA declines to make a change in response to the comment. FTA's interest in a vehicle does not extinguish when a vehicle reaches its minimum useful life as the commenter describes. FTA's interest in the vehicle persists until the recipient disposes of the vehicle. For any vehicle with a value in excess of \$10,000, the recipient must follow authorized disposition procedures and remit to FTA its proportional share of the vehicle's fair market value at the time of disposition when the fair market value is greater than the straight-line depreciated value of the vehicle. FTA's interest is based on the greater of a vehicle's fair market value or sale proceeds, if it is sold, or alternatively the straight-line depreciated value. Section 3 of Chapter IV of C 5010.1F describes the process of equipment disposition and valuation.

The commenter is correct that, in the case of insurance proceeds received for a vehicle taken out of service by casualty, FTA claims an interest in the insurance proceeds equal to the value of FTA's interest in the vehicle immediately before the vehicle was taken out of service. If insurance proceeds exceed the value of FTA's interest, the recipient may retain the excess. This policy protects the Federal financial interest and incentivizes recipients to adequately insure project property in their possession. FTA is not aware of examples of its policy driving the behavior the commenter is concerned about.

For more information, FTA encourages any interested recipient to

speak with its insurer about the consequences of deliberately damaging vehicles to collect insurance proceeds.

Drug and Alcohol Program Compliance Audits

Comment: In relation to drug and alcohol compliance audits, a commenter requested FTA clarify whether recipients' annual drug and alcohol certification is in reference to Drug and Alcohol Management Information System (DAMIS) reporting or a separate requirement.

FTA Response: FTA declines to make a change in response to the comment. The circular and FTA's annual Certifications and Assurances are clear that the annual certification of drug and alcohol testing is separate from the drug and alcohol management information system reporting that requires submission of the previous year's testing.

Cognizant Federal Agency for Indirect Cost Rate Proposals

Comment: A commenter requested the circular provide that indirect cost rate proposals (ICRPs) need to be approved by the cognizant Federal agency and to provide clarification for determining the cognizant agency for subrecipients' indirect costs as distinct from the cognizant agency for audits.

FTA Response: FTA declines to make a change in response to the comment. In Chapter VI, the circular states, "ICRPs must be approved by FTA or another legally designated cognizant Federal agency". The circular, in Section 7 of Chapter VI, also states the method of determining agency cognizance: "DOT is the cognizant agency of indirect costs for State and local airport and port authorities and transit districts' cognizant audit agencies. Based on delegations within DOT, FTA is cognizant for transit districts. For other organizations, cognizance is generally assigned to the Federal agency that provides the predominant amount of Federal funding to a recipient within a given departmental organization within the State or locality." Appendix I explains that ICRPs are prepared by an individual recipient or subrecipient to substantiate an indirect cost rate.

De Minimis Rate for Indirect Costs

Comment: A commenter requested FTA to leave the de minimis rate for indirect costs unspecified in the circular, in case the de minimis rate is changed by subsequent legislation or rulemaking.

FTA Response: FTA declines to make a change in response to the comment. FTA has updated the de minimis rate in

the circular to 15 percent, in accordance with the revision to 2 CFR 200.414(f). The de minimis rate has changed only once since the original part 200 was published in 2014. The convenience to readers of stating the de minimis rate in the circular outweighs the potential inconvenience if the de minimis rate changes again in the future and the circular must be updated.

Relationship of Circular to FTA Master Agreement

Comment: One commenter suggested that instead of describing ethical standards, certifications, and procurement standards in Chapter II of the circular, FTA simply refer the reader to FTA's Master Agreement, because the requirements derive from the Master Agreement, and the Master Agreement is subject to change.

FTA Response: FTA declines to make a change in response to the comment. The commenter did not cite a specific requirement, but generally speaking, the procurement requirements derive both from Federal regulations, like 2 CFR part 200, and FTA's Master Agreement. Where a requirement has more than one source, the circular generally cites only to the regulation so as not to overcrowd the document with citations. The convenience to the reader of stating requirements in the circular outweighs the potential inconvenience if a requirement should change in the future and the circular must be updated. For more information about the standards that apply to procurements carried out under FTA awards, refer to the latest version of FTA's C 4220.

Requests To Change Statutory or Other Government-Wide Regulatory Requirements

FTA received some comments requesting changes to requirements that are based in statutes or regulations that FTA does not have the authority to change.

Comment: One commenter asked FTA to reinsert language in the definition for "Associated Transit Improvement" to include landscaping for stormwater absorption and erosion prevention, consistent with version C 5010.1E of the circular.

FTA Response: FTA declines to make a change in response to the comment. The definition of "Associated Transit Improvement" is given in statute at 49 U.S.C. 5302(2). Note that certain kinds of landscaping may remain eligible as "functional landscaping" under the definition of "Associated Transit Improvement."

Comment: A commenter requested that FTA include fares as a permissible source of local match.

FTA Response: FTA declines to make a change in response to the comment. Federal law excludes fares as an eligible source of local match for FTA financial assistance. *E.g.*, 49 U.S.C. 5307(d)(3) (“the remainder of the net project costs shall be provided . . . in cash from non-Government sources other than revenues from providing public transportation services”). Generally, financial assistance from FTA may only fund up to the permissible Federal share of the “net project cost” of eligible projects. The term “net project cost” means the part of a project that reasonably cannot be financed from revenues (49 U.S.C. 5302(13)).

Comment: One commenter requested the circular only reference national flood insurance coverage thresholds as the required coverage for FTA-funded facilities in special flood hazard areas, which the commenter alleges would “avoid confusion due to the unavailability of substantial flood insurance policies or policies that fully insure agency’s assets and facilities.”

FTA Response: FTA declines to make a change in response to the comment. The circular does not require that recipients obtain full flood insurance coverage over project property. The circular cites 42 U.S.C. 4013(b)(4), which sets the minimum flood insurance coverage requirements.

Comment: One commenter recommended FTA remove language from Chapter III stating that milestone progress reports (MPRs) and Federal financial reports (FFRs) must be submitted to FTA within 30 days after the end of each quarter, as the commenter opines that 30 days is not sufficient to research, document, and provide explanations for variances that arise between MPRs and FFRs due to differences in the timing of project progress and project invoice submissions. The commenter further recommended FTA provide reporting frequencies and submission deadlines as best practices rather than requirements.

FTA Response: FTA declines to make a change based on this comment. Per 2 CFR 200.329, the recipient must submit regular performance reports. Reports that are due more frequently than annually, like the quarterly submitted MPRs, “must be due no later than 30 calendar days after the reporting period.” FTA does not have the discretion to deviate from this government-wide regulation.

B. Changes Based on Public Comments

Comments below reflect areas where FTA made language changes in the circular in response to public comments.

Effective Date for Updated Circular

Comment: One commenter noted the circular’s lack of a stated effective date or a statement of how existing awards and third-party agreements will be affected by C 5010.1F. The commenter asked if FTA will adjust its compliance reviews to account for differing applicable requirements based on the applicable date of circular C 5010.1F.

FTA Response: In response to this comment, FTA included the circular’s applicable date, November 1, 2024, in the first paragraph of the circular. FTA also added a statement to clarify the legal effect of the circular on FTA recipients. As a guidance document, the circular does not have the force and effect of law and is not meant to bind the public in any way. The circular is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Some of the revisions made in C 5010.1F describe changes in law or policy that took effect before the applicable date of C 5010.1F. Those changes apply according to their respective terms. Other circular provisions reflect long-standing FTA operating procedures to which notice was already provided or not required. Future compliance reviews conducted by FTA will account for the applicable effective dates.

Changes Made to Definitions in the Circular

Comment: One commenter said the proposed circular’s definition of “Shared Use” appeared to only apply to real property. The comment requested that FTA modify the definition to explicitly include shared use of equipment, including rolling stock.

FTA Response: FTA updated this definition to explicitly note shared use can apply to equipment, including rolling stock.

Comment: A commenter asked FTA to define Qualified Human Service Organization (QHSEO) and provide additional guidance regarding the exception of QHSEOs from the restrictions of FTA recipients to provide charter bus services contained in 49 U.S.C. 5323(d).

FTA Response: FTA added a definition of QHSEO to C. 5010.1 using the same definition provided at 49 CFR 604.3(q) for consistency. Additional language addressing QHSEO exceptions

was not added to the circular because 49 CFR part 604 addresses charter service. 49 CFR 604.7 provides the necessary guidance for QHSEOs providing charter bus services. No further guidance from the circular is required at this time.

Information on Specific Discretionary Programs

Comment: One commenter asked FTA to include a reference to FTA’s passenger-only ferry program in the list of current FTA programs in Chapter II.

FTA response: FTA added the Passenger Ferry Discretionary Program (49 U.S.C. 5307(h)) to the list of current FTA programs.

Request for Reference to Additional Resource

Comment: One commenter asked FTA to include a reference to the Coordinating Council on Access and Mobility (CCAM) Federal Fund Braiding Guide in Chapter VI as a resource for recipients to understand which sources of Federal funds may be used as local match for FTA-funded activities.

FTA Response: FTA added a reference to the CCAM Federal Fund Braiding Guide and a link to the online resource.

Incidental and Shared Uses

Comment: One commenter requested that FTA include examples of shared use and incidental use of equipment similar to the circular’s examples of shared use and incidental use of real property, further suggesting FTA include a table clarifying the difference between the two, as well as the applicable Federal rules for each.

FTA Response: In response to this comment, FTA included examples for the shared use and incidental use of equipment in Chapter IV of the circular. FTA did not include a table clarifying the difference between the two concepts, as the difference between the two concepts is sufficiently described in both Chapter IV and the circular’s definitions.

Comment: A commenter asked FTA to explain if FTA must always provide prior approval for shared use of real property. The commenter also asked if it was appropriate for FTA to refer to the allocable costs of construction for equipment that may qualify as a shared use for determining such a shared use’s pro rata share.

FTA Response: The circular already states that a shared use of property requires prior FTA approval except when it involves coordinated public transit-human services transportation. However, the word “construction” was replaced with “acquisition” to refer to the usual process for acquiring

equipment that may qualify as a shared use.

Comment: A commenter requested that the circular address incidental and shared uses of equipment and supplies by a non-controlling subrecipient for a public transportation use.

FTA Response: In response to this comment, FTA updated language addressing the concept of shared use for both real property and equipment in Chapter IV to clarify that shared uses can be arranged with any third-party user of project property, regardless of the type of entity, and is not limited only to non-transit entities or uses. Accordingly, a subrecipient's use of a recipient's real property or equipment can qualify as a shared use. However, FTA declines to change the language addressing incidental uses because the circular accurately reflects FTA's intent to define "Incidental Use" as the limited non-transit use of project property. A subrecipient's use of a recipient's project property for public transportation is not an incidental use because a subrecipient's activities are inherently public transportation.

Comment: One commenter requested that FTA remove the language addressing the incidental use of real property under the Property Management subsection in Chapter IV because the circular provides the same language under the Non-transit Uses of FTA-Assisted Real Property subsection in the same chapter.

FTA Response: In response to this comment, FTA removed the language regarding incidental use in Chapter IV's section on general use of project property, while retaining the same language in the section on incidental use.

Intercity Bus

Comment: One commenter asked that the circular recognize intercity bus as a non-incidental use, in other words, that intercity bus should be recognized in FTA guidance as a primary transportation use at FTA-funded facilities. The commenter stated that this request was because of challenges and delays intercity bus companies experience trying to obtain reasonable access for intercity bus at federally funded public transportation facilities.

FTA Response: FTA has added text to Chapter IV of C 5010.1F emphasizing the requirements of 49 U.S.C. 5323(r). According to 49 U.S.C. 5323(r), a recipient of FTA assistance may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities, including

intermodal facilities, park-and-ride lots, and bus-only highway lanes.

FTA declines to exclude intercity bus uses as a potential type of incidental use. By statute, 49 U.S.C. 5302(15) and 49 U.S.C. 5311, intercity bus service is not public transportation. The circular's definition of incidental use does not diminish the requirement in 49 U.S.C. 5323(r) that transit agencies must provide reasonable access because it is reasonable to ensure that intercity bus use does not conflict with the transit purpose of the project property or the recipient's ability to maintain satisfactory continuing control over the use of the property. Therefore, reasonable access provided to intercity bus service at an FTA-funded facility may be an incidental use of such a facility.

Comment: One commenter requested that FTA revise the circular to state that recipients should give intercity bus companies access to transit property at low or no cost. In C 5010.1F, FTA added a description of "no- or low-income" uses of transit property (those that bring little revenue to the recipient but serve a public purpose) as a kind of incidental use recipients may consider. The commenter suggested that FTA recategorize no- or low-income uses as distinct from incidental uses, under a new category such as "Non-Incidental," "Primary," or "Intercity Transportation" use. The commenter then requested that FTA state that intercity bus companies should be treated as a no- or low-cost use because they are a form of transportation with public benefits.

FTA Response: In response to this comment, FTA added a subsection to the circular to highlight the requirements of 49 U.S.C. 5323(r), which says recipients may not deny intercity bus companies and charter companies reasonable access to transit facilities. However, FTA declines to recategorize no- or low-income use separately from incidental use. FTA's incidental use policy is intended to cover all non-transit uses occurring on transit property, regardless of the revenue they create for FTA's recipient.

The purpose of the circular's description of no- or low-income uses is to recognize a recipient's flexibility to allow less-than-market rates for uses that provide benefits that complement public transportation services notwithstanding their low potential for revenue to the transit system. The categorization of any use as an incidental use is not a statement as to the importance of the use.

Additionally, FTA declines to describe intercity bus as a no- or low-income use. The access provision of 49

U.S.C. 5323(r) requires that recipients not deny intercity bus companies reasonable access to transit assets, but reasonable access does not require no cost or low cost access, although a recipient may determine that intercity bus service is an appropriate no- or low-income use depending on the location and its unique situation. FTA intends that its recipients have the full flexibility to bargain for what is reasonable in each situation, taking into consideration the public benefit of the proposed use, the costs the recipient incurs by allowing the use, the impact of the use on the recipient's operations, market rates, the value of the access to the non-transit entity, possible alternative uses, and other factors as determined by the recipient.

Real Property Status Reporting

Comment: One commenter recommended that FTA remove the additional elements now included in the updated circular's list of required information a recipient must include in its real property status reports, saying that records containing the additional information may not exist, require significant funds to generate, or otherwise would be burdensome to produce. The commenter further stated that 2 CFR 200.330 only requires recipients to generate real property status reports on a regular basis and does not require FTA acquire such information.

FTA Response: FTA declines to make any changes in response to this comment. Recipients must maintain adequate records for FTA's monitoring of recipients' compliance with Federal requirements. A real property status report would be inadequate to assess compliance with FTA real property requirements without the specified information. However, FTA modified the "Current Use(s) of the Property" element to prompt reporters to identify whether a significant change has occurred to a parcel of real property or is anticipated to occur in the next reporting period, and, if so, to describe the change. Further, FTA clarified language that some of the reporting elements apply to real property dispositions.

Comment: One commenter requested that FTA not require recipients to report the date of property disposition or the sale price and net proceeds in their real property status reports following property disposition.

FTA Response: FTA declines to remove the property disposition date, sales price, and related proceeds from the list of property status report elements because the information is

necessary to sufficiently assess a recipient's compliance with requirements regarding real property disposition and accounting for FTA's interest in the property. However, in response to this comment, FTA added language explaining that recipients should include the requisite disposition information for real property disposed within a three-year reporting cycle in the following real property status report, but recipients may remove the disposition information from the real property status reports thereafter.

Equipment Disposition Scenarios—Appendix G

Comment: One commenter asserted that the equipment disposition scenarios in Appendix G contain two errors. The commenter said the second paragraph of the appendix should indicate that the insurance proceeds received by the recipient are more than the Federal share for the example unit of equipment rather than less than the Federal share. The commenter also said that language in the third paragraph of the appendix should indicate that the insurance proceeds received by the recipient are less than the Federal share for the example unit of equipment rather than more than the Federal share.

FTA Response: In response to this comment, FTA adjusted the language referenced by the commenter to accurately show the relationship between the amount of insurance proceeds and the respective Federal share for the example units of equipment in the scenarios presented.

Comments Requesting Clarifications or Specificity

FTA received several requests for clarification or more specificity on various requirements. In response, FTA revised language in the circular to address comments, as explained below.

Inventory of Vehicle Components

Comment: Three commenters expressed concerns regarding the requirement for recipients to identify and inventory vehicle components removed from a vehicle at the end of the vehicle's useful life that retain a Federal interest. The commenters opined that such treatment would exact an administrative burden for transit agencies and auditors because of the large volume of low-value components that fall into this category.

FTA Response: In response to this comment, FTA clarified in the circular that a recipient only must inventory a removed vehicle component when the component meets the definition of "equipment." 2 CFR 200.1 and the

circular define equipment as tangible property having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the recipient for financial statement purposes, or \$10,000.

Transfer of Real Property for Affordable Housing

Comments: A commenter submitted multiple comments related to provisions for the transfer of real property for affordable housing purposes as part of a transit-oriented development (TOD). One comment expressed safety concerns with the combination of housing with transit facilities and asserted that any such developments that combine the two should include separation requirements between those uses. Another comment suggested that restrictions on the use of transferred real property for low-cost housing could limit complementary ancillary services for transit patrons associated with transit facilities located in mixed-use environments. An additional comment expressed concerns and confusion with the transfer criteria potentially excluding governmental entities and non-profit organizations.

FTA Response: In response to this comment, FTA changed the title of the subsection in Chapter IV from "Transfer for Transit Oriented Development" to "Transfer for Affordable Housing for Transit Oriented Development" to clarify that this transfer authority is specific to affordable housing in a TOD environment, not all TOD initiatives. However, no additional changes were made based on these comments. The affordable housing requirements do not prevent the inclusion of additional ancillary services beyond those that could support affordable housing. The provisions of 49 U.S.C. 5334(h)(1)(B) do not prohibit recipients' abilities to engage in TOD initiatives or additional transit-related services, but rather provide one permissible disposition option for affordable housing projects meeting the statutory requirements. Further, this asset disposition provision prioritizes transfer to governmental entities and non-profit organizations. An asset may only be transferred to a third-party entity if a local government authority or nonprofit organization is unable to develop the property. For additional information about the asset disposition provision, please see FTA's Interim Asset Disposition Guidance at <https://www.transit.dot.gov/funding/funding-finance-resources/interim-asset-disposition-guidance>.

Asset Disposition

Comment: Two commenters requested that FTA increase the disposition threshold from \$5,000. One commenter also requested that FTA permit recipients to retain all proceeds obtained through the resale of FTA-assisted vehicles to supplement open grants.

FTA Response: FTA edited language addressing disposition of equipment and supplies in Chapter IV to conform with changes IJA made to 49 U.S.C. 5334(h)(4)(B), as well as changes to 2 CFR part 200 that took effect on October 1, 2024. Per 2 CFR 200.313 and 200.314, equipment with a per unit value of \$10,000 or less and unused supplies with an aggregate value of \$10,000 or less may be retained, sold, or otherwise disposed of with no further responsibility to FTA. If the proceeds are greater than \$10,000, then per 49 U.S.C. 5334(h)(4)(B), the recipient may retain \$5,000 and the percentage of the local share in the original award of the remaining proceeds, with the remaining Federal share returned to FTA. Because 49 U.S.C. 5334(h)(4)(B) requires recipients to return to FTA the FTA share of proceeds from the sale of rolling stock, FTA does not have discretion to allow recipients to retain these proceeds to supplement open grants.

Comment: A commenter asked FTA to provide further guidance regarding the disposition of supplies and attendant insurance proceeds, mentioning that pre-existing C 5010.1E provided detailed information on the topic.

FTA Response: In response to this comment and to reflect updates to 2 CFR 200.314, FTA included additional language identifying the treatment of the disposition of supplies. In several places where C 5010.1F discusses the application of disposition rules to equipment, FTA has added a statement that disposition rules also apply to unused supplies the aggregate value of which exceeds \$10,000. FTA does not have any unique considerations regarding the disposition of supplies beyond what is directed in 2 CFR 200.314. Furthermore, FTA's treatment of insurance proceeds applies similarly to all project property. Equipment disposition scenarios that involve insurance proceeds are provided in Appendix G of the C 5010.1F. The same examples illustrate FTA's treatment of disposition of unused supplies. Therefore, no further guidance is necessary to further illustrate FTA's treatment of the disposition of supplies or attendant insurance proceeds from claims arising for the loss of supplies.

Buy America

Comment: One commenter recommended that FTA remove the summaries of “Buy America Domestic Preference” in Chapter II and, instead, only use the circular to refer FTA grant recipients to current Buy America regulations at 49 CFR part 661, 2 CFR part 184, and the Office of Management and Budget’s (OMB’s) implemented guidance for Build America, Buy America (BABA). The commenter was concerned that the summary of these requirements in C 5010.1F may inhibit compliance by overly simplifying complex requirements.

FTA Response: FTA understands the commenter’s concern and agrees that recipients always should refer to the actual laws and regulations cited in the circular. However, FTA declines to adopt the commenter’s suggestion. C 5010.1F strikes a balance between informing readers of the broad requirements of Buy America while recognizing that actual rules are complicated. Moreover, directing recipients to regulations without additional context may also be confusing. The application of the Build America, Buy America Act domestic preference, located at 2 CFR part 184, is only partially applicable to FTA financial assistance awards because FTA’s existing Buy America requirements at 49 U.S.C. 5323(j) continue to apply where they meet or exceed the Build America, Buy America Act requirements.

However, FTA updated a reference from a superseded OMB memorandum to its current version and corrected a misstatement in the circular’s text. The proposed version of C 5010.1F had said that 49 CFR 663.37 exempts some vehicle purchases from the auditing requirement, when 49 CFR 663.37 actually exempts those purchases from the resident inspector requirement.

Transit Vehicle Manufacturer (TVM) Compliance Under FTA’s Disadvantaged Business Enterprise (DBE) Program

Comment: A commenter requested FTA include a clarification in Chapter II that recipients are not restricted to solicit bids from DBE-eligible transit vehicle manufacturers (TVMs). The commenter states that bid respondents could be other third parties, such as authorized dealers, which can also be bound by the TVM requirements.

FTA Response: In response to this comment, FTA expanded relevant language explaining that recipients may seek bids from entities other than vehicle manufacturers, such as

dealerships, who certify that the procured vehicles are, or will be, manufactured by DBE-eligible TVMs.

Rolling Stock Spare Ratio Policies

Comment: A commenter requested that FTA exempt the requirement to report spare ratios for subrecipients whose spare ratios are not limited to 20 percent. The commenter also asked FTA to clarify whether a direct recipient or the subrecipient’s maximum spare ratio would apply when the direct recipient is seeking funding to procure vehicles on behalf of a subrecipient.

FTA Response: In response to this comment, FTA added a statement in its spare ratio policy clarifying that FTA calculates each transit operator’s maximum spare ratios separately, based on each separate operator’s fleet size, without regard to their status as a direct recipient or subrecipient. FTA’s spare ratio policy is that recipients with 50 or more fixed-route vehicles limit their spare ratio to 20 percent of the number of vehicles operated in maximum fixed-route service. This requirement extends to subrecipients’ separate fleets individually, and their fleets are not imputed to the recipient. For individual operators with fewer than 50 fixed-route vehicles, whether they are recipients or subrecipients, FTA does not set a specific maximum spare ratio but expects the number of spare vehicles to be reasonable, considering the number of vehicles and variety of vehicle types and sizes.

Recipient-to-Recipient Transfer of Rolling Stock

Comment: A commenter requested that FTA clarify that recipient-to-recipient transfers of rolling stock are used for instances in which the useful life of the rolling stock has not yet been met.

FTA Response: In response to this comment, in Chapter IV, FTA has amended the language specific to recipient-to-recipient transfers of rolling stock to clarify that recipients should provide FTA with certain documentation when seeking FTA’s approval of recipient-to-recipient transfer of rolling stock with a remaining useful life. The language in Chapter III addressing recipient-to-recipient transfers of rolling stock does not exclusively apply to rolling stock at the end of its useful life. Rather, the language specifically addresses the differing requirements and considerations when transferring rolling stock that does or does not have a remaining useful life.

C. Request for Technical Assistance

Comment: FTA received a comment requesting more targeted technical assistance on new information included in Appendices A, B, and C. The commenter also asked FTA to provide guidance regarding recipient legal capacity requirements outlined in Appendix A. Lastly, the commenter asserted that pre-award requirements in Appendix B include substantial changes that may require proper lead time for agencies to prepare for the requirements.

FTA Response: FTA declines to make any changes in the circular in response to this comment. However, FTA will provide training and technical assistance opportunities regarding updates made to this and the other simultaneously issued program circulars (C 9040.1H, C 9070.1H, C 9050.1A).

III. Other Updates

In addition to the changes noted above, FTA made revisions in this final circular for consistency with changes in statute, regulation, and other FTA circulars, as well as minor, non-substantive revisions for clarity. For consistency with statute, FTA added language in Chapter IV identifying alternative fueling facilities as a potential type of incidental use of both real property and equipment in accordance with 49 U.S.C. 5323(p). Additionally, FTA added a statement at the beginning of the circular that in cases for which the circular is inconsistent with changes to any law, the law will supersede this circular. Along with other non-substantive administrative changes that were recommended by several commenters, FTA made additional corrections in the circular for typographical errors, grammatical errors, and formatting.

Updates Based on Regulatory Changes

Since C 5010.1F was released for public comment on February 14, 2024, several government-wide regulations have changed. FTA has accordingly updated the 5010.1 circular to reflect changes in the law since that time, including the following:

2 CFR Part 200 Changes

The Office of Management and Budget (OMB) updated the government-wide policies for the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200 as well as parts 25, 175, and 180, effective October 1, 2024, including but not limited to the following:

- *Equipment and Aggregate Supplies Definitions/Thresholds:* Sections

200.313 (Equipment) and 200.314 (Supplies) of 2 CFR part 200 each increase the thresholds, from \$5,000 to \$10,000, for the value of equipment and aggregate supplies a recipient may retain, sell, or dispose of at closeout. Consistent with 2 CFR 200.314, FTA also clarified throughout the circular that disposition requirements apply only to unused supplies.

- **De Minimis Rate:** 2 CFR part 200 increases the de minimis indirect cost rate from 10% to 15% of Modified Total Direct Costs (MTDC). FTA recipients and subrecipients may elect a lower de minimis rate at their discretion and modify the indirect cost rate of MTDC to permit inclusion of the first \$50,000 of any one subaward in the base.

- **Single Audit:** 2 CFR part 200 increases the direct Federal expenditure threshold requiring a recipient to conduct a single audit from \$750,000 to \$1 million. OMB also revised the definitions of “known questioned costs” and “likely questioned costs” while providing additional direction to recipients to identify such costs in an audit report.

Uniform Act Changes

Acting as Lead Agency, FHWA published a final rule on May 3, 2024, to amend and update 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) for land acquisition and displacement activities by all Federal agencies and their financial assistance recipients (89 FR 36908). These regulations clarify existing requirements for implementing the Uniform Act, meet modern needs, and improve the agencies’ service to individuals and businesses affected by Federal or federally assisted projects. All references to these regulations were updated in C 5010.1F.

Disadvantaged Business Enterprise (DBE) Final Rule Changes

On April 9, 2024, the U.S. Department of Transportation published its final rule regarding Participation by Disadvantaged Business Enterprises (DBE) in Department of Transportation Financial Assistance Programs located at 49 CFR part 26 (89 FR 24898). Changes to the rule include a streamlined DBE certification process, adjustments to grant recipient reporting requirements, and other technical corrections. For FTA specifically, the rule creates two tiers of recipients: Tier I recipients who award more than \$670,000 in FTA funds annually in 3rd party contracts and are subject to all DBE program provisions and Tier II recipient who award \$670,000 or less in

FTA funds annually and are subject to a subset of provisions.

Veronica Vanterpool,
Deputy Administrator.

[FR Doc. 2024–22160 Filed 9–26–24; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2024–0004]

Rural Areas Formula Grant Programs Guidance, Final Circular

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of availability of final circular and response to comments.

SUMMARY: The Federal Transit Administration (FTA) has finalized an updated circular, to assist recipients in their implementation of the Rural Areas Formula Program and the rural component of the Grants for Buses and Bus Facilities Program. The update and consolidation of the circulars incorporates provisions from the Fixing America’s Surface Transportation (FAST) Act; the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL); the Uniform Administrative Requirements for Federal awards to non-Federal entities; and current FTA policies and procedures. This notice responds to the comments FTA received on the proposed circular, which was published in the **Federal Register** on April 4, 2024.

DATES: The applicable date of this circular is November 1, 2024.

ADDRESSES: One may view the comments at docket number FTA–2024–0004. For access to the docket, please visit <https://www.regulations.gov> or the Docket Operations office located in the West Building of the United States Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For Rural Formula program questions, Matt Lange, Office of Transit Programs, Federal Transit Administration, US DOT Volpe Center, 220 Binney Street, Room-940, Cambridge, MA 02142, phone: (617) 494–6308, or email, matthew.lange@dot.gov. For Bus and Bus Facilities program questions, Kirsten Wiard-Bauer, Office of Transit Programs, Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590, phone: (202)

366–7052, or email, KirstenWiard-Bauer@dot.gov. For Tribal Transit Program questions, Elan Flippin, Office of Transit Programs, phone: (202) 366–3800, or email, elan.flippin@dot.gov. For legal questions, Bonnie Graves, Office of Chief Counsel, phone: (202) 366–0944, or email, Bonnie.Graves@dot.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Overview
- II. Responses to Public Comments
 - A. Disposition of Comments for Which No Changes Were Made
 - B. Changes Made as a Result of Public Comments
 - C. 2 CFR Part 200 Updates

I. Overview

The Federal Transit Administration’s (FTA) final circular, “Rural Areas Formula Grant Programs Guidance,” C 9040.1H, is a consolidation of guidance for Rural Areas Formula Grants Program under 49 U.S.C. 5311 (Circular 9040.1) and the rural area component of the Grants for Buses and Bus Facilities Program under 49 U.S.C. 5339(a) (Circular 5100.1). Additionally, this updated circular incorporates provisions of the FAST Act (Pub. L. 114–94), the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58), and other changes in law, and includes program-specific guidance for these formula programs. Additional requirements for all grant programs are identified in FTA’s Award Management Requirements (Circular 5010.1).

The update to Circular 9040.1 consolidates and summarizes programmatic information, streamlines pre-existing guidance from the two program circulars, and reduces duplication of information provided between the Rural Areas Formula Program circular and FTA’s other topic-specific circulars, including by moving certain text applicable to most or all FTA grant programs to Circular 5010.1. Furthermore, the circular incorporates statutory changes and clarifies policies as applied by FTA. Statutory changes for Section 5311 include additional sources of local share; in-kind match for intercity bus service; and fund allocations for tribes. Statutory changes for Section 5339(a) include the application of Section 5311 requirements to Section 5339 grants in rural areas; additional source for local share; additional eligible entities; and use of procurement tools authorized under Section 3019 of the FAST Act. Policy clarifications address topics in the existing program circulars, including consolidation of grants to

insular areas; eligible projects and activities for each program; operating assistance limitations and exceptions; capital cost of contracting; the role of transportation network companies in providing public transportation services; and period of availability to obligate funds flexed to FTA formula programs from the Federal Highway Administration (FHWA).

In addition to statutory and policy updates, the Office of Management and Budget (OMB) issued 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, also known as the Uniform Guidance, in December, 2013, which superseded the Common Grant Rule, formerly codified at 49 CFR parts 18 and 19. Due to the timing of the last circular update and the effective date of the Uniform Guidance, FTA Circular 9040.1G continued to reference 49 CFR parts 18 and 19. FTA has updated these references, including definitions, in Circular 9040.1H. Further, on April 22, 2024, OMB issued a final rule updating 2 CFR part 200 (89 FR 30046). Two of those updates resulted in changes to the draft C. 9040.1H, and those changes are discussed in this notice.

This notice provides a summary of comments received and FTA's response to those comments.

II. Response to Public Comments

FTA published a notice for comment on this circular in the **Federal Register** on April 4, 2024 (89 FR 23618), describing the consolidation and updates and seeking public comment on the proposed circular. FTA received eighty-three (83) comments from sixteen (16) unique commenters. FTA reviewed the comments and addresses below the categories of comments for which no changes to the proposed circular were made, as well as the changes FTA made in the final circular in response to public comments.

A. Categories of Comments for Which No Changes Were Made

Comment: Three commenters requested an extension of the sixty (60) day review period.

FTA Response: FTA determined, based on the agency's preexisting decision-making schedule; two other draft circulars published for public comment prior to proposed C. 9040.1H which included similar information; and the updates and consolidations to the existing circulars include limited statutory changes resulting from FAST Act and BIL, regulatory updates to 2 CFR part 200, and policy clarifications;

that an extension was not warranted. FTA considered all comments received.

Comment: Several commenters requested increasing the period of time during which governors can, without local consultation, transfer funds between the Section 5307 and 5311 programs from ninety (90) days to one (1) year.

FTA Response: The ninety (90) day period for transferring state apportionments of formula grants without local consultation is set statutorily under 49 U.S.C. 5336(f) and FTA does not have the authority to increase the time period for these transfers.

Comment: One commenter requested a change to allow direct recipients of FTA Section 5307 funds to serve as direct recipients of Section 5311 funds.

FTA Response: Under 49 U.S.C. 5311(a)(1) the only eligible recipients of formula funds for rural areas are States and Indian Tribes. Local government authorities are eligible subrecipients.

Comment: One commenter requested the addition of language specifying that Section 5311(f) funds may be used to build all parts of an urbanized area intercity bus terminal serving both rural and urban passengers regardless of the proportion of such service that would benefit rural users.

FTA Response: Rural transit program funds are intended to primarily benefit rural transit users; while urban users may also benefit from services funded by the rural transit programs, they should not be the primary beneficiaries. The use of rural transit program funds should be proportional to the benefits realized by rural users.

Comment: One commenter requested an increase to the Federal share of operating expenses for Section 5311 funds.

FTA Response: FTA does not have the authority to change the Federal share as it is set by statute—49 U.S.C. 5311(g)(2) provides the Federal share shall not exceed 50 percent of the net operating cost of the project.

Comment: One commenter requested the relaxation of, or provision of waivers for, the Buy America requirements in situations where the costs were onerous.

FTA Response: No changes to Buy America are possible as this is a statutory requirement. FTA encourages interested stakeholders to review 49 U.S.C. 5323(j) for a list of waivers permitted by statute, one of which is when including domestic material will increase the cost of the overall project by more than 25 percent. FTA's Buy America rule at 49 CFR part 661 describes how to request a waiver. Additionally, Buy America

requirements are discussed in depth in Circular 5010.1.

Comment: One commenter requested that up to ten percent (10%) of transferred flexible funds from FHWA may be used for State administration.

FTA Response: Flexed funds are only eligible for State administration to the extent that FHWA permits. Recipients should contact their FTA Regional Office for information on eligible activities when accepting transferred FHWA funds.

Comment: One commenter requested a "more streamlined process that all States must adhere to" related to State oversight of intercity bus service.

FTA Response: The guidance provided in this circular is intentionally broad to address a variety of circumstances, geographies, and types of recipients and subrecipients while allowing maximum flexibility to the States in administering Federal grants programs. Due to this dynamic and the reality that the provided guidance is based on existing statutes, policies, and regulations, FTA cannot provide a single process for all recipients; nor can FTA streamline the process by removing or waiving any requirements.

Comment: Two commenters requested formatting changes related to page numbering and removal of blank pages.

FTA Response: FTA appreciates these comments; however, the layout of the circular is deliberate and intended to make printed versions readable.

Comment: One commenter recommended that references to circulars and other documents be as broad as possible to make them easier to update, which FTA interpreted to mean that, for example, the Rural Areas circular would be referred to as "C 9040.1" and not as "C 9040.1H" and statutory provisions would be referred to as "49 U.S.C. 5311" instead of "49 U.S.C. 5311(b)."

FTA Response: Where appropriate, FTA already endeavors to make references in the broad fashion suggested here. In addition, FTA is able to update guidance documents with statutory or regulatory citation changes without undergoing further notice and comment.

Comment: One commenter requested that links be provided wherever possible throughout the document.

FTA Response: FTA has included links where appropriate and when the corresponding web address can be expected, with relative certainty, to remain the same into the future.

Comment: One commenter requested the inclusion of "contract" and "contractor" in the definitions list.

FTA Response: The terms “third-party contract” and “third-party contractor” are defined in Circular 5010.1 and FTA declines to include definitions of these terms in this circular.

Comment: One commenter requested that the term “urban areas” in the definition of “intercity bus” be more thoroughly defined or explained.

FTA Response: FTA includes the statutory definition of urbanized areas in the definitions section: “Urbanized Area (UZA). An area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ‘urban area’ by the Secretary of Commerce (49 U.S.C. 5302).” FTA notes the Census now defines some areas with populations of less than 50,000 as “urban,” however, for purposes of FTA’s programs, areas with a population of less than 50,000 are defined as rural. For consistency we have changed “urban area” to “urbanized area” in the definition of intercity bus.

Comment: One commenter requested that the threshold at which recipients must revise their Program of Projects (POP) change, from a 20% increase in total funds reflected on the POP to a 25% increase in total funds reflected on the POP, in order to coincide with the commenter’s practices.

FTA Response: The threshold is set at 20% as a matter of policy and FTA declines to make this change.

Comment: One commenter requested that FTA remove the requirement to submit an annual POP Status Report. Another commenter requested that FTA add language stating that if the most recent POP in TrAMS is current, the annual POP Status Report may reference the date of the current POP in lieu of uploading a POP.

FTA Response: FTA considers the POP Status Report necessary to ensure the POPs are tracked at least annually. Annual reports for the POP provide the opportunity for comprehensive updates based on the progress of the award, in a holistic way than an individual FFR or MPR.

Comment: Several commenters expressed concern regarding the requirement that a Section 5311(f), intercity bus Governor’s Certification Letter be sent to the FTA Regional Administrator and not the FTA Administrator. Commenters asserted this was a change in policy reducing the level of oversight from FTA’s Administrator to a Regional Administrator.

FTA Response: The Governor’s Certification Letter has always been sent to the Regional Administrators for

approval. The additional language simply makes this review process more apparent to stakeholders.

Comment: One commenter asked FTA to remove any references to procedure when discussing State oversight in the context of the State Management Plan (SMP).

FTA Response: States are required to perform oversight activities in order to properly manage the Federal programs they are responsible for, and FTA is required to monitor how States manage these programs to ensure this oversight is taking place. As a result, discussions of State program management and State monitoring are necessary to ensure compliance with all relevant statutory and regulatory requirements.

Comment: One commenter requested new requirements be added to the State Management Plan (SMP), including a requirement that States address what their policies are toward “high-risk” subrecipients.

FTA Response: The guidance is written to provide maximum flexibility to the States. Monitoring is already addressed via the SMP, and a State is not prohibited from increased monitoring of any subrecipient they deem to be high-risk. As the recipient, it is up to the State to determine the best approach to ensure subrecipient compliance. FTA declines to add this proposed requirement to the circular.

Comment: One commenter requested additional language further emphasizing that intercity city bus services that cross state boundaries are eligible for Section 5311 funding.

FTA Response: The request for eligibility emphasis is not needed given the enabling language already present in the circular. Section 5311 eligibility language included under “General Program Information, Chapter III 1.c., states that for Section 5311 projects, “The service area may include destinations across a State line.” This applies to intercity bus service as well as Section 5311 public transit service. Further, the intercity bus language in Chapter IX provides, “FTA encourages the State to look at the intercity bus transportation needs of the entire State and to work with neighboring States to adopt a program that will support a network of intrastate services and provide connections with a national network of interstate service.” It is reasonable to expect service may need to cross State lines in order to provide access to neighboring State service as well as the national network of intercity bus service.

Comment: Several commenters asked FTA to provide additional examples, or lists of examples, to further illustrate

requirements and processes. For example, one commenter requested a complete list of other public transportation-related Federal programs that may provide support for Section 5311 and Section 5339 projects. One commenter requested that FTA clarify whether rural transit activities for RTAP assistance include Section 5310-funded activities in rural areas.

FTA Response: FTA declines to provide additional non-exhaustive lists of examples as the elements could vary from case to case and programs change over time such that a list could become out of date. For those seeking information on other Federal programs that provide funding for transportation, FTA invites interested stakeholders to review FTA’s web page on the Coordinating Council on Access and Mobility and view the “CCAM Program Inventory,” located at <https://www.transit.dot.gov/coordinating-council-access-and-mobility>. Finally, RTAP funds may be used to support Section 5310 projects in rural areas.

Comment: One commenter requested the addition of language to the definition of “Joint Development Activities,” emphasizing the role of intermodal transportation centers as hubs for intercity bus facilities.

FTA Response: FTA has included only a streamlined definition of joint development and referred readers to FTA’s Joint Development Circular 7050.1C. FTA notes that intercity bus is specifically included as an eligible joint development project on page IV–9 of circular. Thus, additional language about its eligibility is not needed.

Comment: One commenter noted that there are instances in the circular where projects are listed as eligible public transit projects when those projects are also eligible intercity bus projects. The commenter requested that FTA add “intercity bus” where such projects are also eligible.

FTA Response: FTA generally declines to accept this suggestion, as in some cases, intercity bus projects are not eligible for Section 5311 funds except for the Section 5311(f) set-aside. Under the statute, eligible activities are “public transportation capital projects; and operating costs of equipment and facilities for use in public transportation;” 49 U.S.C. 5311(b)(1). Given intercity bus is not considered public transportation under 49 U.S.C. 5302, intercity bus projects are not eligible except where they are considered “capital projects” under 49 U.S.C. 5302, including joint development projects that include intercity bus, and intermodal facilities. This discussion is included in Chapter

IX. As discussed below, FTA has added “intercity bus” to flex fund discussions, as intercity bus projects are eligible for some funds transferred to FTA from FHWA. FTA encourages intercity bus operators to work with the States and FTA Regional Offices if there are questions about eligible activities.

As stated in the **Federal Register** notice accompanying the proposed circular, FTA proposed moving cross-cutting requirements and guidance to Circular 5010.1, as an effort to streamline the program circulars. Three commenters asked FTA to retain some of that information in the updated C 9040.1.

Comment: Two commenters requested additional guidance on minimum useful life of vehicles and other capital assets, to include either examples or links to lists.

FTA Response: As this information is cross-cutting, it is included in the C 5010.1 Award Management Requirements Circular, to which the C 9040.1H refers users. Therefore, the inclusion of that same information here would be redundant.

Comment: One commenter requested additional information about the use of Transportation Development Credits (TDCs) for local match.

FTA Response: As this information is cross-cutting, it is included in the C 5010.1 Award Management Requirements Circular, to which the C 9040.1H refers users. Therefore, the inclusion of that same information here would be redundant.

Comment: Several commenters requested changes that are outside the purview of the circular update process. For example, two commenters requested changes to the ALI system in TrAMS. One commenter requested a consolidation of certain ALI codes within the existing ALI tree. Another requested that language be added stating that mobility management activities are eligible as administrative expenses in the ALI codes.

FTA Response: FTA is updating the ALI tree, but this is not related to the process of updating the circulars. However, the comments related to ALI trees and ALI codes have been shared with staff involved with that update. Mobility management is an eligible capital expense, not an administrative expense.

Comments: Several comments were of a general nature, such as those expressing support of rural transit funding or concern for potential impacts of requirements on small rural providers.

FTA Response: FTA appreciates these statements and, while no action or

change was requested, the comments have been read, recorded, and discussed.

Comment: One commenter noted that questions arose on whether FTA would use ‘smoothed’ UZA boundaries that have been adjusted from the raw 2020 UZA boundaries for FHWA roadway classification purposes to determine eligibility of UZA vs. rural FTA formula program funds. The commenter requested that FTA include guidance on this topic in the circular that has been provided through other FTA resources.

FTA Response: Post-delineation UZA smoothing adjustments made for FHWA roadway classification purposes do not have the effect of changing the geographic coverage of UZAs or any other UZA characteristics for any aspects of FTA program administration. Because such adjustments are administered by another Federal agency for purposes that are irrelevant to FTA programs, FTA does not feel it is necessary to include related guidance in the circular.

Comment: One commenter requested that language be added to say that intercity bus and related facilities are eligible under Section 5339(a).

FTA Response: FTA disagrees—per Section 5339, eligible recipients are designated recipients that allocate funds to fixed route bus operators or State or local governmental entities that operate fixed route bus service. Section 5339 further specifies that eligible subrecipients must be public agencies or private nonprofit organizations engaged in public transportation. Intercity bus projects are eligible under Section 5311(f).

Comment: One commenter requested more specific program/project management oversight activities required for States that award FTA Section 5311(f) funding to private intercity bus providers and the applicable requirements for private intercity bus service providers.

FTA Response: The requested information is provided in various places throughout Chapter IX. State certification requirements and procedures are discussed on page IX–1. The Intercity Bus Consultation Requirement is discussed on page V–3 and the consultation requirements are discussed in Section 4 of Chapter IX. Documentation requirements are discussed on page IX–5; the State’s role in reviewing and processing applications is discussed on page IX–6. Transportation Improvement Plan (TIP) and State Transportation Improvement Plan (STIP) inclusion requirements are discussed on page IX, State POP. Budgeting, labor protection, and

enforcement of compliance are discussed in Section 13.

Comment: One commenter requested that FTA “explicitly identify the cognizant agency for providers who receive Section 5307 and 5311 funding.”

FTA Response: The cognizant agency as it would apply to an indirect cost rate is determined by the largest amount of funding a recipient receives from a Federal agency. FTA encourages recipients with questions about cognizant agencies for indirect costs to contact their FTA Regional Office.

Comment: One commenter questioned the need to discuss Title VI civil rights requirements in both the State Management Plan (SMP) and the Title VI Plan.

FTA Response: This is a necessary element of the required state management review. Information is frequently required in multiple reports as the reports serve different functions and have different audiences. The information provided in the SMP may be identical to that in the Title VI Plan, so this requirement is not difficult to meet. This also ensures civil rights considerations are included at all stages of FTA-funded projects.

FTA received several comments requesting FTA provide outreach on circular changes, as well as requests for more targeted technical assistance. FTA will provide external training on changes made to this and the other circulars that FTA is revising and will go into effect at the same time (C 9040.1H, C 9070.1H, C 5010.1F) soon after publication of the final circulars.

Comment: One commenter offered an alternative example for calculating the allowable in-kind match cost of the private operator as they felt the provided example was confusing.

FTA Response: FTA declines to replace the existing example with the one provided by the commenter and will further providing training to assist with any confusion on the topic.

B. Changes to the Final Circular as a Result of Public Comments

A portion of the comments that FTA received were requests for clarification or more specificity on various requirements. FTA revised language in the circular to address these comments, as explained below.

Use of the terms “grant” and “award.” FTA ensured that the terms “award” and “grant” are used in a consistent and understandable way throughout the document.

Incidental Use. In Chapter I, FTA updated the definition for Shared Use to match the definition in Circular 5010.1

and other program circulars to better differentiate between “shared use” and “incidental use.” In addition, in the discussion of incidental use in Chapter III, FTA included a sentence directing readers to Circular 5010.1 for additional information. FTA amended the section on incidental use to clarify that FTA-funded public transportation service should be coordinated with other rural transportation services, including intercity bus service. The purpose of a public transit bus stop or station may be for public transportation and an intercity operator using the stop or station a few times a day would be incidental to the public transportation purpose. Consistent with 49 U.S.C. 5323(r), FTA expects recipients to grant reasonable access to such stops or stations to intercity bus operators. An intercity bus operator using a stop or station that is part of a joint development or other intermodal project would not be incidental, as such use would meet the purpose of the project.

Program of Projects (POP). In Chapter I, FTA removed the word “annual” from the definition of Program of Projects (POP) and in Chapter II removed “annually” from the POP reporting procedures; the POP is not required to be submitted every year if a State is not receiving an award in a given year. It must be submitted for any year in which the State requests FTA funds.

The Role of the State Agency. In Chapter II, FTA added “Ensure an accurate and complete list of projects are included in the Statewide Transportation Improvement Program (STIP)” to the list of roles of a State agency in administering the Section 5311 and 5339 programs.

Conducting State Management Reviews (SMRs). In Chapter II, FTA added language that FTA conducts SMRs in accordance with the most recent Comprehensive Oversight Review and Technical Assistance Program (CORTAP) Manual. FTA also added language to make it clear that FTA may perform SMRs in addition to, or in lieu of, Triennial Reviews where appropriate.

Transfer of FHWA Flexible Funds. In Chapter III, FTA added language stating a State may transfer certain funds from FHWA to FTA to use for transportation planning or intercity bus projects (in addition to transit projects, which were already noted as eligible).

Eligibility of Regional Development Organizations (RDOs) as Section 5311 Subrecipients. In Chapter III, FTA added language that regional development organizations (RDOs) may be eligible subrecipients as local governmental authorities.

Intercity bus terminals in urban areas using Section 5311(f) funds. Intercity bus terminals or the intercity bus portions of intermodal terminals in urbanized areas that serve both rural and non-rural passengers may be built with Section 5311(f) funds. The Section 5311 program is primarily intended to benefit rural transportation needs. While Section 5311(f) funds can sometimes be applied to projects and services that collocate in urbanized areas, the funds must be used in proportion to the benefit to rural transportation needs. FTA does not specify the exact methodology to be used, to allow flexibility to the States and designated recipients in urbanized areas. A reasonable method must be used to ensure the funds are spent proportionally to the benefits to rural transportation needs. FTA has added language on page III–9 to clarify this policy.

Employee Training Expenses. In Chapter IV, FTA added language clarifying the 0.5% cap on FTA funds used for employee training expenses applies only to Section 5339 funding, as employee training expenses are eligible under Section 5311.

Eligibility of oil as a preventive maintenance expense. In Chapter IV and Chapter XI, FTA removed “oil” from the list of operating expenses eligible under Section 5311; oil is an eligible preventive maintenance expense. Please note operating and preventative maintenance are not eligible under Section 5339.

Eligibility of 5339(a) funded projects that do not support fixed route only. FTA added language in Chapter IV clarifying that Section 5339(a) funds are not limited to projects that only support fixed route. This language addressed a commenter’s concern about the statement, “Eligible recipients for Section 5339 funds include designated recipients that allocate funds to fixed route bus operators, and States and local governmental authorities that operate fixed route service.” While the statute provides funds are allocated only to fixed route operators, the funds may be used to support demand-response vehicles and facilities.

ADA Complementary Paratransit. In Chapter IV, FTA added language and made changes to existing language to clarify the requirements for using formula funds at an 80 percent Federal share for ADA complementary paratransit: the percentage caps are applied at the State, not the subrecipient level, and there are additional requirements for applying the higher twenty percent (20%) cap of the apportionment. Additionally, FTA

corrected the spelling of “complimentary” to “complementary.”

Metropolitan, Statewide, and Non-Metropolitan Planning Requirements. In Chapter V, FTA added language regarding projects receiving rural funding and located within Metropolitan Planning Area (MPA) boundaries but not within a UZA boundary to state that they may or may not need to be included in the Metropolitan Transportation Plan and TIP for the respective MPO. Also in Chapter V, FTA added language specifying that rural areas outside MPAs (and therefore not included in a metropolitan STIP) may receive FHWA flex funds.

Recordkeeping Requirements. In Chapter VI, FTA added language that States are not required to keep all supporting documentation received from subrecipients on file, but this documentation must be maintained by each subrecipient.

State Management Plans (SMPs). In Chapter VII, FTA added a reference to the planning statute at 49 U.S.C. 5304 to differentiate between the SMP and the long-range statewide transportation plan. FTA also added language to Chapter VII stating that the SMP must be approved by and filed with the FTA Regional Office. FTA added language which reflects statutory amendments to 49 U.S.C. 5304 resulting from the FAST Act, which require States to describe their processes for developing and integrating intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities, and for consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

Reasonable Access to Federally Funded Transportation Facilities for Intercity Bus Providers. In Chapter IX, FTA added language specifying that recipients of FTA funds may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities. FTA also provided guidance for determining when access is reasonable.

Meaningful Connections to the Intercity Bus Network. In Chapter IX, FTA added examples of factors that determine whether connections between services funded by Section 5311(f) and the intercity bus network are “meaningful.” However, we declined to add the word “scheduled” as requested by a commenter, as the word is already

included in the discussion of meaningful connections.

Eligibility of New Intercity Bus Facilities. In Chapter IX, FTA specified that constructing new intercity terminal facilities for rural passengers is an eligible activity under Section 5311(f), in addition to improvements for existing facilities.

Eligible Subrecipients of Section 5311 funds. FTA amended language in Chapter IX regarding when an intercity bus operator elects to be a contractor or a subrecipient. A “contract” is a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out its project or program under a Federal award. In contrast, a “subaward” is an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. The requirements for each are similar but the terms and conditions, including oversight and enforcement, may be different.

ADA Regulations for Intercity Bus Service Operated by Private Entities Using Over-the-Road Buses (OTRBs). In Chapter IX, FTA added language clarifying that vehicles used by intercity bus services provided by a public entity or under contract or other arrangement or relationship to a public entity must be compliant with both 49 CFR 38.23 and subpart G of 49 CFR part 38, as well as 49 CFR part 37.

Update to the Capitalization Threshold for Equipment. FTA received several comments inquiring about the \$5,000 capitalization threshold for equipment, with some commenters requesting the threshold be raised. In its recent final rule, codified at 2 CFR 200.1, OMB increased the threshold for the definition of equipment to \$10,000, and FTA has made this change in the final circular.

State Planning Requirement for Intercity Bus. FTA received three comments from one commenter requesting language reflecting new State planning requirements as updated in FAST Act. FTA added a section to Chapter IX, Intercity Bus, emphasizing that transportation plans and transportation improvement programs must provide for intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities. Chapter V, Planning & Program Development, subsection 2 (“Metropolitan, Statewide, and Non-Metropolitan Planning”) already specifies that States requesting Section 5311 or Section 5339(a) assistance must comply with the planning requirements of 49 U.S.C. 5303, 5304 and 5306.

Tribal Transit Matching Funds. Consistent with a recent Tribal consultation (89 FR 48593, June 10, 2024), no local match is required for the Tribal Transit Competitive Program. FTA has updated Chapter XI to reflect this change.

C. 2 CFR Part 200 Updates

As stated above, OMB’s 2024 update to 2 CFR part 200 increased the threshold, from \$5,000 to \$10,000, for the value of equipment, which impacts how a recipient may retain, sell, or dispose of the equipment at closeout. Items under \$10,000 are considered supplies. In addition, the threshold for expenditures at which recipients of Federal awards are required to have independent audits conducted annually increased from \$750,000 to \$1,000,000. FTA has updated the final circular to reflect these changes.

Veronica Vanterpool,
Deputy Administrator.

[FR Doc. 2024–22163 Filed 9–26–24; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2023–0009]

Urbanized Areas Formula Grant Programs Guidance, Final Circular

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of availability of final circular and response to comments.

SUMMARY: The Federal Transit Administration (FTA) has finalized a new circular entitled, “Urbanized Areas Formula Grant Programs Guidance,” which consolidates and replaces the circulars for the Urbanized Area Formula Grants Program (FTA Circular C 9030.1), the State of Good Repair Grants Program (FTA Circular C 5300.1), and the Urbanized Area formula component of the Grants for Buses and Bus Facilities Program (FTA Circular C 5100.1). The update and consolidation of the circulars incorporate provisions from the Fixing America’s Surface Transportation (FAST) Act; the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act; the Uniform Administrative Requirements for Federal awards to non-Federal entities; and current FTA policies and procedures. This notice responds to the comments FTA received on the proposed circular, which was published in the **Federal Register** on July 12, 2023.

DATES: The applicable date of this circular is November 1, 2024.

ADDRESSES: One may view the comments at docket number FTA–2023–0009. For access to the docket, please visit <https://www.regulations.gov> or the Docket Operations office located in the West Building of the United States Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For State of Good Repair Grant program questions, Ciara Williams, Office of Transit Programs, Federal Transit Administration, 1200 New Jersey Ave. SE, Room E44–412, Washington, DC 20590, phone: (202) 366–8954, or email, ciara.williams@dot.gov. For Urbanized Area Formula Grant program questions, Nichole Neal, Office of Transit Programs, Federal Transit Administration, 1200 New Jersey Ave. SE, Room E44–451, Washington, DC 20590, phone: (202) 366–7865, or email, nichole.neal@dot.gov. For Buses and Bus Facilities program questions, Kirsten Wiard-Bauer, Office of Transit Programs, Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590, phone: (202) 366–7052, or email, kirsten.wiard-bauer@dot.gov. For legal questions, Jerry Stenquist, Office of Chief Counsel, same address, Room E56–314, phone: (202) 493–8020, or email, Jerry.Stenquist@dot.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Response to Public Comments
 - A. Comments for Which No Changes Were Made
 - B. Changes Based on Public Comments
- III. Other Changes

I. Introduction

This notice announces the availability of FTA Circular C 9050.1A, “Urbanized Areas Formula Grant Programs Guidance,” which is a consolidation of guidance for the administration of grants for the Urbanized Area Formula Grants Program under 49 U.S.C. 5307 (FTA Circular C 9030.1), State of Good Repair Grants Program under 49 U.S.C. 5337 (FTA Circular C 5300.1), and the urbanized area formula component of the Grants for Buses and Bus Facilities Program under 49 U.S.C. 5339(a) (FTA Circular C 5100.1). The C 9050.1A circular replaces these three circulars. Additionally, this circular incorporates provisions of the FAST Act (Pub. L. 114–94) and the Infrastructure Investment and Jobs Act (Pub. L. 117–58) and includes program-specific

guidance for these formula programs. Additional requirements for all grant programs are identified in FTA's Award Management Requirements Circular C 5010.1. The applicable date of C 9050.1A is November 1, 2024.

The C 9050.1A circular consolidates and summarizes programmatic information, streamlines pre-existing guidance from the three previous program circulars, and reduces duplication of information provided between the Urbanized Area Formula Programs circular and FTA's other topic-specific circulars, including by moving certain text applicable to most or all of FTA's grant programs to FTA's Award Management Requirements Circular C 5010.1.

Additionally, C 9050.1A clarifies a number of policy issues as interpreted and applied by FTA. These clarifications address topics in the previous program circulars (C 9030.1, C 5300.1, and C 5100.1), including: how funds are apportioned; reallocations or transfers of apportionments; consolidation of grants to insular areas; intermodal use of formula funds; eligible projects and activities for each formula program; operating assistance limitations and exceptions; capital cost of contracting; the role of transportation network companies in providing public transportation services; period of availability to obligate funds flexed to the FTA formula programs from the Federal Highway Administration (FHWA); planning requirements; pre-award authority; revisions to required planning documents as a result of post-award modifications; and requirements pertaining to fares charged to seniors and persons with disabilities.

II. Response to Public Comments

FTA published a notice in the **Federal Register** on July 12, 2023 (88 FR 44440), seeking public comment on a proposed version of Circular C 9050.1. FTA received 115 comments from 30 unique commenters. FTA reviewed the comments and discusses below the changes that FTA made in the final circular based on the public comments. FTA also addresses below the categories of comments for which no changes were made in the final circular. FTA appreciates the commenters who expressed support for updates in the circular, as well as those who provided feedback on administrative non-substantive changes, such as recommending corrections for typographical errors and alternative pagination methods. FTA has reviewed and made those changes to the final circular, as needed.

A. Comments for Which No Changes Were Made

Comments Outside the Scope of FTA C 9050.1A

FTA received comments for which no changes were made because FTA has determined that the topics were outside of the scope of this circular. Topics that were outside the scope of the circular included: a request that FTA increase the size or scope of grants; inquiring whether FTA will require a subrecipient to ensure its contractors pay a livable wage; a request for information about financing programs administered by the U.S. DOT Build America Bureau; and updating guidance outside of FTA C 9050.1A. FTA also determines the following topics were outside the scope of the circular, although it discusses them in further detail because they were raised by more than one commenter:

Comment: Three commenters asked which version of the C 5010.1 "Award Management Requirements" circular should be referenced in C 9050.1A.

FTA Response: In the proposed C 9050.1A, FTA referenced that FTA planned to propose updates to C 5010.1E, which FTA published for public notice and comment in the **Federal Register** on February 14, 2024 (89 FR 11334). The final C 9050.1A references C 5010.1F, which also is being published on this date.

Comment: Two commenters requested extension of the public comment period for C 9050.1A to accommodate the public comment period for proposed C 5010.1F. One commenter asked that FTA publish responses to comments on proposed C 5010.1F before taking comments on proposed C 9050.1A. The other commenter asked that FTA extend the comment period for proposed C 9050.1A to close simultaneously with comment period for C 5010.1F.

FTA Response: The public comment period for proposed C 9050.1A closed on September 11, 2023, and proposed C 5010.1F was not published until February 14, 2024. Thus, it was not possible for FTA to extend the public comment period for proposed C 9050.1A to coincide with the comment period for proposed C 5010.1F. FTA, however, made proposed C 9050.1A available for reference during the subsequent C 5010.1F public comment review period in response to these requests. FTA has revised the circulars concurrently and withheld publishing the final C 9050.1A until after its review of the comments received in response to the C 5010.1F **Federal Register** notice requesting public comment. To the extent that a topic is related to both circulars, commenters were able to

comment during either comment period, and FTA considered any comment that applied to both circulars while both circulars were under revision.

Comment: Three commenters requested more information about Transit Asset Management (TAM) requirements, including adding overall policies, principles, strategies, organizational structure, and objectives that inform the creation and implementation of TAM plans. Furthermore, commenters sought more specificity regarding TAM review schedules, monitoring asset performance, overlap with the metropolitan planning organization (MPO) planning process, and providing guidance on useful life and asset life cycles.

FTA Response: All recipients and subrecipients of Federal financial assistance under 49 U.S.C. chapter 53 that own, operate, or manage capital assets used for providing public transportation must develop a TAM plan. Clarity and guidance concerning TAM requirements are important; however, the requested policy, guidance, and clarification regarding these TAM requirements is outside the scope of the urbanized area formula grant programs discussed in C 9050.1A. Because TAM requirements apply to most FTA recipients across many FTA grant programs, FTA ensures consistency and reduces duplicative information by providing TAM information and resources independently of the circulars on a publicly available website, <https://www.transit.dot.gov/TAM>. FTA will consider these comments during future updates to its TAM guidance.

Comment: One commenter provided comments focused on safety technology, which requested that FTA update the model bus safety program to account for advances in technology since the program was last amended, including an update to include a mandate for advanced driver assistance systems (ADAS) on transit vehicles.

FTA Response: FTA acknowledges the importance of safety technology. The substance of these comments, however, is outside the scope of the urbanized area formula grant programs discussed in C 9050.1A. FTA provides and maintains safety information and resources independently of the circulars on a publicly available website, <https://www.transit.dot.gov/regulations-and-guidance/safety/transit-system-safety>.

Comment: One commenter requested additional guidance or training focused on responsibilities of MPOs during the metropolitan transportation planning process.

FTA Response: MPOs play an integral role in the planning and approval of transportation projects, including those financed with formula funding offered through 49 U.S.C. 5307, 5337, and 5339(a). However, the commenter's proposals are outside of the scope of the formula funding programs discussed in the circular. FTA acknowledges that additional technical assistance may be beneficial and will consider the substance of the comments in any future training and guidance provided to recipients regarding MPO programs. Please also see FTA's resources about MPOs at <https://www.transit.dot.gov/regulations-and-guidance/transportation-planning/metropolitan-planning-organization-mpo>.

Comment: One commenter requested FTA to include intercity bus considerations as a part of planning justifications in Chapter IV of the circular. The commenter also noted that FTA's circular, FTA C 8100.1D "Program Guidance for Metropolitan Planning and State Planning and Research Program Grants," refers to the need for States and MPOs to provide intercity bus operators and other stakeholders a reasonable opportunity to comment on transportation plans. The commenter requested the C 9050.1A section on planning justifications require improved timely intercity bus consultation processes by States and MPOs. The commenter also provided recommendations on the preferred method for the States and MPOs to engage with intercity bus carriers and the timing for when they can provide input on plans. Similarly, the commenter requested FTA highlight the intercity bus consultation component of planning under Chapter V where additional planning requirements are discussed. The commenter also noted that the language in Chapter V stating that the local coordinated planning process "may also include consideration of the intercity bus transportation needs of the targeted population of seniors and individuals with disabilities" is too permissive.

Response: FTA declines to make a change in response to the comments. FTA declines to incorporate the recommendations under the planning justifications section in Chapter IV or in Chapter V in this circular because the more appropriate venue for planning-specific guidance is FTA C 8100.1D, which addresses the planning requirements carried out by States and MPOs. The scope of C 9050.1A, on the other hand, is to address the administration of urbanized area formula grant program funding under Sections 5307, 5337, and 5339(a), in

which there are no provisions regarding intercity bus.

Comment: One commenter requested continued engagement with MPOs and other stakeholders and requested FTA provide a cross-reference guide to assist MPOs in understanding the updates in terminology in C 9050.1A.

Response: FTA will continue to engage with recipients, applicants, and the public to communicate changes resulting from the consolidation of the previous circulars into C 9050.1A. FTA's engagement will include outreach that provides explanations of updates to terminology and other content in the circular.

Comment: One commenter requested more emphasis throughout the circular on the role private providers of transportation play in the provision of public transportation services. The commenter requested that the circular reference coordination with the private sector in the definition of "Mobility Management." The commenter also requested that FTA change the reference to "private nonprofit organizations" in Chapter II discussing subrecipient arrangements to "private providers." Further, the commenter requested that FTA add a reference to "operational service planning including consideration of contracted operations" as one example of a technical study that could be funded as a planning activity with Section 5307 funds. Additionally, the commenter requested that FTA add "local ride providers" to the entities involved in public transportation/human services planning or an alternative planning process from which Job Access and Reverse Commute (JARC) projects may be derived.

Response: FTA declines to make changes in response to these comments. FTA acknowledges the significant role of private transportation providers in the provision of public transportation services and the benefit of their consideration in transportation coordination and public transportation planning processes. However, for the purposes of this circular, FTA limits the circular's discussion of private providers' roles in transit to their relevance to Sections 5307, 5337, and 5339(a). FTA further addresses the resources and benefits of private providers within its guidance on transportation coordination and planning.

Comments Within the Scope of the Circular That Resulted in No Changes

The following comments regarding the circular resulted in no changes because either the requests sought changes to statutory requirements, the

topics they raised already are addressed adequately in the circular, or because the comment is better addressed through direct guidance from FTA to the commenter.

Comments Requesting Changes to Statutory Requirements

Comment: Two commenters requested that FTA change the maximum Federal share for Section 5307 operating assistance from 50 percent to 80 percent.

FTA Response: The 50 percent maximum Federal share for operating assistance is set in statute, 49 U.S.C. 5307(d), and FTA has no authority to change it.

Comment: Similarly, two commenters requested a change to allow proceeds from transit fares to be used as local match to FTA financial assistance.

FTA Response: Generally, financial assistance from FTA may only fund the permissible Federal share of the "net project cost" of eligible projects for the formula programs covered by C 9050.1A (49 U.S.C. 5307(d), 49 U.S.C. 5337(e), and 49 U.S.C. 5339(a)(7)). The term "net project cost" means the part of a project that reasonably cannot be financed from revenues (49 U.S.C. 5302(13)). Furthermore, 49 U.S.C. 5307(d)(3) and 49 U.S.C. 5339(a)(7)(B) specify the sources of funds that may be used as match and explicitly exclude "revenues from providing public transportation services."

Comment: Two commenters requested a change to the period of availability to obligate Section 5307, 5337, and 5339(a) funds to awards, so that all three sources of formula funds have the same period of availability. Another commenter requested FTA remove language addressing Governors' discretion to use Section 5307 program funds remaining from the State's apportionment for small urbanized areas (UZAs) 90 days before the expiration of their period of availability, or alternatively, change the time period from 90 days to one year.

FTA Response: FTA lacks discretion to modify the periods of availability to obligate formula funds for Section 5307 and 5339(a) programs because the periods of availability are set forth in 49 U.S.C. 5336(g) and 49 U.S.C. 5339(a)(8), respectively. FTA has already administratively matched the period of availability for Section 5337 funds with the statutory period governing Section 5339(a) funds. Similarly, FTA lacks discretion to remove or modify the 90-day time frame during which Governors may reallocate lapsing Section 5307 program funds because the time frame is established in 49 U.S.C. 5336(f)(3).

Comment: One commenter requested that the circular require the Governor or the Governor's designee to consult with the MPO when redesignating a UZA's designated recipient. The commenter further requested that FTA require that an MPO's letter of concurrence accompany the Governor's written notice of redesignation to FTA. The commenter opined that past redesignation procedures requiring transit providers' unanimous consensus caused notable challenges in achieving a timely agreement.

Response: FTA declines to make a change in response to the comment. FTA has not changed the recipient redesignation process requiring concurrence by the applicable MPO(s). Further, FTA does not have the discretion to exclude publicly owned operators of public transportation from a designation decision because 49 U.S.C. 5302 defines a "designated recipient" as "an entity designated, in accordance with the planning process under Sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts made available under Section 5336 to UZAs of 200,000 or more in population."

Comment: One commenter requested FTA allow recipients who receive funds for contiguous but separately defined UZAs to use funds apportioned to one UZA for capital improvements in another UZA, as long as the recipient can demonstrate that the funds are being expended equitably across all areas.

Response: FTA declines to make a change in response to this comment. FTA does not have the discretion to allow funds apportioned to one UZA to be used in another UZA when those funds provide no direct benefit to the apportioned UZA. Such use of funds would circumvent the apportionment transfer provisions codified in 49 U.S.C. 5336. However, as detailed at the end of Chapter IV, FTA notes limited flexibility for the use of UZA-specific funds for capital projects outside of the UZA. A recipient may use funds apportioned to a UZA outside the UZA for capital activities that involve mobile capital assets (e.g., rolling stock acquisition or maintenance) if the capital assets support a geographically continuous public transportation service that has at least one passenger access point within the apportioned UZA. Further, the updated circular clarifies that recipients may use funds apportioned to a UZA for immobile capital assets (e.g., rail stations, bus stops and terminals, etc.) located outside the UZA in proportion to the extent the asset supports transit

service provided in the apportioned UZA based on a reasonable cost allocation methodology.

Topics Already Adequately Addressed or Better Addressed Directly With Recipients

Comment: One commenter encouraged FTA to exercise discretion to determine that not all vehicles providing demand-response service be included in a vehicle count for purposes of complying with 49 U.S.C. 5307(a)(2), colloquially referred to as the '100-bus rule'.

FTA Response: 49 U.S.C. 5307(a)(2) limits a recipient's use of Section 5307 funds for operating assistance based on the number of buses operated in peak service. In compliance with the statute, FTA counts buses operated in peak demand-response service, excluding ADA complimentary paratransit service. Because common practice of transit providers operating both fixed-route and demand-response services is to employ their demand-response fleets for ADA complementary paratransit service, FTA excludes these operators' demand-response fleets for purposes of 49 U.S.C. 5307(a)(2). However, for operators that only provide demand-response service, FTA cannot distinguish that portion of the fleet used for ADA complementary paratransit service. Therefore, the bus count for demand-response-only fleets, for purposes of the thresholds in 49 U.S.C. 5307(a)(2), is determined by counting the number of demand-response vehicles used in peak service.

Comment: Four commenters requested that FTA provide additional clarification of eligible expenses under FTA grants. One commenter requested clarification regarding eligibility of certain activities as a capital expense; one commenter requested clarification on the eligibility of fixed guideway under Section 5337; one commenter requested clarification about the eligibility of art and landscaping used for flood protection and resiliency; and one commenter asked that FTA list preventive maintenance in Table IV-1 "Summary of Eligible Activities by Formula Grant Program" as an eligible activity.

Response: FTA declines to make a change in response to these comments. FTA issues circulars to provide general guidance and clarification while summarizing applicable Federal law. It would be impractical to provide this level of specificity for eligible expenses. Recipients should contact their FTA regional office with specific eligibility questions.

Comment: One commenter requested the circular include an example

illustrating how to split contract expenses to avoid counting the same expenses as both operating and capital costs under FTA's capital cost of contracting policy.

Response: FTA declines to make a change in response to the comment. The requested examples would either be unduly specific or not expansive enough. FTA issues circulars to provide general guidance and clarification while summarizing applicable Federal law. The recipient should contact its FTA regional office with these eligibility questions.

Comment: One commenter requested FTA add language stating whether a subrecipient of Section 5310 funds would also be considered an eligible subrecipient for the grant programs covered in this circular.

Response: FTA declines to make a change in response to the comment. FTA considers its guidance sufficient regarding subrecipient eligibility in the circular, including the potential participation of non-profit organizations in certain grant programs. FTA issues circulars to provide general guidance and clarification while summarizing applicable Federal law. For this purpose, it is generally impractical to specify the eligibility of entities' grant participation in other FTA grant programs.

Comment: One commenter requested that FTA include language stating when a recipient may charge administrative fees to an award for administration and management of Section 5307, 5337, and 5339(a) grant awards. Similarly, another commenter noted that FTA should address *de minimis* administrative costs, alleging that they are or should be separate from direct and indirect costs.

Response: FTA declines to make a change in response to the comment. Under the government-wide Uniform Cost Principles for Federal Awards, every eligible cost must be either a direct cost or an indirect cost. (See 2 CFR 200.412 through 200.415 for information about determining whether a cost is direct or indirect.) This includes costs the commenter considers administrative in nature. The circular describes which administrative expenses are eligible. These expenses may potentially be indirect costs or directly allocable to the award. If the recipient is referring to administrative expenses associated specifically with designated recipient responsibilities, Table IV-2, Urban Formula Programs Capital Eligibility Table, states that those are not an eligible expense of formula funds.

Comment: In reference to FTA's definition of "Rehabilitate" in Chapter I,

one commenter opined that the phrase “including a rebuild and overhaul as defined in this circular” may be confusing because these terms are a reference to the process to cause a capital asset to meet or extend its planned useful life.

Response: FTA declines to make a change in response to the comment. FTA disagrees that the use of these terms is confusing. “Rehabilitate” is the term used in Section 5339(a) to describe projects eligible under that section. FTA’s definition clarifies that both rebuilds and overhauls are examples of activities that qualify as rehabilitation and only pertain to rolling stock. The definition uses rebuilds and overhauls to further distinguish from standard preventive maintenance, which is not a form of rehabilitation.

Comment: One commenter requested that the list of Associated Transit Improvements in Chapter IV include additional examples of projects that address resiliency issues.

Response: FTA declines to make a change in response to the comment. The circular only lists projects eligible as Associated Transit Improvements (ATI) that are in statute. FTA declines to add examples to the list. It is impractical to include additional specificity because of the various considerations in determining whether a project meets the statutory criteria as an ATI. Recipients should contact their FTA regional office with these eligibility questions.

Comment: One commenter requested that FTA add language in Chapter IV discussing JARC projects to clarify that private for-profit companies are eligible for third-party contracts to provide JARC services.

Response: FTA declines to add additional language regarding program-specific eligibility of third-party private for-profit companies because Chapter II of the circular articulates generally the eligibility of articulated service arrangements with such operators. These arrangements may include, but are not limited to, contracts to provide JARC services.

Comment: One commenter noted that “Job Access and Reverse Commute (JARC) Project” as a defined term should be deleted because the JARC formula grant program under 49 U.S.C. 5316 was repealed.

Response: While 49 U.S.C. 5316 was repealed by MAP-21, FTA declines to remove the definition of JARC in the circular because JARC projects are still eligible under 49 U.S.C. 5307(a)(1)(C).

Comment: A commenter requested FTA consider removing all specific dollar amounts under the apportionment section of the circular in

Chapter III. The commenter noted future legislative changes could modify certain fixed apportionment amounts, creating confusion and causing the circular to become outdated. The commenter opined, for example, that if Congress were to amend the \$4 million State apportionment of 5339(a) National Distribution funding, such legislation would cause this circular to have incorrect information and cause confusion.

Response: FTA did not remove the dollar amounts for certain fixed apportionments because the circular cites to the transportation reauthorization legislation from which the amounts are derived. FTA asserts that, in some cases when the risk of imminent change in the apportionment is low, the public and recipients are better served by references to the specific apportionment amounts in this circular. The commenter’s example is a good example of an appropriate use of citation to a specific dollar amount because the State set-aside requirement in 49 U.S.C. 5339(a)(5)(A) is a statutory set-aside set forth in a program-specific section of 49 U.S.C. chapter 53. The statutory provision is less likely to be amended before reauthorization, so citation to a specific dollar amount is appropriate.

Comment: One commenter requested that the definition of “Facilities” in the circular be revised to reference the intercity bus portion of intermodal facilities. The commenter noted that FTA’s circular on joint development projects, FTA C 7050.1C, includes references to intercity bus when referring to joint development.

Response: FTA declines to make a change in response to the comment. FTA declines to revise the definition of “Facilities” in C 9050.1A because the definition is sufficiently broad to include different types of facilities. FTA C 7050.1C is specific to joint development projects and provides more targeted information on intermodal facilities. The definition of “Facilities” in C 9050.1A does not preclude intermodal facilities, which may include intercity bus, from being included in a joint development. FTA’s joint development circular provides sufficient applicable guidance regarding this definition from which the formula grant programs do not deviate.

Comment: One commenter requested that the definition of “Public Transportation” be revised in the circular to clarify that Section 5307 and 5339 funding can be used to improve intercity bus services.

Response: FTA declines to revise the definition of “Public Transportation” as

requested. The circular’s definition of “Public Transportation” is consistent with the definition at 49 U.S.C. 5302(15). Intercity bus is not public transportation according to this statutory definition applicable to the entirety of Chapter 53. The circular references intercity bus services where applicable to Section 5307, 5337, and 5339(a) programs, which specify the narrow instances for which Section 5307 and 5339 funding can be used for intercity bus purposes.

Comment: One commenter requested FTA to elaborate on information in Table IV–3 under “Crime Prevention and Security Projects” to clarify that capital projects that enhance safety and security at intercity bus facilities and intermodal transportation centers are eligible activities.

Response: FTA declines to make a change in response to the comment. FTA declines to revise the list of examples in response to this comment because the list of examples is to reference specific technology or items that may enhance safety and security, not the type of facility.

Comment: One commenter requested FTA add “intermodal facilities including the intercity bus portions of such facilities” as an example of eligible capital projects in Chapter IV where capital projects are generally discussed.

Response: FTA declines to add this reference as specified; however, FTA added language regarding reasonable access for private intercity or charter transportation operators to federally funded public transportation facilities under 49 U.S.C. 5323(r) in the same section where capital projects are generally discussed based on other comments. FTA has also included a reference to joint development improvements, which include improvements of intercity bus facilities, in Table IV–2, based on other comments. To the extent that the comment seeks to state the inclusion of intercity bus in eligible transit programs, these additional references sufficiently address this comment.

Comment: One commenter requested FTA include additional language under the “Joint Development Projects” section in Chapter IV to specify that eligible activities also include the improvement of transportation-related furniture, fixtures, and equipment in intercity bus terminals, as it is specified in the “Transit-Oriented Development” section.

Response: FTA declines to make a change in response to the comment. FTA declines to add language to the “Joint Development Projects” section in the circular because the section already

references FTA C 7050.1C, FTA's Joint Development circular, which provides guidance regarding joint development projects. FTA also notes that the joint development projects and transit-oriented development projects are categorically distinct, and any addition of relevant information would be duplicative of other sections in the circular.

Comment: One commenter requested FTA revise the definition of "Incidental Use" in the circular by adding a sentence clarifying that privately or publicly operated intercity bus service in an FTA-funded facility is not an incidental use of that facility. The commenter expressed concern that, without that clarifying sentence, the circular may create confusion on whether intercity bus services are an incidental use.

Response: FTA declines to make a change in response to the comment. FTA declines to revise the definition of "Incidental Use" by adding the suggested sentence. The nature of property incidental use is discussed in full in FTA's Award Management Requirements circular (C 5010.1), which explains that incidental use is "the limited non-transit use of project property that does not conflict with the original authorized purpose of the project property or the recipient's ability to maintain satisfactory continuing control." By statute, 49 U.S.C. 5302(15), intercity bus service is not public transportation. Circular 9050.1A addresses intercity bus opportunities where appropriate while FTA's guidance regarding incidental use and intercity bus is discussed in other FTA circulars.

Comment: One commenter requested FTA add language referencing the Surface Transportation Block Grant Program (STBG) under "Availability of FHWA 'Flexible Funds' for Transit Projects" and "Congestion Mitigation and Air Quality (CMAQ) Improvement Program" that specifies flex funds can be used for intercity bus projects.

Response: FTA declines to make a change in response to the comment. FTA declines to add this language because the flexible funding section in the circular sufficiently conveys that expenses must be eligible under both the originating Federal Highway Administration (FHWA) program and the FTA receiving program.

B. Changes Based on Public Comments

Comments Requesting Clarifications or Specificity

FTA revised language in the circular to address the following comments, as explained below.

Comment: One commenter requested FTA to add a statement that acknowledges that circulars may become outdated, and in that event, the law would apply.

Response: In response to this comment, FTA added the sentence, "to the extent this circular is inconsistent with changes in any statute or regulation, statute or regulation will supersede this circular," in the introductory paragraph of the circular.

Comment: One commenter requested FTA to include language stating that third-party contracted service agreements may include businesses other than taxi companies and transportation network companies (TNCs) that are referred to in Chapter II, under "Private Operators of Public Transportation as Contractors."

Response: FTA agrees that taxi companies and TNCs are not exclusively the businesses that may participate in these contracted service agreements. In response to this comment, FTA added "or other similar service deployment models" to the section to account for the various business models and contracting arrangements recipients may engage.

Comment: One commenter requested clarification as to how State recipients must administer transferred funds. More specifically, the commenter asked whether apportionments transferred from a large UZA to a rural area would be administered as Section 5311 funds and therefore would follow the corresponding guidance for those funds.

Response: Funds apportioned under one formula program to another separate formula program, or to a different tier of the same formula program, as determined by Census designations, are managed as if they are part of the receiving funding program (e.g., Section 5307 transferred to Section 5311). While the circular already addresses how transferred apportionments would retain certain requirements/limitations associated with the original apportioned program in Chapter III, additional language was included to specify that transfers of apportionments retain the same period of availability to obligate funds to grants as the program of the original apportionment.

Comment: In reference to FTA's definitions of "Equipment" and "Supplies," three commenters requested an increase of the \$5,000 per-unit value

threshold to \$10,000 in order to match the threshold for micro-purchases for federalized procurement purchases.

Response: Since FTA published the proposed circular, the Office of Management and Budget (OMB) has updated the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" under 2 CFR part 200, which will be effective October 1, 2024 (89 FR 30046). Among those updates, OMB increased the threshold in the definitions of "Equipment" and "Supplies" from \$5,000 to \$10,000. FTA has incorporated these new thresholds in the circular. Note that FTA made this change based on definitional changes in part 200, not based on the micro-purchase threshold as suggested by the commenters. Also note that the threshold change is not effective until OMB's update to part 200 is effective on October 1, 2024.

Comment: One commenter requested that FTA expand the criteria that a recipient should consider when undertaking fleet expansion in Chapter IV under "Requirements Related to Vehicles and Equipment Eligibility." The commenter noted that the language should additionally account for recipients' evaluation of locally available resources to identify feasible opportunities for new and expanded routes and services, as such an evaluation is needed to require consideration of private mobility providers and to consider provision of demand-response services in lieu of fixed-route transit.

Response: In response to the comment, FTA added "and evaluate available resources" to refer to other available resources, including those contemplated by the commenter, because recipients can consider a wide variety of resources.

Comment: One commenter requested further clarification on recipients' eligibility to use funds apportioned to UZAs in rural areas, as well as their eligibility to use funds apportioned to rural areas in UZAs. More specifically, the commenter communicated support for the circumstances under which either rural or UZA funds may be used for services that intersect both a UZA and rural area but noted a contradiction in the circular's language regarding the inflexibility to use rural funds for the portion of such a service that is internal to a UZA when both UZA and rural funds are combined to support the respective service.

Response: FTA updated the applicable circular language to reflect and clarify that, when both UZA and rural funds are combined to subsidize

such a service (or mobile capital assets used for the service), rural funds may support the portion of a service that is internal to a UZA. However, the language re-emphasizes that if a recipient only uses rural funds for such a service, the service must be designed primarily to bring rural passengers to and from the UZA with a limited number of route stops within the UZA. Additionally, FTA modified language to reflect and clarify that funds apportioned to a UZA that will be used for immobile capital assets located outside the UZA may support such an asset in proportion to the extent the asset supports transit service provided in the respective UZA based on a reasonable cost allocation methodology.

Comment: One commenter requested clarification on whether transit agencies' bike share programs are eligible for Section 5307 funding, which would include activities such as purchasing bicycles and operating and managing bike share services.

Response: In response to the comment, in Chapter IV, FTA clarified that eligible projects funded with Section 5307 funds may include infrastructure expenses to accommodate the presence of bicycle or other mobility device sharing programs in the vicinity of transit stops or stations, but the acquisition of bicycles, scooters, segways, or other similar mobility devices are ineligible expenses. Further, in the section addressing JARC projects in Chapter IV, FTA removed language that suggested operating expenses for bicycle sharing programs in the vicinity of transit stations are eligible. Such expenses are ineligible because operations associated with those individualized modes of travel do not qualify as public transportation.

Comment: One commenter requested FTA to consider a different terminology other than "Bicycle and Pedestrian Paths" in Chapter IV. The commenter recommended FTA use the term "bicycle and pedestrian facilities" in order to highlight the physical nature of the space rather than give the impression that it refers to an off-road type of recreation amenity.

Response: FTA updated the section in Chapter IV to which the comment referred by revising the terminology to "Bicycle and Pedestrian Access Improvements." Changing the term to "access improvements" rather than "paths" or "facilities" provides better alignment to Associated Transit Improvements (ATI), which is defined in 49 U.S.C. 5302(2) and is the focus of the section in the circular. FTA presumptively interprets bicycle and pedestrian access improvements as

being "physically or functionally related to transit facilities" if they meet the distance requirements specified in the circular.

Comment: Two commenters requested C 9050.1A clarify that minimum useful life, which is addressed in FTA's circular "Award Management Requirements" (C 5010.1), is different from useful life benchmark (ULB), which is governed by the Transit Asset Management (TAM) requirements. One of the commenters requested that C 9050.1A note that C 5010.1 is the governing circular on minimum useful life.

Response: In response to these comments, FTA references C 5010.1F in the definition for the term "minimum useful life" for more information on that specific topic. FTA also deleted "useful life benchmark" from the list of defined terms in C 9050.1A to further reduce confusion since the term is no longer used in the circular.

Comment: One commenter requested that the circular define or clarify the types of communications that fulfill the "in writing" requirement for purposes of requesting and issuing pre-award authority.

Response: These types of communications are already addressed in Chapter V of the circular, but FTA additionally updated the definition of "Pre-award Authority" to state that it is announced in the annual Apportionment Notice, Notice of Funding Opportunity, a Letter of No Prejudice, or other written notification.

Comment: One commenter requested that FTA emphasize the statutory provision 49 U.S.C. 5323(r), which states that a recipient may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities. The commenter said that the cost of maintaining bus terminals in dense urban areas is becoming too expensive for intercity bus companies, and the intercity bus companies are facing difficulty finding suitable and affordable facilities for passenger terminals in dense urban areas. The commenter further said that allowing the intercity bus companies access to public transportation facilities would be a convenience to passengers connecting to public transportation.

Response: In response, FTA included the reference to the statute in the "Activities Applicable to Section 5307, 5337, and 5339(a)" section under Chapter IV. There, FTA states that a recipient's capacity requirements and the impact on existing public transportation services must be considered by a recipient in its

determination of whether a proposed access is reasonable. FTA included examples of considerations in this determination.

Comment: One commenter requested that "intercity bus service" be a defined term in C 9050.1A to ensure clarity on the meaning of intercity bus service. The commenter further requested that information about the Intercity Bus program under Section 5311(f) be added to C 9050.1A under "Relationship to Other Programs" in Chapter II.

Response: In response to these comments, FTA added information on the Intercity Bus Program under Section 5311(f) in Chapter II and a definition of "intercity bus service" that is based on the definition in FTA's Rural Areas Formula Grant Programs Guidance circular, C 9040.1H, for consistency.

Comment: One commenter requested clarification regarding how the capital cost of contracting table in Chapter IV applies to Section 5339(a) funds.

Response: In response, FTA amended the circular to now include additional information within the capital cost of contracting table summarizing the extent to which Section 5337 and 5339(a) funds may support capital cost of contracting activities.

Comment: One commenter requested FTA to clarify that, in Chapter III, the "Lapsing Funds" section under "Reallocation or Transfer of Apportionments" is referring to Section 5307 funds.

Response: FTA made this revision so that the section is titled "Lapsing Section 5307 Funds."

Comment: One commenter requested FTA emphasize that intercity bus projects are eligible as a capital project if they are part of a joint development improvement project under 49 U.S.C. 5302(4)(G).

Response: FTA added a new row in Table IV-2 to specify joint development improvement projects as eligible capital activities in response to this public comment.

Comment: One commenter requested FTA implement the requirement for recipients in UZAs with a population of 200,000 or more to expend a minimum of 0.75 percent of their Section 5307 apportionment on safety-related projects, referred to as the safety set-aside, only at the individual recipient level and not for each recipient's grant application to allow recipients greater grant-making flexibility.

Response: FTA removed the applicability of the requirement to each grant application to allow recipient flexibility for determining how to best structure grants to satisfy the minimum 0.75 percent expenditure on safety-

related projects. The implementation of the requirement at the individual recipient level was retained to ensure compliance with the statute.

Comment: One commenter requested that FTA clarify in Chapter II, under the section that briefly explains Federal Highway Administration (FHWA) Flexible Programs, that flex funds can be used for intercity bus projects. The commenter noted that the language in the circular refers to flex funds being eligible for “public transportation projects,” which does not include intercity bus.

Response: In response to this comment, FTA removed the reference to “public transportation projects” and added language from the statute governing the transfer of highway funds for transit projects, 23 U.S.C. 104(f)(1), to specify that recipients can transfer funds that were available for transit projects or transportation planning. The inclusion of the statutory language provides better alignment with the scope of eligible projects covered by the statute.

Comment: One commenter requested that FTA revise the language in Chapter V stating that subarea allocations of formula funds are determined by “a process based on local needs.” The commenter asked that “local needs” be replaced with “regional priorities” to better align subarea allocation of formula funds with the performance and outcome-based planning processes carried out by MPOs.

Response: FTA agrees. 49 U.S.C. 5303 generally establishes regional priorities as the appropriate geographic scale and standard governing metropolitan transportation planning decisions while incorporating local considerations through MPO local official participation. FTA revised the language to more closely match the statutory language emphasizing regional priorities as the controlling standard. In the same sentence, FTA removed language emphasizing the agreement by designated recipients to subarea allocations, as designated recipients’ participation in the subarea allocation process is already represented through the metropolitan planning process.

Comment: One commenter requested clarification on whether the flexibility to include substitute or contingency projects in a grant application is now being extended to all recipients rather than to just States and MPOs with multiple subrecipients. The commenter also requested clarification on this flexibility because the circular references “below the line” in a section of a grant application which may have

referred to a scope code that no longer exists.

Response: In the proposed circular, FTA changed the reference from “State” to “recipient.” In response to the comment, FTA clarified that recipients with more than one subrecipient may substitute contingency subrecipient projects within a grant application. FTA declines to extend the flexibility to recipients without more than one subrecipient because they do not manage a program of projects within a single grant application for more than one other entity. FTA agrees that the reference to “below the line” section of a grant budget is unnecessary and has removed the reference to the term.

III. Other Changes

In addition to the changes noted above, FTA has made revisions in this final circular for consistency with changes in statute, regulation, and other FTA circulars, as well as minor, non-substantive revisions for clarity. For consistency with statute, FTA has added language in Chapter II, under “Designated Recipient and State Roles in Program Administration,” to match the language for the criteria for eligible recipients in 49 U.S.C. 5339(a)(4). FTA also deleted information about the “Over the Road Bus Accessibility Program” in Chapter IV, which was mentioned under the section discussing the capital cost of contracting in the proposed circular. FTA removed that reference from the circular because the funding program expired after Federal fiscal year 2012.

FTA also updated Public Transportation Safety Program (PTASP) information in Chapter V for consistency with revisions to the PTASP regulation (49 CFR part 673) that occurred after publication of the proposed circular.

In Chapter IV, under “Workforce Development Activities,” the reference to cost principles for Federal awards under 2 CFR 200.403(d) was updated with a clarifying change from “may not” to “must not” for consistency with OMB updates to 2 CFR part 200 that become effective October 1, 2024.

FTA made revisions in this final circular for consistency with language that was included in proposed FTA C 5010.1F “Award Management Requirements” and C 9040.1H “Rural Areas Formula Grant Programs Guidance” that were published for notice and comment. The name of this circular, C 9050.1A, has been updated to “Urbanized Areas Formula Grant Programs Guidance” for consistency with the naming structure of C 9040.1H. FTA also removed the statement that the

circular contains guidance for the preparation of grant applications because that information is in C 5010.1F. FTA updated or added the following definitions for consistency with proposed C 5010.1F: the definition of “Capital Asset,” which was modified for consistency with 2 CFR 200.1; the definition of “Federal Interest,” which was updated to better align with FTA and Federal regulations, including in cases for which fair market value determinations are not readily discernable; the definition of “Incidental Use” to align with C 5010.1F; the definition of “National Environmental Policy Act (NEPA),” which was updated to clarify the role in FTA-funded projects; the definition of “Preventive Maintenance,” which was updated to provide more specificity; added the definition of “Project Property” for consistency with C 5010.1F; removed the definition of “Spare Parts” as it is not a term used in the circular; and the definition of “State of Good Repair” was clarified with non-substantive changes. For consistency with C 9040.1H, the definition of “State” was updated to include the 49 U.S.C. 5339 reference to the distinction between “State” and “territory,” and a similar revision was made to note territories under the section explaining the Grants for Buses and Bus Facilities Formula Program under 49 U.S.C. 5339(a) in Chapter III.

Along with other non-substantive administrative changes that were recommended by several commenters, FTA made additional corrections in the circular for typographical errors, grammatical errors, and formatting.

Finally, FTA removed outdated language establishing a threshold level of more than one mile of fixed guideway in order for UZAs to receive State of Good Repair funds in Chapter III under the “State of Good Repair Grants program (Section 5337).” The outdated requirement was not based in statute and has not been FTA policy for a significant amount of time. Removing this threshold requirement from the circular does not impact any prospective applicants of State of Good Repair funds and is not a change in existing policy.

Veronica Vanterpool,
Deputy Administrator.

[FR Doc. 2024–22161 Filed 9–26–24; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****[Docket No. NHTSA–2024–0010; Notice 1]****Tesla, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance****AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).**ACTION:** Receipt of petition.

SUMMARY: Tesla, Inc. (“Tesla”) has determined that certain model year (MY) 2012–2023 Model S, MY 2016–2024 Model X, MY 2017–2023 Model 3, MY 2019–2024 Model Y, and MY 2024 Cybertruck Tesla vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 105, *Hydraulic and Electric Brake Systems*, and FMVSS No. 135, *Light Vehicle Brake Systems*. Tesla filed a noncompliance report dated January 30, 2024, and subsequently petitioned NHTSA (the “Agency”) on February 23, 2024, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Tesla’s petition.

DATES: Send comments on or before October 28, 2024.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to the 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 comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.

- **Electronically:** Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than

15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT’s complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Vince Williams, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–2319.

SUPPLEMENTARY INFORMATION:

I. Overview: Tesla determined that certain MY 2012–2023 Model S, MY 2016–2024 Model X, MY 2017–2023 Model 3, MY 2019–2024 Model Y, and MY 2024 Cybertruck Tesla vehicles do not fully comply with paragraph S5.3.5(a) of FMVSS No. 105 and paragraph S5.5.5(a) of FMVSS No. 135, (49 CFR 571.105 and 135).

Tesla filed a noncompliance report (Recall 24V–051) dated January 30, 2024, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Subsequently, Tesla amended its Part 573 report on February 21, 2024, and in that report informed NHTSA of its intent to file a petition for inconsequential noncompliance, as provided by 49 U.S.C. Chapter 301 on

the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*. On February 23, 2024, Tesla filed its petition for inconsequential noncompliance and requesting an exemption from the notice requirements in 49 U.S.C. 30118 and 30119 on the basis that the noncompliance in Recall 24V–051 is inconsequential as it relates to motor vehicle safety.

NHTSA is publishing this notice of receipt of Tesla’s petition under 49 U.S.C. 30118 and 30120. The statements included in this notice do not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 2,193,869 of the following Tesla vehicles manufactured between June 1, 2012, and January 22, 2024, were reported by the manufacturer:

- MY 2012–2023 Tesla Model S
- MY 2016–2024 Tesla Model X
- MY 2017–2023 Tesla Model 3
- MY 2019–2024 Tesla Model Y
- MY 2024 Tesla Cybertruck

III. Noncompliance: Tesla explains that the letter font size of the Brake, Park, and ABS visual warning indicators in the subject vehicles does not meet the font height requirements of paragraph S5.3.5(a) of FMVSS No. 105 and paragraph S5.5.5(a) of FMVSS No. 135. Specifically, the font height on the affected vehicles is 1.5 mm while the minimum font height requirement is 3.2 mm ($\frac{1}{8}$ inch).

IV. Rule Requirements: Paragraph S5.3.5(a) of FMVSS No. 105 and paragraph S5.5.5(a) of FMVSS No. 135 include the requirements relevant to this petition. Paragraph S5.3.5(a) of FMVSS No. 105 requires each indicator lamp to display word, words or abbreviation, in accordance with the requirements of FMVSS No. 101 and/or S5.3.5, which must have letters not less than $\frac{1}{8}$ inch high and be legible to the driver in daylight when lighted. Words in addition to those required by FMVSS No. 101 and/or S5.3.5 and symbols may be provided for purposes of clarity. Paragraph S5.5.5(a) of FMVSS No. 135 requires that each visual indicator display a word or words in accordance with the requirements of FMVSS No. 101 and S5.5.5, which must be legible to the driver under all daytime and nighttime conditions when activated. In addition, unless otherwise specified, the words must have letters not less than 3.2 mm ($\frac{1}{8}$ inch) high and the letters and background must be of contrasting

colors, one of which is red. Words or symbols in addition to those required by FMVSS No. 101 and S5.5.5 may be provided for purposes of clarity.

V. Summary of Tesla's Petition: The following views and arguments presented in this section, "V. Summary of Tesla's Petition," are the views and arguments provided by Tesla. They have not been evaluated by the Agency and do not reflect the views of the Agency. Tesla describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Tesla states that the subject noncompliance was corrected in vehicle production, and vehicles in the field were also remedied. Tesla believes that "[a]ny possible safety risk, however remote, has been addressed." Tesla explains that the remedy involves increasing the font size of the Brake, Park, and ABS visual warning indicators to a minimum of 3.2 mm ($\frac{1}{8}$ inch), as required by FMVSS No. 105 and FMVSS No. 135. Additionally, the previous accompanying universal ISO symbols were removed.

Tesla states that on January 23, 2024, a software release correcting the subject noncompliance was introduced to the affected Model S, X, 3, and Y in production. On January 24, 2024, the software release correcting the noncompliance in the Cybertruck was introduced. Tesla states that the subject vehicles already in the field received the remedy as part of an over-the-air (OTA) software release for installation. The remedy was deployed to certain vehicles on January 23, 2024, and to the remaining vehicles on February 2, 2024.

Tesla reports that as of February 20, 2024, 70 percent of all subject vehicles in the field have installed the software correcting the noncompliance and all later software releases will also include the remedy. Tesla says that owners of any remaining affected vehicles that are online and have connectivity would need to accept the installation of the software release, or any later software release, on their vehicle. Tesla explains that this can be done immediately via the owner's Tesla smartphone application or on the vehicle user interface touchscreen. However, Tesla contends that even if an owner does not install the software release or any later version, the performance of the vehicle's brake system and park function remains unaffected by the subject noncompliance. According to Tesla, both systems continue to operate safely and as designed. Tesla also states that while it understands not dispositive in considering a petition for inconsequential noncompliance, Tesla

is not aware of any crashes, injuries, or deaths that may be related to the noncompliance.

Tesla asserts that the Brake, Park, and ABS visual warning indicators remain easily perceptible despite the subject noncompliance because they are positioned prominently and dynamically within the driver's direct field of vision on the instrument cluster alongside other vehicle data and control displays. Tesla adds that they also feature descriptive text and universal ISO symbols commonly used in motor vehicles manufactured for sale in the United States. The text in the indicators is capitalized for improved visibility and readability with compliant colors and contrast against the background. Tesla believes that the functionality of these indicators remains unaffected when wear or failure of the brake, park, and ABS systems is detected, regardless of the letter font size. Tesla adds that owners of the subject vehicles are familiar with the Brake, Park, and ABS visual warning indicators, as they are self-explanatory and explained in the owner's manual provided with the vehicle.

Tesla contends that NHTSA has established that its "only criteria" in assessing a petition for a decision of inconsequential noncompliance is determining if the noncompliance is inconsequential to safety.¹ Tesla states that if the noncompliance is found to be inconsequential to motor vehicle safety, "then any perceived benefit of notifying affected vehicle owners is not relevant to assessing the merits of the petition." Tesla believes that because the subject noncompliance has been remedied and there is no "actual or theoretical safety risk," the subject noncompliance is inconsequential to safety and NHTSA should grant Tesla's petition.

Moreover, Tesla argues that the subject noncompliance aligns with the type of labeling noncompliance that NHTSA finds appropriate for a determination of inconsequentiality.² Tesla states that the following NHTSA

decisions on petitions for similar noncompliances support its belief that the subject noncompliance is inconsequential:

1. Porsche Cars North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 88 FR 61006 (Sept. 6, 2023). Tesla states that in this case, NHTSA found that "brake wear indicators that do not meet the minimum lettering height requirements but that use correct coloring and symbols and are prominently positioned with the driver's direct field of vision do not have an adverse effect on vehicle safety."

2. General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 79 FR 9041 (Feb. 14, 2014). Tesla states that NHTSA found "that Park Brake indicators that are displayed using ISO symbols instead of the symbols required by FMVSS No. 101 and FMVSS No. 135 have no effect on brake performance, are illuminated as required and are described in the owner's manual, and drivers recognize and understand them."

3. General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 92963 (December 20, 2016) Tesla states that NHTSA found "that park brake indicators that do not meet the minimum letter height requirements as specified in FMVSS No. 135 are more pronounced by all capitalized letters and continue to be legible, conspicuously located, and illuminated with a contrasting background as required."

Tesla argues that the subject noncompliance is similar to the visual warning indicators at issue in these granted petitions because they "illuminate as required, are prominently positioned within the driver's direct field of vision, and use universal ISO symbols that are easily recognizable." Furthermore, Tesla asserts that "while the text of the indicators does not meet the minimum height requirements of FMVSS No. 105 and FMVSS No. 135, the text is easily legible, since each letter is capitalized and uniform in height, and the colors are compliant and in contrast to the background of the text."

Tesla adds that it is only petitioning for an exemption from the notification requirements of 49 U.S.C 30118 and 30119 and not the remedy requirements of 49 U.S.C 30119 and 30120 because the subject noncompliance has been remedied and the remedy is available for any remaining affected vehicle owners to install. Tesla states that "[a]s specified in the Safety Act, the only factor that NHTSA may use to evaluate

¹ On page 5 of its petition, Tesla refers to 49 U.S.C. 30118(d), 49 CFR part 556.7, and *Porsche Cars North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance*, 88 FR 61006 (Sept. 13, 2023).

² On page 5 of its petition, Tesla refers to a NHTSA's October 2, 2020, determination on a petition submitted by Porsche Cars North America, Inc., in which Tesla quotes NHTSA as stating "We note that the noncompliance at issue concerns a failure to meet a performance requirement. The burden of establishing the inconsequentiality of a failure to comply with performance requirement in a standard—as opposed to a *labeling* requirement—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential." (emphasis in original).

the merits of a petition for inconsequentiality is determining whether the noncompliance itself is inconsequential to safety.” Tesla states this statute requires NHTSA to “base its decision on the petition squarely upon the inconsequential nature of the noncompliance. Any perceived benefit of issuing Part 577 letters via first-class mail to affected vehicle owners has no bearing on whether the noncompliance has an impact on motor vehicle safety and is not relevant to assessing the merits of this petition.”

Tesla concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Tesla no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Tesla notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2024-22181 Filed 9-26-24; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

[Docket No. PHMSA-2024-0152]

Pipeline Safety: Proposed Project-Specific Waiver of the Build America, Buy America Act Requirements for Certain Products Used by Philadelphia Gas Works

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Notice; request for comments.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) is proposing to waive the Build America, Buy America (BABA) Act's domestic preference requirements for certain products that Philadelphia Gas Works (PGW) needs for its Natural Gas Distribution Infrastructure Safety and Modernization (NGDISM) grant project. The proposed waiver would exempt the following products used in PGW's project from BABA requirements on the basis of nonavailability: electro-fusion tapping tees, anodeless risers, transition fittings, locking valves, magnesium anodes, service adapters, curb valves, caps, couplings, and stiffeners. In accordance with section 70914(c) of BABA, PHMSA is seeking public comments on the proposed waiver.

DATES: Comments must be received by October 15, 2024.

ADDRESSES: Please submit your comments to the Federal eRulemaking Portal at <http://www.regulations.gov>, Docket No. PHMSA-2024-0152, and follow the online instructions for submitting comments.

Instructions: You must include the agency name and docket number at the beginning of your comments. Except as described below under the heading “Confidential Business Information,” all submissions received, including any personal information provided, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review the U.S. Department of Transportation's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Brandon Hollingshead, PHMSA Office of the Chief Counsel, 202-366-4400, or via email at brandon.hollingshead@dot.gov. Office hours for PHMSA are from 8:30 a.m. to 5:00 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of this Notice, all comments received on this Notice, and all background material may be viewed online at <http://www.regulations.gov> using the docket number listed above. Electronic retrieval help and guidelines are also available at <http://www.regulations.gov>. An electronic copy of this document also may 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.

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 notice 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 notice, it is important that you clearly designate the submitted comments as CBI. You may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) mark each page of the original document submission containing CBI as “Confidential”; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this Notice. Submissions containing CBI should be sent to: Mr. Brandon Hollingshead, PHMSA, 1200 New Jersey Avenue SE, E26-316, Washington, DC 20590. Any comment submissions that PHMSA receives that are not specifically designated as CBI will be placed in the public docket for this matter.

Background

The NGDISM program was authorized by the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58). The program provides Federal funding to municipal- or community-owned natural gas utilities (not including for-profit entities) to repair, rehabilitate, or replace their natural gas distribution pipeline systems or portions thereof, or to acquire equipment to (1) reduce incidents and fatalities and (2) avoid economic losses. The IIJA appropriates \$200 million per year for each of Fiscal Years (FY) 2022 through 2026 for the NGDISM program (\$1 billion in total). The IIJA provides that 2 percent of this amount shall be used to pay the administrative expenses of the NGDISM program. Accordingly, the total amount expected to be awarded as grant funding over the five-year period is \$980,000,000. In FY2022, PHMSA awarded approximately \$196 million to 37 municipal- and community-owned natural gas utilities across the nation to

fund pipeline replacement projects and the purchase of leak-detection equipment.

Congress also enacted the Build America, Buy America Act (BABA), providing that “none of the funds made available for a Federal financial assistance program for infrastructure . . . may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” IJIA, Public Law 117–58, section 70914(a). Under IJIA section 70914(b), PHMSA has authority to waive the requirements of BABA (1) if a domestic product is unavailable, (2) if using a domestic product would present an unreasonable cost, or (3) if application of BABA would not be in the public interest.

In FY2022, PGW was awarded \$10 million in NGDISM grant funding to help fund the replacement of “at-risk” cast iron natural gas main in historically disadvantaged census tracts within the City of Philadelphia as part of its “Citywide Neighborhood Safety and Modernization” project. The project, which will be located entirely within Philadelphia’s historically disadvantaged census tracts, will replace approximately 6 miles of aging cast iron, ductile iron, and unprotected steel pipelines with modern polyethylene plastic pipe that is less susceptible to breakage due to earth movement—the biggest threat to PGW’s existing cast iron pipelines, especially during the winter months.

Justification for Waiver

PGW seeks a waiver of BABA requirements for certain products on the basis of nonavailability. The specific essential products PGW seeks a waiver for are listed below:

- *Electro-fusion tapping tees*: Electro-fusion tapping tees are rigid sections of polyethylene pipe that are fused to the top of an existing polyethylene pipeline. They are used to provide a branch outlet from a gas main to a service line. (NAICS: 326122)

- *Anodeless risers*: Anodeless risers are sections of pipe that provide a 90-degree connection between underground gas service lines and aboveground meter assemblies. Risers are typically made of steel but may also include polyethylene components and may include a protective sleeve over the polyethylene components. Anodeless risers are manufactured in a variety of sizes and may be rigid or flexible. (NAICS: 33296)

- *Transition fittings*: Transition fittings are adapters that facilitate

below-grade transition from polyethylene pipe to steel pipe before it exits the ground. The steel section of the fitting is epoxy-coated for corrosion resistance. Transition fittings incorporate both steel and polyethylene components. (NAICS: 332919)

- *Lockwing valves*: Lockwing valves are installed at the “head” of a service line, upstream of a meter assembly, and are used to stop or start the flow of gas. They are lockable to resist tampering or accidental opening of the valve. They are typically made of brass. (NAICS: 332919)

- *Magnesium anodes*: Magnesium anodes are blocks of magnesium that are attached to steel pipe in order to protect against corrosion damage. (NAICS: 335999)

- *Service adapters*: Service adapters are threaded fittings used on a meter set assembly above ground. They are typically made of steel and are used to connect two pieces of steel pipe in a meter assembly. (NAICS: 332919)

- *Curb valves*: Curb valves are shut-off valves installed in a readily-accessible outside location (such as in the footway). They are used to control the gas upstream of a gas meter, but downstream of the main service tee in the street. Curb valves can be made of either polyethylene or steel. PGW requires the use of polyethylene curb valves in its system. Accordingly, PHMSA proposes to waive BABA requirements for polyethylene curb valves. (NAICS: 326122)

- *Caps*: Caps are added to a pipeline in order to close off sections of the pipeline or to cap off dead-end lines. Caps can be made of either polyethylene or steel, depending on the material of the pipe capped off. PGW is not able to find a BABA-compliant source for steel caps. Accordingly, PHMSA proposes to waive BABA requirements for steel caps. (NAICS: 332919)

- *Couplings*: Couplings can be used to connect two sections of pipe made from either polyethylene, steel, ductile iron, or cast iron. PGW requires the use of steel couplings on its distribution system. Accordingly, PHMSA proposes to waive BABA requirements for couplings made of steel. (NAICS: 332919)

- *Stiffeners*: Stiffeners are inserted into plastic pipe alongside couplings to support the pipe, mitigate stress, and provide a long-lasting seal. (NAICS: 326122)

To conduct market research, PGW initially engaged with its normal suppliers of gas distribution pipeline parts. Eight of PGW’s normal suppliers indicated that they could provide BABA-compliant products but were not

willing to certify to BABA compliance. One of PGW’s alternate suppliers indicated it could provide BABA-compliant caps, couplings, and stiffeners, albeit at an increased cost and a long lead time which would cause an estimated 36-week delay in PGW’s construction schedule, which is untenable for PGW’s project. PGW also reached out to neighboring gas utilities to inquire about their sources but was likewise unable to locate a domestic source for these products that way.

On April 10, 2024, in an effort to locate additional alternative suppliers, PGW issued a Request for Quotation (RFQ) titled “One Time Purchase of BABA Compliant Alternatives.” The RFQ was publicly posted to PGW’s Procurement website, and was open from April 10, 2024 until April 29, 2024. PGW invited 80 suppliers and manufacturers to submit bids. As a result of the RFQ, PGW identified BABA-compliant alternatives for 8 types of products for which PGW was not previously able to find domestic sources. However, PGW still was not able to find suitable or readily available alternatives for the 10 products proposed to be waived herein.

On these bases, PHMSA has preliminarily determined that these products are not manufactured in the United States in sufficient and reasonably available quantities or of a satisfactory quality.

Proposed Waiver and Request for Comments

PHMSA proposes to waive the requirements of BABA for the above listed products for PGW’s “Citywide Neighborhood Safety and Modernization” project funded by NGDISM grant funds. The waiver would be applicable only to PGW’s project; it would not be applicable to any other NGDISM grant recipient’s projects. The proposed waiver would be effective from the effective date of the final waiver through the period of performance and closeout of PHMSA’s financial assistance for the project, which is estimated to be June 30, 2029. If the sources of Federal financial assistance applied to the project are changed, PHMSA will consider whether the waiver continues to be warranted, taking into account the project’s development status at that time and any changes in market conditions for the products subject to the waiver.

PGW was awarded \$10 million in NGDISM grant funding in FY2022. However, labor costs, rather than materials costs, typically make up the majority of costs in pipeline replacement projects. PGW estimates

that only \$856,941 of the total project budget will be spent on materials. Out of this amount, PGW anticipates that only about \$140,201 would be spent on the products proposed to be waived herein—or 16 percent of PGW's materials costs. This \$140,201 is further split across ten different products.

By contrast, the proposed waiver would have a significant impact on PGW's ability to successfully complete its NGDISM projects. Absent the proposed waiver, PGW will not be able to comply with BABA requirements for the above listed products, either because PGW's market research was not able to identify any domestic sources, or it is not feasible for PGW to utilize the domestic source it did identify due to the extreme construction delays that would result.

While PGW did find a domestic source for caps, couplings, and stiffeners, the manufacturer indicated that it would need a lead time of 14- to 16-weeks from the date of order before it could supply BABA-compliant versions of these products to PGW. To ensure the safety of the public, PGW would first need to order a sample of the new products to conduct quality control testing, which PGW indicated could take up to 4 weeks. If the new products pass quality control testing, PGW would then need to place a full order for the new products, resulting in another 14- to 16-week lead time to receive them. The entire process, from initial ordering of sample products to receipt and acceptance of the full order, could result in a construction delay of up to 36 weeks. Distribution gas construction cannot proceed without these primary components and the alternative extended lead time prolongs the time of exposure to potential leaks and threats to life and property. A delayed construction schedule could result in safety impacts for PGW's customers, especially those located in five USDOT-designated historically disadvantaged neighborhoods within the project area. PGW estimates that such a delay would push its projected FY2025 project completion to the summer of FY2026, subjecting these customers to an additional winter season with sag service by cast iron pipes—a time when gas leaks are more likely to occur due to frost heave and other winter ground movement. Combined with the age of PGW's cast iron pipelines in these neighborhoods, this would create an appreciably increased risk to residents in these neighborhoods.

Under OMB Memorandum M–24–02, agencies are expected to assess “whether a significant portion of any cost advantage of a foreign-sourced

product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products” as appropriate before granting a public interest waiver. PHMSA's analysis has concluded that this assessment is not applicable to this waiver, as it is being proposed on the basis of nonavailability, rather than public interest or unreasonable cost.

PHMSA will consider all comments received in the initial 15-day comment period during our consideration of the proposed waiver, as required by section 70914(c)(2) of the IIJA. Comments received after this period, but before notice of our finding is published in the **Federal Register**, will be considered to the extent practicable.

Issued in Washington, DC, on September 23, 2024, under authority delegated in 49 CFR 1.97.

Tristan H. Brown,
Deputy Administrator.

[FR Doc. 2024–22120 Filed 9–26–24; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2024–0151]

Pipeline Safety: Proposed Project-Specific Waiver of the Build America, Buy America Act Requirements for City Utilities of Springfield, Missouri for Certain Products

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice; request for comments.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to waive the Build America, Buy America (BABA) Act's domestic preference requirements for certain products that City Utilities of Springfield (City Utilities) will use in its Natural Gas Distribution Infrastructure Safety and Modernization (NGDISM) grant project. The proposed waiver would exempt the following products used in City Utilities' project from BABA requirements on the basis of nonavailability: locator markers; meter stops with insulated unions; magnesium anodes; 1A meter swivels, nuts, and washers; and direct bury lugs. In accordance with section 70914(c) of BABA, PHMSA is seeking public comments on the proposed waiver.

DATES: Comments must be received by October 15, 2024.

ADDRESSES: Please submit your comments to the Federal eRulemaking Portal at <http://www.regulations.gov>, Docket No. PHMSA–2024–0151, and follow the online instructions for submitting comments.

Instructions: You must include the agency name and docket number at the beginning of your comments. Except as described below under the heading “Confidential Business Information,” all submissions received, including any personal information provided, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review the U.S. Department of Transportation's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Brandon Hollingshead, PHMSA Office of the Chief Counsel, 202–366–4400, or via email at brandon.hollingshead@dot.gov. Office hours for PHMSA are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of this Notice, all comments received on this Notice, and all background material may be viewed online at <http://www.regulations.gov> using the docket number listed above. Electronic retrieval help and guidelines are also available at <http://www.regulations.gov>. An electronic copy of this document also may 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.

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 notice 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 notice, it is important that you clearly designate the submitted comments as CBI. You may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) mark each page of the original document submission containing CBI as

“Confidential”; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this Notice. Submissions containing CBI should be sent to: Mr. Brandon Hollingshead, PHMSA, 1200 New Jersey Avenue SE, E26-316, Washington, DC 20590. Any comment submissions that PHMSA receives that are not specifically designated as CBI will be placed in the public docket for this matter.

Background and Justification for Waiver

The NGDISM program was authorized by the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58). The program provides Federal funding to municipal- or community-owned natural gas utilities (not including for-profit entities) to repair, rehabilitate, or replace their natural gas distribution pipeline systems or portions thereof, or to acquire equipment to (1) reduce incidents and fatalities and (2) avoid economic losses. The IIJA appropriates \$200 million per year for each of Fiscal Years (FY) 2022 through 2026 for the NGDISM program (\$1 billion in total). The IIJA provides that 2 percent of this amount shall be used to pay the administrative expenses of the NGDISM program. Accordingly, the total amount expected to be awarded as grant funding over the five-year period is \$980,000,000. In FY2022, PHMSA awarded approximately \$196 million to 37 municipal- and community-owned natural gas utilities across the nation to fund pipeline replacement projects and the purchase of leak-detection equipment.

Congress also enacted the Build America, Buy America Act (BABA), providing that “none of the funds made available for a Federal financial assistance program for infrastructure . . . may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” IIJA, Public Law 117–58, section 70914(a). Under IIJA section 70914(b), PHMSA has authority to waive the requirements of BABA (1) if a domestic product is unavailable, (2) if using a domestic product would present an unreasonable cost, or (3) if application of BABA would not be in the public interest.

In FY2022, City Utilities was awarded \$10 million in NGDISM grant funding to help fund its “Legacy Plastic Pipe Replacement Project,” which it initiated in 2010. City Utilities operates approximately 500 miles of “Aldyl A” plastic distribution pipeline within disadvantaged areas of Springfield, Missouri. Aldyl A is a type of plastic commonly used in gas pipelines in the 1960s and 1970s. Aldyl A has since been found to be susceptible to premature brittle-like failures when subjected to stress intensification, presenting a high risk of leakage and associated safety hazards. Additionally, the Aldyl A pipe operated by City Utilities lacks continuous tracer wire, which is used to locate underground pipelines prior to excavation to avoid damaging the pipelines in the course of excavation. The \$10 million awarded would allow City Utilities to speed up its Legacy Plastic Pipe Replacement Project by funding the replacement of approximately 13.7 miles of legacy Aldyl A pipe and approximately 1,409 legacy plastic gas services with modern, industry-standard polyethylene pipe. City Utilities will also use the grant funds to install a locator system on the new pipeline, allowing the pipe to be located during subsequent excavations near the pipeline, thereby ensuring the pipe is not damaged.

On December 13, 2023, City Utilities issued an Invitation for Bids (IFB) seeking, among other products, locator markers; meter stops with insulated union; magnesium anodes; 1A meter swivels, nuts, and washers; and direct bury lugs. A more detailed description of each of these products is provided below:

- **Locator Markers:** Locator markers are small devices placed on buried pipe and valves designed to help operators locate the infrastructure before excavation to help prevent damage to the pipe from excavation equipment. (NAICS: 325211)
- **Meter Stops with Insulated Union:** Meter Stops are valves that are installed above a natural gas riser upstream of the meter to serve as a shut-off valve to control the flow of gas into the meter and subsequently into the building’s gas system. They are crucial for maintenance, emergencies, or when the gas service needs to be shut off. Insulated Unions are fittings attached to the above ground portion of a natural gas utility riser in order to electrically insulate (*i.e.*, isolate) a structure from the pipeline system to prevent corrosion. (NAICS: 332919)
- **Magnesium Anodes:** Magnesium anodes are blocks of magnesium that are attached to steel pipe in order to protect

against corrosion damage. (NAICS: 335999)

- **1A Meter Swivels, Nuts, and Washers:** Meter swivels, nuts, and washers are fasteners used to secure a gas meter assembly. (NAICS: 33251/332722)

- **Direct Bury Lugs:** Direct Bury Lugs are waterproof connectors used for splicing low-voltage wires, like those used in tracer wire, without cutting the main line wire. They simplify installation and increase the longevity of the connection with pre-filled silicone sealant for waterproofing. (NAICS: 332999)

The IFB remained open for more than a month, between December 13, 2023, and January 15, 2024. In response to the IFB, City Utilities received seven responsive bids. However, each of the respondents to the IFB represented that they would not be able to certify compliance with BABA requirements for the above listed products.

Additionally, prior to City Utilities requesting this waiver, PHMSA independently engaged the supplier scouting services of the National Institute of Standards and Technology Manufacturing Extension Partnership (NIST MEP) to search for domestic manufacturers of 1A meter swivels, nuts, and washers. At the conclusion of the process, NIST MEP identified several companies who stated they had the capability to manufacture these products. However, these companies declined to do so because it would be cost prohibitive for them to begin domestic manufacture of these products in the quantities that City Utilities needs to purchase for its NGDISM project. Accordingly, supplier scouting did not result in identification of any sources that could or would manufacture these products domestically.

On these bases, PHMSA has determined that locator markers, meter stops with insulated unions, magnesium anodes, 1A meter swivels, nuts, and washers, and direct bury lugs are not manufactured in the United States in sufficient and reasonably available quantities or of a satisfactory quality.

Proposed Waiver and Request for Comments

PHMSA proposes to waive the requirements of BABA for the above listed products for City Utilities’ Legacy Plastic Pipe Replacement Project funded by NGDISM grant funds. The waiver would be applicable only to City Utilities’ project; it would not be applicable to any other NGDISM grant recipient’s projects. The proposed waiver would be effective from the effective date of the final waiver through

the period of performance and closeout of PHMSA financial assistance for the project, estimated to be February 21, 2028. If the sources of Federal financial assistance applied to the project are changed, PHMSA will consider whether the waiver continues to be warranted, taking into account the project's development status at that time and any changes in market conditions for the products subject to the waiver.

Although City Utilities was awarded \$10 million in NGDISM grant funding in FY2022, the majority of funding in NGDISM projects typically goes towards labor costs rather than materials costs. City Utilities estimates that for its FY2022 project the total cost of the products proposed to be waived equals approximately \$72,000, divided across five types of products. NIST MEP identified several companies who have the capability to manufacture 1A meter swivels, nuts, and washers, yet declined to do so after engagement with City Utilities on the grounds that it would be cost prohibitive to manufacture these products at the relatively small scale needed by City Utilities.

By contrast, the proposed waiver would have a large impact on City Utilities' ability to successfully complete its NGDISM project and deliver meaningful safety benefits to disadvantaged areas of Springfield, MO. All of the products listed herein are essential to the proper construction of a natural gas distribution pipeline. If this waiver is not approved, City Utilities' project will not be completed successfully. Additionally, City Utilities estimates that its total materials costs for the project will equal approximately \$800,000. The cost of the products proposed to be waived therefore equates to 9 percent of City Utilities' total materials costs, which is above the five percent threshold applicable to DOT's Waiver of Buy America Requirements for De Minimis Costs and Small Grants (88 FR 55817).

Under OMB Memorandum M–24–02, agencies are expected to assess “whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products” as appropriate before granting a public interest waiver. PHMSA's analysis has concluded that this assessment is not applicable to this waiver, as it is being proposed on the basis of nonavailability, rather than public interest or unreasonable cost.

PHMSA will consider all comments received in the initial 15-day comment period during our consideration of the

proposed waiver, as required by Section 70914(c)(2) of the IIJA. Comments received after this period, but before notice of our finding is published in the **Federal Register**, will be considered to the extent practicable.

Issued in Washington, DC, on September 23, 2024, under authority delegated in 49 CFR 1.97.

Tristan H. Brown,

Deputy Administrator.

[FR Doc. 2024–22118 Filed 9–26–24; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Supervisory Guidance on Stress Testing for Banking Organizations With Total Consolidated Assets of More Than \$10 Billion

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, “Supervisory Guidance on Stress Testing for Banking Organizations with Total Consolidated Assets of More Than \$10 Billion.” The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before October 28, 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: 1557–0312, 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 “1557–0312” 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.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. You can find this information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice 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 “1557–0312” or “Supervisory Guidance on Stress Testing for Banking Organizations with Total Consolidated Assets of More Than \$10 Billion.” 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, 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. The OCC asks the OMB to extend its approval of the collection in this notice.

Title: Supervisory Guidance on Stress Testing for Banking Organizations with Total Consolidated Assets of More Than \$10 Billion.

OMB Control No.: 1557–0312.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: On May 17, 2012, the OCC, along with the Federal Deposit Insurance Corporation (FDIC) and the Board of Governors of the Federal Reserve (FRB), published guidance in the **Federal Register** on the use of stress testing as a means to better understand the range of a banking organization’s¹ potential risk exposures.² The OCC is now seeking to renew the information collection associated with that guidance.

The guidance provides an overview of how a banking organization should structure its stress testing activities to ensure that those activities fit into the banking organization’s overall risk management. The purpose of the guidance is to outline broad principles for a satisfactory stress testing framework and describe how stress testing should be used. In addition, the guidance sets forth high-level recommendations for the development of a stress testing framework with clearly defined objectives; well-designed scenarios tailored to the organization’s business and risks; well-documented assumptions; conceptually sound methodologies to assess potential impact to the organization’s financial condition; informative management reports; recommended actions based on stress test results; and policies and procedures for the framework. The information collected informs how banking organizations use stress testing as a component of risk management and

as a tool for capital and liquidity planning. The OCC reviews such materials as part of its supervisory process, which includes review of the risk-management capabilities of OCC-supervised banking organizations. While the guidance is not intended to provide detailed instructions for conducting stress testing for any particular risk or business area, it does describe several types of stress testing activities and how they may be most appropriately used by banking organizations. The guidance does not explicitly address the stress testing requirements imposed upon certain banking organizations by section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.³

Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 62.

Estimated Annual Burden: 16,120 hours.

Comments: On July 23, 2024, the OCC published a 60-day notice for this information collection, 89 FR 59803. No comments were received.

Comments continue to be 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. 2024–22234 Filed 9–26–24; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease of Department of Veterans Affairs Real Property for the Development of Permanent Supportive Housing at the Veterans Affairs Palo Alto Health Care System—Menlo Park Division, Menlo Park, California Campus

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an enhanced-use lease.

SUMMARY: The purpose of this **Federal Register** notice is to provide the public with notice that the Secretary of the Department of Veterans Affairs (VA) intends to enter into an enhanced-use lease (EUL) of approximately 2.1 acres of underutilized land on the campus of the VA Palo Alto Health Care System—Menlo Park Division.

FOR FURTHER INFORMATION CONTACT: C. Brett Simms, Executive Director, Office of Asset Enterprise Management, Office of Management, 810 Vermont Avenue NW, Washington, DC 20420, 202–632–7092. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Pursuant to 38 U.S.C. 8161, *et seq.* as amended by Public Law 117–168, the Secretary of VA is authorized to enter into an EUL for a term of up to 99 years, that (a) provides supportive housing for Veterans and their families, or (b) enhances the use of the leased property by directly or indirectly benefitting Veterans. Additionally, the EUL must not be inconsistent with and not adversely affect the mission of VA or the operation of VA’s facilities, programs, and services in the area of the leased property. Consistent with this authority, the Secretary of VA intends to enter into an EUL for the purpose of outleasing approximately 2.1 acres of underutilized land on the campus of the VA Palo Alto Health Care System—Menlo Park Division, to develop approximately 60 units of permanent supportive housing for Veterans and their families and 2 manager units. The competitively selected EUL lessee/developer, MP Oak Gardens Associates, L.P., will finance, design, develop, construct, manage, maintain, and operate housing for eligible homeless Veterans or Veterans at risk of homelessness on a priority placement basis. In addition, the lessee/developer will be required to provide supportive services that guide Veteran residents towards long-term independence and self-sufficiency.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed

¹ For purposes of this guidance, the term “banking organization” means national banks, Federal savings associations, and Federal branches and agencies supervised by the OCC; state member banks, bank holding companies, savings and loan holding companies, and all other institutions for which the Federal Reserve is the primary Federal supervisor; and state nonmember banks, and all other institutions for which the FDIC is the primary Federal supervisor.

² 77 FR 29458 (May 17, 2012).

³ Public Law 111–203, 124 Stat. 1376 (2010), as revised by the Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115–174, 132 Stat. 1296–1368 (2018), and codified at 12 U.S.C. 5365(i)(2).

this document on September 23, 2024, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,
Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.
[FR Doc. 2024–22184 Filed 9–26–24; 8:45 am]
BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group, Amended, Notice of Meeting

3801 Miranda Avenue, in Palo Alto, CA. The September meeting sessions will begin and end as follows:

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that the Special Medical Advisory Group (the Committee) will meet on September 25–26, 2024, at the Palo Alto VA Medical Center (Celebration Room),

Date	Time	Open session
September 25, 2024	8:30 a.m.–4 p.m. Pacific time (PT)	Yes.
September 26, 2024	9 a.m.–3 p.m. PT	Yes.

The purpose of the Committee is to advise the Secretary of Veterans Affairs and the Under Secretary for Health on the care and treatment of Veterans, and other matters pertinent to the Veterans Health Administration.

On September 25, 2024, the agenda for the meeting will include discussions on strategies for increasing access, community care program, challenges to growth, digital health overview, tele-urgent and emergent care, artificial intelligence, efforts to reduce administrative burdens for providers, nursing infrastructure, electronic health record management deployment and behavioral and mental health care, and strategy for long-COVID management.

The Committee is revising its September meeting agenda to receive additional information and data. On September 26th, 9 a.m. PT, the Committee will call the meeting to order and introduce a revised meeting agenda schedule, which incorporates additional presentations and discussion open to the public. The Parent Committee meeting will pause from 9:15 a.m. PT to 1:15 p.m. PT to accommodate its Subcommittee engagement with local VA medical center leadership for a facility and campus tour as well as briefing on proprietary information. The Parent Committee will reopen the meeting for the public from 1:15 p.m. PT to 3 p.m. PT. Meeting participation data and points of contact remain unchanged.

Members of the Committee may join in person or virtually. The meeting is open to the public. The public is encouraged to attend virtually due to seating limitations in the physical meeting space. Persons can be joined by phone at 404–397–1596 (Access code: 28225920144) and via Webex at: [https://veteransaffairs.webex.com/wbxmjs/joinservice/sites/veteransaffairs/](https://veteransaffairs.webex.com/wbxmjs/joinservice/sites/veteransaffairs/meeting/download/3777e040e97e4d9fbf178572395a9611?siteurl=veteransaffairs&MTID=mbfe409f4d3327b0560086f2af98f0825)

[meeting/download/3777e040e97e4d9fbf178572395a9611?siteurl=veteransaffairs&MTID=mbfe409f4d3327b0560086f2af98f0825](https://veteransaffairs.webex.com/wbxmjs/joinservice/sites/veteransaffairs/meeting/download/3777e040e97e4d9fbf178572395a9611?siteurl=veteransaffairs&MTID=mbfe409f4d3327b0560086f2af98f0825). Please contact the point of contact below for assistance connecting.

Members of the public may also submit written statements in advance for review by the Committee to: Department of Veterans Affairs, Special Medical Advisory Group—Office of Under Secretary for Health (10), Veterans Health Administration, 810 Vermont Ave. NW, Washington, DC 20420 or by email at: VASMAGDFO@va.gov. Comments will be accepted until close of business on Thursday, September 19, 2024. The meeting will also include time reserved for live public comment at the end of the meeting on September 26, 2024. The public comment period will be 30 minutes and each individual commenter will be afforded a maximum of five minutes to express their comments.

Any member of the public wishing to attend the meeting or seeking additional information should email VASMAGDFO@va.gov or call 202–461–7000.

Dated: September 23, 2024.
LaTonya L. Small,
Federal Advisory Committee Management Officer.
[FR Doc. 2024–22150 Filed 9–26–24; 8:45 am]
BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0171]

Agency Information Collection Activity: Application for Individualized Tutorial Assistance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before November 26, 2024.

ADDRESSES: Comments must be submitted through www.regulations.gov/.

FOR FURTHER INFORMATION CONTACT:
Program-Specific information: Nancy Kessinger, 202–632–8924, nancy.kessinger@va.gov.
VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Individualized Tutorial Assistance, VA Form 22–1990t.

OMB Control Number: 2900–0171, <https://www.reginfo.gov/public/do/PRASearch> (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Revision of a currently approved collection.

Abstract: The VA uses the information collected to determine eligibility and payment for tutorial assistance. Without the information on this form, VA would be unable to determine the applicant's eligibility for tutorial assistance.

Affected Public: Educational Institutions.

Estimated Annual Burden: 51 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 102.

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. 2024–22218 Filed 9–26–24; 8:45 am]

BILLING CODE 8320–01–P

Reader Aids

Federal Register

Vol. 89, No. 188

Friday, September 27, 2024

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	202-741-6000
Laws	741-6000
Presidential Documents	
Executive orders and proclamations	741-6000
The United States Government Manual	741-6000
Other Services	
Electronic and on-line services (voice)	741-6020
Privacy Act Compilation	741-6050

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: www.govinfo.gov.

Federal Register information and research tools, including Public Inspection List and electronic text are located at: www.federalregister.gov.

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: fedreg.info@nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

71153-71794.....	3
71795-72278.....	4
72279-72714.....	5
72715-72956.....	6
72957-73248.....	9
73249-73554.....	10
73555-74104.....	11
74105-74828.....	12
74829-75444.....	13
75445-75944.....	16
75945-76388.....	17
76389-76708.....	18
76709-77010.....	19
77011-77444.....	20
77445-77752.....	23
77753-78198.....	24
78199-78782.....	25
78783-79124.....	26
79125-79368.....	27

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR	2024.....76397
1800.....	No. 2024-12 of September 15,
5900.....	2024.....77761
3 CFR	
Proclamations:	
10795.....	72279
10796.....	72283
10797.....	72285
10798.....	72287
10799.....	72289
10800.....	72291
10801.....	72293
10802.....	72295
10803.....	73249
10804.....	73555
10805.....	73557
10806.....	74105
10807.....	74829
10808.....	75945
10809.....	76389
10810.....	76391
10811.....	76393
10812.....	76709
10813.....	76711
10814.....	77765
10815.....	77767
10816.....	78199
Executive Orders:	
14126.....	73559
Administrative Orders:	
Memorandums:	
Memorandum of August 9, 2024.....	71795
Memorandum of August 16, 2024.....	71799
Memorandum of August 23, 2024.....	71801
Memorandum of September 6, 2024.....	77753
Memorandum of September 13, 2024.....	77755
Memorandum of September 13, 2024.....	77757
Notices:	
Notice of September 6, 2024.....	73251
Notice of September 9, 2024.....	74101
Notice of September 9, 2024.....	74103
Notice of September 18, 2024.....	77011
Presidential Determinations:	
No. 2024-10 of August 9, 2024.....	71797
No. 2024-11 of September 13,	
5 CFR	
1200.....	72957
1201.....	72957
1203.....	72957
1209.....	72957
2641.....	74107
6 CFR	
Proposed Rules:	
37.....	74137
7 CFR	
1205.....	75445
4284.....	75762
Proposed Rules:	
272.....	79174
274.....	79174
280.....	79174
915.....	77037
944.....	77037
945.....	79175
989.....	74851
3555.....	76745
8 CFR	
217.....	78783
9 CFR	
317.....	73253
381.....	73253
412.....	73253
10 CFR	
50.....	77769
72.....	72299, 72304, 79125
73.....	73257
1703.....	73258
Proposed Rules:	
50.....	76750
72.....	72342, 72344
1008.....	73312, 77040
11 CFR	
110.....	78785
113.....	78201
Proposed Rules:	
104.....	72346
112.....	78826
12 CFR	
5.....	78207
201.....	78221
204.....	78222
303.....	79125
1002.....	76713
Proposed Rules:	
613.....	72759

13 CFR	9.....71803	Proposed Rules:	594.....75955
121.....74109	10.....71803	120.....78278	598.....75955
Proposed Rules:	11.....71803	121.....78278	599.....75955
126.....72763, 76751	12.....71803		1010.....72156
14 CFR	13.....71803	24 CFR	1032.....72156
39.....72309, 72312, 72966,	14.....71803	214.....75497	Proposed Rules:
72968, 72971, 72974, 72976,	15.....71803	570.....78239	1.....76783
73260, 73262, 73264, 73267,	16.....71803	3280.....75704	1010.....79184
73269, 75460, 75462, 75464,	17.....71803	3282.....75704	
75470, 75472, 75949, 76399,	18.....71803	3285.....75704	32 CFR
76401, 76403, 76406, 76408,	20.....71803	3286.....75704	Proposed Rules:
76411, 76413, 77013, 77445,	23.....71803	Proposed Rules:	3.....71865, 77065
77769, 77772, 78223, 78226,	30.....71803, 78793	5.....72766	
78229, 78231, 78826, 78827	31.....71803		33 CFR
61.....73271	37.....71803	26 CFR	100.....71821, 71823, 71824,
71.....72981, 73272, 73273,	41.....71803	1.....73568, 75984	72323, 72327, 72721, 75968,
74131, 76713, 77015	43.....71803, 78793	54.....77586	76416, 78815
97.....75475	45.....71803	301.....75984	117.....71184, 78818
401.....76714	46.....71803	Proposed Rules:	149.....76676
413.....76714	49.....71803	1.....71193, 71214, 71864,	165.....71824, 72329, 72987,
415.....76714	75.....78793	75061, 75990, 76356, 76759,	72989, 73289, 73291, 74132,
431.....76714	140.....71803	77467	74135, 75502, 75971, 76417,
435.....76714	142.....71803	301.....71214, 72348	76419, 76731, 77451, 77453,
437.....76714	144.....71803		77776, 77778, 77780, 77782,
440.....76714	145.....71803	27 CFR	78249, 78819, 78821, 79142,
450.....76714	146.....71803	Proposed Rules:	79144
460.....76714	147.....71803	4.....73050	Proposed Rules:
Proposed Rules:	148.....71803	5.....73050	100.....72348
25.....73604	149.....71803	19.....73050	165.....73054, 73055
39.....73003, 73009, 73014,	150.....71803	24.....73050	
73316, 73608, 75507, 75977,	155.....71803	26.....73050	34 CFR
76752, 77045, 77049, 77457,	160.....71803	27.....73050	Ch. VI.....76734
78260, 78262, 78785, 78791	162.....71803		75.....79146
71.....71189, 71191, 71863,	165.....71803	29 CFR	76.....79146
72765, 73020, 73022, 75510,	170.....71803	2590.....77586	79.....79146
77053, 77055, 78831, 78832,	171.....71803	4044.....76730	
78834	270.....73764	30 CFR	36 CFR
	274.....73764	550.....71160	214.....72990
15 CFR	18 CFR		251.....72990
734.....71803	801.....78233	31 CFR	Proposed Rules:
736.....72926	Proposed Rules:	100.....78241	7.....75511
738.....72926	35.....74161	501.....74832	1191.....71215
740.....71803, 72926	40.....79178	510.....75955	
742.....72926	19 CFR	525.....75955	37 CFR
743.....72926	12.....73274, 73280	526.....75955	42.....76421
744.....71803, 75476	20 CFR	536.....75955	
746.....71803	220.....78235	542.....75955	38 CFR
764.....75477	21 CFR	544.....75955	Proposed Rules:
766.....75477	16.....77019	546.....75955	4.....74162
772.....72926	112.....77775	547.....75955	21.....72351
774.....71803, 72926	573.....72315	548.....72717, 75955	
Proposed Rules:	862.....72982, 75489	549.....75955	39 CFR
702.....73612	864.....72315	550.....75955	3.....78251
730.....78835	866.....73565, 75491, 75953,	551.....75955	111.....75973
732.....78835	77448	552.....75955	
734.....78835	72317	553.....75955	40 CFR
736.....78835, 78836	870.....72317	555.....75955	52.....71185, 71826, 71830,
740.....78835	872.....71153, 72320	558.....75955	72721, 73568, 74834, 74836,
744.....78835, 78836	876.....72715, 72984, 75493	560.....75955	74847, 75502, 75973, 76735,
774.....78836	882.....71155	562.....75955	76737, 76740, 77023, 78255,
791.....79088	886.....72322	569.....75955	79147
908.....77057	888.....71157	570.....75955	60.....74135
16 CFR	890.....71159	576.....75955	63.....73293
Proposed Rules:	1141.....74831	578.....75955	81.....71830
1112.....73024	Proposed Rules:	579.....75955	84.....73588
1226.....73320	16.....77058	582.....75955	98.....71838
1250.....73024	26.....77062	583.....75955, 78815	180.....72994
17 CFR	74.....77467	584.....75955	271.....73592
1.....71803, 78793	173.....78836	585.....75955	300.....72331
3.....71803, 78793	866.....78265	587.....72717, 72718, 72719,	705.....72336
4.....78793	1308.....75979	75955, 78245, 78247	711.....79150
5.....71803	22 CFR	588.....75955	1068.....77025
	126.....79140	589.....75955	Proposed Rules:
		590.....75955	52.....71230, 71237, 71872,
		591.....72986, 75955	72353, 72770, 74165, 74171,

75517, 75524, 76013, 76442, 77467, 77786, 78837, 79186, 79189, 79195	45 CFR	199.....76676	Proposed Rules:
55.....73617	146.....77586	401.....76312	209.....79013
63.....72355	147.....77586	402.....76312	212.....79005, 79013
84.....75898	170.....72998	Proposed Rules:	214.....79005
180.....72775	46 CFR	401.....71877	215.....79005
300.....72356	2.....76676	541.....77787	235.....79003
705.....72362	10.....76312	47 CFR	237.....79013
721.....79203	31.....76676	1.....78452	252.....79003, 79005, 79013
41 CFR	32.....76676	9.....78066, 78823	
300-3.....77025	34.....76676	11.....72724	49 CFR
301-11.....77025	35.....76676	14.....77244	571.....76236
301-50.....77025	39.....76676	54.....77028, 77784	1002.....76434
301-52.....77025	56.....76676	63.....73601	Proposed Rules:
301-70.....77025	76.....76676	64.....71848, 77244	571.....76922
301-71.....77025	77.....76676	73.....72738, 75975	595.....76035
301-73.....77025	95.....76676	Proposed Rules:	
42 CFR	96.....76676	Ch. 1.....76020	50 CFR
88.....73592	105.....76676	1.....74184, 77470	17.....72739, 73308, 75976
93.....76280	107.....76676	54.....76016, 78840	217.....77972
423.....72998	108.....76676	64.....73321, 74184, 77065, 77470	300.....73602
425.....79152	109.....76676	90.....72780	622.....71860, 76438, 79172
433.....79020	115.....76676	96.....72780	635.....75504, 77029
438.....79020	116.....76676	48 CFR	648.....72758, 77455, 78258
447.....79020	118.....76676	201.....79002	660.....77033
1007.....76431	132.....76676	204.....78990, 79001, 79002	648.....79173
Proposed Rules:	147.....76676	206.....79000	679.....71861, 72340, 73002, 75505, 76743, 76744, 77035, 77456, 78825
121.....74174	159.....76676	212.....78990, 78997	Proposed Rules:
43 CFR	160.....76676	215.....78997	17.....72362, 73330, 73512, 76196, 77972, 78134
8360.....72999	161.....76676	217.....79001	229.....77789
44 CFR	162.....76676	225.....78997	622.....72794, 79220
Proposed Rules:	163.....76676	242.....78992	635.....72796
206.....77786	164.....76676	247.....78990, 78992	
	167.....76676	252.....78990, 78992, 78997	
	169.....76676	552.....79172	
	181.....76676		
	195.....76676		

LIST OF PUBLIC LAWS Note: No public bills which have become law were received by the Office of the Federal Register for inclusion	in today's List of Public Laws. Last List September 24, 2024	Public Laws Electronic Notification Service (PENS) PENS is a free email notification service of newly	enacted public laws. To subscribe, go to https://portalguard.gsa.gov/__layouts/PG/register.aspx. Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. PENS cannot respond to specific inquiries sent to this address.
--	---	---	---