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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2024-0215]

RIN 3150-AL24

List of Approved Spent Fuel Storage Casks: HI-STORM 100, Certificate of Compliance No. 1014, Renewed Amendment No. 19

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the Holtec International HI-STORM 100 Cask System listing within the “List of approved spent fuel storage casks” to include Renewed Amendment No. 19 to Certificate of Compliance No. 1014. Renewed Amendment No. 19 revises the certificate of compliance to update the acceptance criteria and method of evaluation (MOE) for the HI-STORM 100 system tipover accident for equipment combinations involving multi-purpose canisters (MPCs) with Metamic-HT baskets. This involves applying a new stress-based criteria and completing new evaluations consistent with the new tipover acceptance criteria and MOE and involves some adjustments of the existing deflection criteria.

DATES: This direct final rule is effective May 27, 2025, unless significant adverse comments are received by April 14, 2025. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be

comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID NRC-2024-0215, at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

You can read a plain language description of this direct final rule at <https://www.regulations.gov/docket/NRC-2024-0215>. For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

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

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2024-0215 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search

for Docket ID NRC-2024-0215. Address questions about NRC dockets to Helen Chang, telephone: 301-415-3228, email: Helen.Chang@nrc.gov. For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- **NRC’s PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2024-0215 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information

before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This rule is limited to the changes contained in Renewed Amendment No. 19 to Certificate of Compliance No. 1014 and does not include other aspects of the HI-STORM 100 Cask System design. The NRC is using the “direct final rule procedure” to issue this amendment because it represents a limited and routine change to an existing certificate of compliance that is expected to be non-controversial. Adequate protection of public health and safety continues to be reasonably assured. The amendment to the rule will become effective on May 27, 2025. However, if the NRC receives any significant adverse comment on this direct final rule by April 14, 2025, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register** or as otherwise appropriate. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that “[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the Nuclear Waste Policy Act states, in part, that “[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled “Approval of Spent Fuel Storage Casks,” which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on May 1, 2000 (65 FR 25241), that approved the Holtec International HI-STORM 100 Cask System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1014.

IV. Discussion of Changes

On August 9, 2024, Holtec International submitted a request to the NRC to amend Certificate of Compliance No. 1014. Holtec International supplemented its request on the following dates: November 4, 2024 (ML24309A286), and November 13, 2024 (ML24318C533). Renewed Amendment No. 19 revises the certificate of compliance to update the acceptance criteria and method of evaluation (MOE) for the HI-STORM 100 system tipover accident described in the final safety analysis report (FSAR) for equipment combinations involving multi-purpose canisters (MPCs) with Metamic-HT baskets. This involves applying a new stress-based criteria and completing new evaluations consistent with the new tipover acceptance criteria

and MOE established in HI-STORM Flood/Wind (FW) MPC Storage System, Amendment No. 7 (ML24199A241). This also involves some adjustments of the existing deflection criteria.

The changes to the aforementioned documents are identified with revisions bars in the margin of each document.

As documented in the preliminary safety evaluation report, the NRC performed a safety evaluation of the proposed certificate of compliance amendment request. The NRC determined that this amendment does not reflect a significant change in design or fabrication of the cask. Specifically, the NRC determined that the design of the cask would continue to maintain confinement, shielding, and criticality control in the event of each evaluated accident condition. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Renewed Amendment No. 19 would remain well within the limits specified by 10 CFR part 20, “Standards for Protection Against Radiation.” Therefore, the NRC found there will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

The NRC staff determined that the renewed amended HI-STORM 100 cask design, when used under the conditions specified in the certificate of compliance, the technical specifications, and the NRC’s regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be reasonably assured. When this direct final rule becomes effective, persons who hold a general license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into the HI-STORM 100 casks that meet the criteria of Renewed Amendment No. 19 to Certificate of Compliance No. 1014.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC revises the HI-STORM 100 Cask System design listed in § 72.214, “List of approved spent fuel storage casks.” This action does not constitute the

establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the “Agreement State Program Policy Statement” approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), this rule is classified as Compatibility Category NRC—Areas of Exclusive NRC Regulatory Authority. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR chapter I. Therefore, compatibility is not required for program elements in this category.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

VIII. Environmental Assessment and Finding of No Significant Impact

Under the National Environmental Policy Act of 1969, as amended, and the NRC’s regulations in 10 CFR part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,” the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment. This environmental assessment and finding of no significant impact can be tracked with identification number NEPA ID EAXX–429–00–000–1739414322.

A. The Action

The action is to amend § 72.214 to revise the Holtec International HI–STORM 100 listing within the “List of approved spent fuel storage casks” to include Renewed Amendment No. 19 to Certificate of Compliance No. 1014.

B. The Need for the Action

This direct final rule amends the certificate of compliance for the Holtec International HI–STORM 100 design within the list of approved spent fuel storage casks to allow power reactor licensees to store spent fuel at reactor

sites in casks with the approved modifications under a general license. Specifically, Renewed Amendment No. 19 revises the certificate of compliance to update the acceptance criteria and MOE for the HI–STORM 100 system tipover accident described in the FSAR for equipment combinations involving MPCs with Metamic-HT baskets. This involves applying a new stress-based criteria and completing new evaluations consistent with the new tipover acceptance criteria and MOE established in HI–STORM FW MPC Storage System, Amendment No. 7. This also involves some adjustments of the existing deflection criteria.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this Renewed Amendment No. 19 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

The Holtec International HI–STORM 100 cask system is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, can include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

This amendment does not reflect a significant change in design or fabrication of the cask. Because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Renewed Amendment No. 19 would remain well within the 10 CFR part 20 limits. The NRC has also determined that the design of the cask as modified by this rule would maintain confinement, shielding, and criticality control in the event of an accident. Therefore, the proposed

changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposures, and no significant increase in the potential for, or consequences from, radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation report.

D. Alternative to the Action

The alternative to this action is to deny approval of Renewed Amendment No. 19 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into the Holtec International HI–STORM 100 cask system in accordance with the changes described in Renewed Amendment No. 19 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. The environmental impacts would be the same as the proposed action.

E. Alternative Use of Resources

Approval of Renewed Amendment No. 19 to Certificate of Compliance No. 1014 would result in no irreversible and irretrievable commitments of Federal resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC’s regulations in subpart A of 10 CFR part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.” Based on the foregoing environmental assessment, the NRC concludes that this direct final rule, “List of Approved Spent Fuel Storage Casks: HI–STORM 100, Certificate of Compliance No. 1014, Renewed Amendment No. 19,” will not have a significant effect on the human

environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval number 3150-0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and Holtec International. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810).

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if (1) it notifies the NRC in advance; (2) the spent fuel is stored under the conditions specified in the cask's certificate of compliance; and (3) the conditions of

the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On May 1, 2000 (69 FR 25241), the NRC issued an amendment to 10 CFR part 72 that approved the HI-STORM 100 cask system by adding it to the list of NRC-approved cask designs in § 72.214.

On August 9, 2024, and as supplemented on November 4, 2024, and November 13, 2024, Holtec International submitted a request to amend the HI-STORM 100 cask system as described in Section IV, "Discussion of Changes," of this document.

The alternative to this action is to withhold approval of Renewed Amendment No. 19 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the Holtec International HI-STORM 100 cask system under the changes described in Renewed Amendment No. 19 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary safety evaluation report and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory; therefore, this action is recommended.

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (§ 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises Certificate of Compliance No. 1014 for the Holtec International HI-STORM 100 cask system, as currently listed in § 72.214. The revision consists of the changes in Renewed Amendment No. 19 previously described, as set forth in the revised certificate of compliance and technical specifications.

Renewed Amendment No. 19 to Certificate of Compliance No. 1014 for the HI-STORM 100 cask system was initiated by Holtec International and was not submitted in response to new NRC requirements, or an NRC request for amendment. Renewed Amendment No. 19 applies only to new casks fabricated and used under Renewed Amendment No. 19. These changes do not affect existing users of the Holtec International HI-STORM 100 and the current Renewed Amendment No. 18 continues to be effective for existing users. While current users of this storage system may comply with the new requirements in Renewed Amendment No. 19, this would be a voluntary decision on the part of current users.

For these reasons, Renewed Amendment No. 19 to Certificate of Compliance No. 1014 does not constitute backfitting under § 72.62 or § 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, the NRC has not prepared a backfit analysis for this rulemaking.

XIII. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS Accession No./ web link/ Federal Register citation
Proposed Certificate of Compliance, Proposed Technical Specifications, and Preliminary Safety Evaluation Report for Certificate of Compliance No. 1014, Renewed Amendment No. 19	
User Need for Rulemaking for the Holtec HI-STORM 100 Cask System, Certificate of Compliance No. 1014, Renewed Amendment No. 19 (December 23, 2024).	ML24312A177 (Package).
Environmental Documents	
Environmental Assessment for Proposed Rule Entitled, "Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites." (1989).	ML051230231.
"Environmental Assessment and Finding of No Significant Impact for the Final Rule Amending 10 CFR part 72 License and Certificate of Compliance Terms" (2010).	ML100710441.

Document	ADAMS Accession No./ web link/ Federal Register citation
Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel: Final Report (NUREG–2157, Volumes 1 and 2) (2014).	ML14198A440 (Package).
“Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites” Final Rule (July 18, 1990)	55 FR 29181.
Holtec International HI–STORM 100 Cask Design System Amendment No. 19 Request Documents	
Holtec International—HI–STORM 100 Multipurpose Canister Storage System Amendment 19 Request (August 9, 2024).	ML24222A858 (Package).
Holtec International—HI–STORM 100 Amendment 19 Responses to Requests for Additional Information (November 4, 2024).	ML24309A286 (Package).
Holtec International—HI–STORM 100 Amendment 19 Additional Responses to Requests for Additional Information (November 13, 2024).	ML24318C533 (Package).
Other Documents	
Holtec International—HI–STORM Flood/Wind Amendment 7 Final Safety Evaluation Report, Enclosure 4 (August 13, 2024).	ML24199A241.
“Agreement State Program Policy Statement; Correction” (October 18, 2017)	82 FR 48535.
Plain Language in Government Writing (June 10, 1998)	63 FR 31885.
Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites: Final Rule (July 18, 1990)	55 FR 29181.
List of Approved Spent Fuel Storage Casks: Holtec HI–STORM 100 Addition (May 1, 2000)	65 FR 25241.

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC–2024–0215. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2024–0215); (2) click the “Subscribe” link; and (3) enter an email address and click on the “Subscribe” link.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182,

183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance No. 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000, superseded by *Renewed Initial Certificate Effective Date:* August 2, 2023.

Amendment Number 1 Effective Date: July 15, 2002, superseded by *Renewed Amendment Number 1 Effective Date:* August 2, 2023.

Amendment Number 2 Effective Date: June 7, 2005, superseded by *Renewed Amendment Number 2 Effective Date:* August 2, 2023.

Amendment Number 3 Effective Date: May 29, 2007, superseded by *Renewed Amendment Number 3 Effective Date:* August 2, 2023.

Amendment Number 4 Effective Date: January 8, 2008, superseded by *Renewed Amendment Number 4 Effective Date:* August 2, 2023.

Amendment Number 5 Effective Date: July 14, 2008, superseded by *Renewed Amendment Number 5 Effective Date:* August 2, 2023.

Amendment Number 6 Effective Date: August 17, 2009, superseded by *Renewed Amendment Number 6 Effective Date:* August 2, 2023.

Amendment Number 7 Effective Date: December 28, 2009, superseded by *Renewed Amendment Number 7 Effective Date:* August 2, 2023.

Amendment Number 8 Effective Date: May 2, 2012, as corrected on November 16, 2012 (ADAMS Accession No. ML12213A170); superseded by *Amendment Number 8, Revision 1, Effective Date:* February 16, 2016; superseded by *Renewed Amendment Number 8, Revision 1 Effective Date:* August 2, 2023.

Amendment Number 9 Effective Date: March 11, 2014, superseded by *Amendment Number 9, Revision 1, Effective Date:* March 21, 2016, as corrected on August 25, 2017 (ADAMS Accession No. ML17236A451); superseded by *Renewed Amendment Number 9, Revision 1 Effective Date:* August 2, 2023.

Amendment Number 10 Effective Date: May 31, 2016, as corrected on August 25, 2017 (ADAMS Accession No. ML17236A452); superseded by *Renewed Amendment Number 10 Effective Date:* August 2, 2023.

Amendment Number 11 Effective Date: February 25, 2019, as corrected (ADAMS Accession No. ML19343B024); superseded by *Renewed Amendment Number 11 Effective Date:* August 2, 2023.

Amendment Number 12 Effective Date: February 25, 2019, as corrected on May 30, 2019 (ADAMS Accession No. ML19109A111); further corrected December 23, 2019 (ADAMS Accession No. ML19343A908); superseded by

Renewed Amendment Number 12
Effective Date: August 2, 2023.

Amendment Number 13 Effective
Date: May 13, 2019, as corrected on May 30, 2019 (ADAMS Accession No. ML19109A122); further corrected December 23, 2019 (ADAMS Accession No. ML19343B156); superseded by *Renewed Amendment Number 13*
Effective Date: August 2, 2023.

Amendment Number 14 Effective
Date: December 17, 2019, as corrected (ADAMS Accession No. ML19343B287); superseded by *Renewed Amendment Number 14* *Effective Date:* August 2, 2023.

Amendment Number 15 Effective
Date: June 14, 2021, superseded by *Renewed Amendment Number 15*
Effective Date: August 2, 2023.

Renewed Amendment Number 16
Effective Date: September 9, 2024.

Renewed Amendment Number 17
Effective Date: January 16, 2024.

Renewed Amendment Number 18
Effective Date: November 19, 2024.

Renewed Amendment Number 19
Effective Date: May 27, 2025.

Safety Analysis Report (SAR)
Submitted by: Holtec International.
SAR Title: Final Safety Analysis Report for the HI-STORM 100 Cask System.

Docket Number: 72–1014.
Certificate Expiration Date: May 31, 2020.
Renewed Certificate Expiration Date: May 31, 2060.
Model Number: HI-STORM 100.
* * * * *
Dated: February 28, 2025.
For the Nuclear Regulatory Commission.
Mirela Gavrilas,
Executive Director for Operations.
[FR Doc. 2025–04013 Filed 3–12–25; 8:45 am]
BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration
14 CFR Part 39
[Docket No. FAA–2024–2547; Project Identifier AD–2024–00334–E; Amendment 39–22987; AD–2025–05–15]
RIN 2120–AA64
Airworthiness Directives; General Electric Company Engines
AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.
SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all General Electric Company (GE) Model CT7–2E1 engines. This AD was prompted by a revised analysis using an updated stress model, which calculated that the actual life limit of the CT7–2E1 stage 2 turbine aft cooling plate is less than the current life limit. This AD requires revision of the airworthiness limitations section (ALS) of the existing CT7–2E1 engine maintenance manual (EMM) and the operator’s existing approved maintenance program or inspection program, as applicable, to incorporate a reduced life limit for this part. The FAA is issuing this AD to address the unsafe condition on these products.
DATES: This AD is effective April 17, 2025.
ADDRESSES:
AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–2547; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety

Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198 ; phone: (781) 238–7146; email: *barbara.caufield@faa.gov*.

SUPPLEMENTARY INFORMATION:
Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all GE Model CT7–2E1 engines. The NPRM published in the **Federal Register** on December 5, 2024 (89 FR 96618). The NPRM was prompted by a revised analysis using an updated stress model, which calculated that the actual life limit of the GE Model CT7–2E1 engine stage 2 turbine aft cooling plate is less than the current life limit. In the NPRM, the FAA proposed to require revision of the ALS of the existing CT7–2E1 EMM and the operator’s existing approved maintenance program or inspection program, as applicable, to incorporate a reduced life limit for the stage 2 turbine aft cooling plate part number 5166T27P01. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments
The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion
The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Costs of Compliance
The FAA estimates that this AD affects eight CT7–2E1 engines installed on airplanes of U.S. registry.
The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS				
Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$680

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

detail the scope of the Agency’s authority.
The FAA is issuing this rulemaking under the authority described in

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2025–05–15 General Electric Company:
Amendment 39–22987; Docket No. FAA–2024–2547; Project Identifier AD–2024–00334–E.

(a) Effective Date

This airworthiness directive (AD) is effective April 17, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) Model CT7–2E1 engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine (Turbine/Turboprop).

(e) Unsafe Condition

This AD was prompted by a revised analysis using an updated stress model, which calculated that the actual life limit of the CT7–2E1 stage 2 turbine aft cooling plate is less than the current life limit. The FAA is issuing this AD to prevent failure of the stage 2 aft turbine cooling plate. The unsafe condition, if not addressed, could result in an uncontained failure, release of high-energy debris, damage to the engine, damage to the airplane, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

Within 30 days after the effective date of this AD, revise the airworthiness limitations section of the existing engine maintenance manual or instructions for continued airworthiness, and the operator’s existing approved maintenance program or inspection program, as applicable, by replacing the 6,100 cycle life limit with the new life limit of 3,100 cycles for the stage 2 aft turbine cooling plate part number 5166T27P01.

(h) Provisions for Alternative Actions or Intervals

After the action required by paragraph (g) of this AD has been done, no alternative actions, including life limits, are allowed unless they are approved as specified in the provisions of paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Additional Information

For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7146; email: barbara.caufield@faa.gov.

(k) Material Incorporated by Reference

None.

Issued on March 7, 2025.

Peter A. White,

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

[FR Doc. 2025–03987 Filed 3–12–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2544; Project Identifier MCAI–2024–00569–E; Amendment 39–22975; AD 2025–05–03]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2024–06–06 for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Model Trent7000–72 and Trent7000–72C engines. AD 2024–06–06 required revising the airworthiness limitations section (ALS) of the operator’s existing approved engine maintenance or inspection program, as applicable, to incorporate new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts. Since the FAA issued AD 2024–06–06, the manufacturer has revised the engine time limits manual (TLM) to introduce new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts, which prompted this AD. This AD requires revising the ALS of the existing approved engine maintenance or inspection program, as applicable, to incorporate new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 17, 2025.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 17, 2025.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–2544; or in person at Docket Operations between 9 a.m. and

5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu.

- You may view this material at the Operational Safety Branch, FAA, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at regulations.gov under Docket No. FAA-2024-2544.

FOR FURTHER INFORMATION CONTACT:
Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238-7146; email: barbara.caufield@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2024-06-06, Amendment 39-22711 (89 FR 26755, April 16, 2024), (AD 2024-06-06). AD 2024-06-06 applied to all RRD Model Trent7000-72 and Trent7000-72C engines. AD 2024-06-06 required revising the ALS of the operator's

existing approved engine maintenance or inspection program, as applicable, to incorporate new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts. The FAA issued AD 2024-06-06 to prevent failure of critical rotating parts, which, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

The NPRM published in the **Federal Register** on December 2, 2024 (89 FR 95139). The NPRM was prompted by EASA AD 2024-0041, dated February 9, 2024, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2024-0041) (also referred to as the MCAI). The MCAI states that the manufacturer published a revised engine TLM to introduce new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts.

In the NPRM, the FAA proposed to require revising the ALS of the existing approved engine maintenance or inspection program, as applicable, to incorporate new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2024-2544.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2024-0041, which specifies revising the ALS of the existing approved engine maintenance or inspection program, as applicable, to incorporate new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts

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

Costs of Compliance

The FAA estimates that this AD affects 54 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS				
Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$4,590

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil

aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA has determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship

between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2024–06–06, Amendment 39–22711 (89 FR 26755, April 16, 2024); and

■ b. Adding the following new airworthiness directive:

2025–05–03 Rolls-Royce Deutschland Ltd & Co KG: Amendment 39–22975; Docket No. FAA–2024–2544; Project Identifier MCAI–2024–00569–E.

(a) Effective Date

This airworthiness directive (AD) is effective April 17, 2025.

(b) Affected ADs

This AD replaces AD 2024–06–06, Amendment 39–22711 (89 FR 26755, April 16, 2024).

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG Model Trent7000–72 and Trent7000–72C engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine (Turbine/Turboprop).

(e) Unsafe Condition

This AD was prompted by the manufacturer revising the engine time limits manual to introduce new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts. The FAA is issuing this AD to prevent failure of critical rotating parts. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2024–0041, dated February 9, 2024 (EASA AD 2024–0041).

(h) Exceptions to EASA AD 2024–0041

(1) Where EASA AD 2024–0041 defines the AMP as the approved Aircraft Maintenance Programme containing the tasks on the basis of which the scheduled maintenance is conducted to ensure the continuing airworthiness of each operated engine, this AD defines the AMP as the aircraft maintenance program containing the tasks on the basis of which the scheduled maintenance is conducted to ensure the continuing airworthiness of each operated airplane.

(2) Where EASA AD 2024–0041 refers to its effective date, this AD requires using the effective date of this AD.

(3) This AD does not require compliance with paragraphs (1), (2), (4), and (5) of EASA AD 2024–0041.

(4) Where paragraph (3) of EASA AD 2024–0041 specifies “Within 12 months after the effective date of this AD, revise the approved AMP,” replace that text with “Within 30 days after the effective date of this AD, revise the airworthiness limitation section (ALS) of the existing approved engine maintenance or inspection program, as applicable.”

(5) This AD does not adopt the Remarks paragraph of EASA AD 2024–0041.

(i) Provisions for Alternative Actions and Intervals

After performing the actions required by paragraph (g) of this AD, no alternative actions and associated thresholds and intervals, including life limits, are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2024–0041.

(j) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7146; email: barbara.caufield@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2024–0041, dated February 9, 2024.

(ii) [Reserved]

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

(4) You may view this material at FAA, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on February 25, 2025.

Suzanne Masterson,

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

[FR Doc. 2025–03988 Filed 3–12–25; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 716**

[EPA–HQ–OPPT–2023–0360; FRL–11164.1–02–OCSP]

RIN 2070–AL15

Certain Existing Chemicals; Request To Submit Unpublished Health and Safety Data Under the Toxic Substances Control Act (TSCA); Extension of Submission Deadline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In response to requests from stakeholders, the Environmental Protection Agency (EPA or Agency) is amending the deadline for reporting pursuant to the Toxic Substances Control Act (TSCA) Health and Safety Data Reporting rule, which requires manufacturers (including importers) of 16 specified chemical substances to report certain lists and copies of unpublished health and safety studies to EPA. Specifically, EPA is amending the deadline from March 13, 2025, to June 11, 2025, for one of the 16 chemical substances (vinyl chloride) and to September 9, 2025, for the remaining 15 chemical substances. The Health and Safety Data Reporting Rule requires manufacturers (including importers) of certain chemical substances to submit lists and copies of certain unpublished health and safety studies to EPA.

DATES: This rule is effective on March 13, 2025.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2023-0360, 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: Stephanie Griffin, 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) 564-1463; email address: griffin.stephanie@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 (defined by statute to include import) any of the chemical substances that are listed in 40 CFR 716.120(d) of the regulatory text of this document. The following list of North American Industrial Classification System (NAICS) codes affected by this rule are those that align with these activities:

- Chemical manufacturers (including importers), (NAICS code 325); and
- Petroleum refineries (NAICS code 324110).

This action applies to manufacturers in these NAICS codes who are currently manufacturing (including importing) a listed chemical substance (or will do so during the chemical's reporting period), or who have manufactured (including imported) or proposed to manufacture (including import) a listed chemical substance within the last 10 years.

This action may also affect manufacturers of substances for commercial purposes that coincidentally produce the substance during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts and impurities. Such byproducts and impurities may, or may not, in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the

manufacture of a chemical product for a commercial purpose.

B. What action is the Agency taking?

EPA promulgated a final rule in the **Federal Register** of December 13, 2024 (89 FR 100756) (FRL-11164-02-OCSP), to require manufacturers (defined by statute to include importers) of 16 specific chemical substances to report certain lists and copies of unpublished health and safety studies to EPA. The 16 chemical substances were added to 40 CFR 716.120 to support ongoing and upcoming activities under TSCA section 6. The Agency is hereby extending the submission deadline established in that final rule from March 13, 2025, to June 11, 2025, for the following chemical substance:

- Vinyl chloride (CASRN 75-01-4).
- EPA is extending the deadline established in that final rule from March 13, 2025, to September 9, 2025, for the following chemical substances:
- 4,4-Methylene bis(2-chloraniline) (CASRN 101-14-4);
 - 4-tert-octylphenol(4-(1,1,3,3-Tetramethylbutyl)-phenol) (CASRN 140-66-9);
 - Acetaldehyde (CASRN 75-07-0);
 - Acrylonitrile (CASRN 107-13-1);
 - Benzenamine (CASRN 62-53-3);
 - Benzene (CASRN 71-43-2);
 - Bisphenol A (CASRN 80-05-7);
 - Ethylbenzene (CASRN 100-41-4);
 - Hydrogen fluoride (CASRN 7664-39-3);
 - N-(1,3-Dimethylbutyl)-N'-phenyl-p-phenylenediamine (6PPD) (CASRN 793-24-8);
 - 2-anilino-5-[(4-methylpentan-2-yl)amino]cyclohexa-2,5-diene-1,4-dione (6PPD-quinone) (CASRN 2754428-18-5);
 - Naphthalene (CASRN 91-20-3);
 - Styrene (CASRN 100-42-5);
 - Tribromomethane (Bromoform) (CASRN 75-25-2); and
 - Triglycidyl isocyanurate (CASRN 2451-62-9).

C. Why is the Agency taking this action?

The Agency is taking this action to provide additional time for the regulated community to respond to the requirements of the TSCA Health and Safety Data Reporting rule. Through extension requests submitted to the EPA, the Agency has recently become aware that a number of companies are having unanticipated difficulties understanding and complying with the reporting requirements. EPA wants to ensure that companies subject to the rule do not face enforcement consequences due to these unanticipated difficulties, and as discussed further below, believes that

additional time is warranted for EPA to provide guidance on particular implementation problems raised in the extension requests that could otherwise frustrate the purpose of the reporting rule.

Additionally, the chemicals included in this final rule are either in the process of prioritization as candidates for high-priority designation or are expected to be candidates in the upcoming years. Collecting health and safety studies on the chemicals included in this final rule will assist EPA in selecting chemicals to designate as high-priority chemicals, as well as in conducting the risk evaluation on such chemicals under TSCA section 6(b). If companies are unable to meet the requirements of the rule and relevant studies are either not provided or provided in an unusable form, EPA may be poorly positioned to conduct prioritization and risk evaluation. Such outcomes complicate EPA's current ability to make use of any information that it would receive via this reporting requirement because the Agency will review information submitted by the deadline and proceed with any TSCA section 6 activities upon processing such information. Incomplete response to this rule could, in turn, result in the Agency in needing to consider new information that could impact activities that had been undertaken, in part, due to the information received by the deadline. Extending the date helps ensure that such late submissions/revisions do not complicate activities undertaken subsequent to the deadline.

Of note, this is the first time where a TSCA section 8(d) reporting rule requires respondents to prepare Organization of Economic Cooperation and Development (OECD) harmonized templates (OHTs) study submissions containing confidential business information (CBI), where a template is available for the study being provided. EPA explained in the response to comment document for the final rule that it did not anticipate significant amounts of CBI reporting in response to this reporting requirement, and thus did not expect that the requirement to prepare an OHT for a submission containing CBI would interfere with timely submissions of data. However, EPA has recently become aware of unexpected difficulties in complying with the OHT requirement. EPA received an extension request from a respondent company with information demonstrating that the company will need to complete substantially more OHTs than previously estimated based on the personally identifiable information included in such studies

(such as a technician's name), which is one of the limited types of information in health and safety studies that may be asserted as CBI. EPA believes the company and others similarly situated to be at risk of non-compliance without additional time. Further, the request leads EPA to believe that a sizeable proportion of submissions may contain CBI, contrary to what EPA had anticipated, as there may be more circumstances where a CBI claim may arise with regard to this data collection. EPA believes it is appropriate to allow additional time for respondents to consider whether an OHT is required and then to prepare any such OHTs.

The timing of these extensions is intended to ensure that the required data submissions will be timely available for use in risk evaluations for chemical substances that have been designated as high-priority substances. Of the 16 chemicals included in this rule, EPA released a draft scope for the TSCA risk evaluation of vinyl chloride for public comment on January 16, 2025 (90 FR 4738; FRL-12439-01-OCSPP). Because the draft scope has been available for public comment since January 16, 2025, EPA expects that companies with such health and safety studies are more likely to have prioritized working through those studies to inform relevant comments on the draft scope for risk evaluation under the original reporting deadline and to inform the Agency's subsequent development of a draft risk evaluation. Thus, EPA is extending the submission deadline for vinyl chloride to June 11, 2025, to allow the Agency to take the submissions into account when preparing a draft TSCA risk evaluation for public comment. For all other chemical substances, the deadline is extended to September 9, 2025.

In letters seeking an extension to the reporting deadline, copies of which are included in the docket, EPA received requests for additional guidance on certain facets of TSCA section 8(d) reporting generally as well as with regard to the OHT requirement. The benefits that EPA and the public would receive via this data collection—in the form of studies that will inform TSCA section 6 activities, among other uses—will be diminished should EPA not receive information as per the requirements of the data collection. Accordingly, EPA believes that additional guidance would be useful to assist companies in complying with this reporting requirement and plans to provide such guidance soon. Further, EPA recognizes the uncertainty and potential legal vulnerability that companies could find themselves in

should they not adhere to the reporting requirements despite their attempts to do so. Accordingly, additional time to submit the required information will enable EPA to provide more guidance, as requested, and thereby further ensure that the Agency receives data as per the goals of the rulemaking (e.g., to ensure that the Agency has information needed to conduct prioritization and, as applicable, risk evaluation and risk management activities involving these chemicals).

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

The Health and Safety Data Reporting rule for these 16 chemical substances is promulgated under TSCA section 8(d) (15 U.S.C. 2607(d)), and codified at 40 CFR part 716. In addition, under section 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), an agency may issue a final rule without providing notice and an opportunity for public comment if it for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest.

The Agency finds that notice and public comment is unnecessary because the extension of the reporting period does not alter the substantive existing requirements of the TSCA section 8(d) reporting rule and it is not expected to interfere with the timely implementation of EPA's obligations under TSCA section 6. As such, there is no reason to believe that the public would have an interest in this action and desire to comment upon it. The Agency believes the extension does not represent a significant delay in the processing and availability of information to EPA for TSCA section 6 activities involving these chemical substances. Receiving TSCA section 8(d) submissions pursuant to the deadlines provided in this rule will ensure that such information will be received in time for use in TSCA section 6 activities.

EPA finds that notice and public comment is impracticable because there is insufficient time for notice and comment on an extension to the deadline prior to the original reporting deadline of March 13, 2025. EPA recently became aware of the need for the extension upon receiving numerous stakeholder requests for extensions and further guidance regarding unexpected reporting difficulties, as explained above.

The Agency finds that notice and public comment would be contrary to the public interest because if notice and comment time frames prevented the

Agency from extending the reporting deadline, currently March 13, 2025, many TSCA section 8(d) submissions might be provided without sufficient time or guidance to properly prepare them, impairing the ability of the Agency to carry out its prioritization and risk evaluation requirements.

This final rule is effective immediately upon publication. Section 553(d)(1) of the Administrative Procedure Act, 5 U.S.C. 553(d)(3), provides that final rules shall not become effective until 30 days after publication in the **Federal Register**, with an exception "for good cause found and published with the rule." EPA finds that the good cause discussed above for a final rulemaking without notice and comment applies equally to having an immediately effective date for this rule, especially considering the imminent reporting deadline.

II. Statutory and Executive Order Reviews

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

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 2070-0224 (EPA ICR No. 2701.01). 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 I.).

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 does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the 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. 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. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). EPA finds that there is good cause to make this rule immediately effective. (See Unit I.)

List of Subjects in 40 CFR Part 716

Environmental protection, Chemicals, Hazardous substances, Health and

safety, Reporting and recordkeeping requirements.

Nancy Beck,

Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 716—HEALTH AND SAFETY DATA REPORTING

■ 1. The authority citation for part 716 continues to read as follows:

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

■ 2. Amend § 716.120 in table 3 to paragraph (d), under the heading “OPPT 2024 Chemicals”, by:

- a. Revising the entries for “Acetaldehyde”, “Acrylonitrile”, “2-anilino-5-[(4-methylpentan-2-yl)amino]cyclohexa-2,5-diene-1,4-dione (6PPD-quinone)”, “Benzenamine”, “Benzene”, “Bisphenol A”, “Ethylbenzene”, “Hydrogen fluoride”, “4,4-Methylene bis(2-chloraniline)”, “N-(1,3-Dimethylbutyl)-N’-phenyl-p-phenylenediamine (6PPD)”, “Naphthalene”, “Styrene”, “4-tert-octylphenol(4-(1,1,3,3-Tetramethylbutyl)-phenol)”, “Tribomomethane (Bromoform)”, and “Triglycidyl isocyanurate”; and
- b. Removing the entry for “Vinyl Chloride” and adding the entry “Vinyl chloride” in its place.

The revisions and addition read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(d) * * *

TABLE 3 TO PARAGRAPH (d)

Category	CASRN	Special exemptions	Effective date	Sunset date
* * * * *				
OPPT 2024 Chemicals				
Acetaldehyde	75–07–0	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
Acrylonitrile	107–13–1	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
2-anilino-5-[(4-methylpentan-2-yl)amino]cyclohexa-2,5-diene-1,4-dione (6PPD-quinone).	2754428–18–5	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
Benzenamine	62–53–3	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
Benzene	71–43–2	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
Bisphenol A	80–05–7	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
Ethylbenzene	100–41–4	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.

TABLE 3 TO PARAGRAPH (d)—Continued

Category	CASRN	Special exemptions	Effective date	Sunset date
Hydrogen fluoride	7664–39–3	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
4,4-Methylene bis(2-chloraniline) ...	101–14–4	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
N-(1,3-Dimethylbutyl)-N'-phenyl-p-phenylenediamine (6PPD).	793–24–8	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
Naphthalene	91–20–3	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
Styrene	100–42–5	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
4-tert-octylphenol(4-(1,1,3,3-Tetramethylbutyl)-phenol).	140–66–9	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
Tribromomethane (Bromoform)	75–25–2	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
Triglycidyl isocyanurate	2451–62–9	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	September 9, 2025.
Vinyl chloride	75–01–4	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025 ...	June 11, 2025.
*	*	*	*	*

[FR Doc. 2025–03865 Filed 3–12–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 240304–0068]

RTID 0648–XE585

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 60 Feet (18.3 Meters) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 meters (m)) length overall (LOA) using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2025 Pacific cod total allowable catch (TAC) allocated to catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 10, 2025, through 1200 hours, A.l.t., September 1, 2025.

FOR FURTHER INFORMATION CONTACT: Andrew Olson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2025 Pacific cod TAC allocated to catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI is 5,408 metric tons (mt) as established by the final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024) and inseason adjustment (89 FR 105478 December 27, 2024).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season apportionment of the 2025 Pacific cod TAC allocated as a directed fishing allowance to catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI.

While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), 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 on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the closure of Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 7, 2025.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: March 7, 2025.

Karen H. Abrams,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2025–03979 Filed 3–10–25; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679****[Docket No. 240227–0061: RTID 0648–XE590]****Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Central Regulatory Area of the Gulf of Alaska****AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2025 total allowable catch (TAC) of Pacific cod by vessels using pot gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 10, 2025, through 1200 hours, A.l.t., June 10, 2025.

FOR FURTHER INFORMATION CONTACT: Abby Jahn, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2025 Pacific cod TAC apportioned to vessels using pot gear in the Central Regulatory Area of the GOA is 2,660 metric tons (mt) as established by the final 2024 and 2025 harvest specifications for groundfish in the GOA (89 FR 15484, March 4, 2024) and inseason adjustment (89 FR 103698, December 19, 2024).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allowance of the 2025 Pacific cod TAC apportioned to vessels using pot gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,660 mt and is setting aside the remaining 0 mt

as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the GOA.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), 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 on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by vessels using pot gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 7, 2025.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: March 10, 2025.

Karen H. Abrams,

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

[FR Doc. 2025–04023 Filed 3–10–25; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679****[Docket No. 240227–0061]****RTID 0648–XE582****Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Western Regulatory Area of the Gulf of Alaska****AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2025 total allowable catch (TAC) of Pacific cod by vessels using pot gear in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 10, 2025, through 1200 hours, A.l.t., June 10, 2025.

FOR FURTHER INFORMATION CONTACT: Adam Zaleski, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2025 Pacific cod TAC apportioned to vessels using pot gear in the Western Regulatory Area of the GOA is 1,165 metric tons (mt) as established by the final 2024 and 2025 harvest specifications for groundfish in the GOA (89 FR 15484, March 4, 2024) and inseason adjustment (89 FR 103698, December 19, 2024).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allowance of the 2025 Pacific cod TAC apportioned to vessels using pot gear in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,165 mt

and is setting aside 0 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Western Regulatory Area of the GOA.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens

Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), 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 on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by vessels using pot gear in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data

only became available as of March 7, 2025.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: March 7, 2025.

Karen H. Abrams,

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

[FR Doc. 2025–03980 Filed 3–10–25; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 90, No. 48

Thursday, March 13, 2025

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2024–0215]

RIN 3150–AL24

List of Approved Spent Fuel Storage Casks: HI–STORM 100, Certificate of Compliance No. 1014, Renewed Amendment No. 19

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the Holtec International HI–STORM 100 Cask System listing within the “List of approved spent fuel storage casks” to include Renewed Amendment No. 19 to Certificate of Compliance No. 1014. Renewed Amendment No. 19 revises the certificate of compliance to update the acceptance criteria and method of evaluation (MOE) for the HI–STORM 100 system tipover accident for equipment combinations involving multi-purpose canisters (MPCs) with Metamic-HT baskets. This involves applying a new stress-based criteria and completing new evaluations consistent with the new tipover acceptance criteria and MOE and involves some adjustments of the existing deflection criteria.

DATES: Submit comments by April 14, 2025. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit your comments, identified by Docket ID NRC–2024–0215, at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

You can read a plain language description of this direct final rule at

<https://www.regulations.gov/docket/NRC-2024-0215>. For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

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

SUPPLEMENTARY INFORMATION:

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- I. Obtaining Information and Submitting Comments
- II. Rulemaking Procedure
- III. Background
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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0215 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2024–0215. Address questions about NRC dockets to Helen Chang, telephone: 301–415–3228, email: Helen.Chang@nrc.gov. For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in

this document are provided in the “Availability of Documents” section.

- **NRC’s PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2024–0215 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This proposed rule is limited to the changes contained in Renewed Amendment No. 19 to Certificate of Compliance No. 1014 and does not include other aspects of the HI–STORM 100 Cask System design. Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on May 27, 2025. However, if the NRC receives any significant adverse comment by April 14, 2025, then the NRC will publish a document that withdraws the direct

final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications.

For a more detailed discussion of the proposed rule changes and associated analyses, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that “[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the Nuclear Waste Policy Act states, in part, that “[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved

casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled “Approval of Spent Fuel Storage Casks,” which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on May 1, 2000 (65 FR 25241), that approved the Holtec International HI-STORM 100 Cask System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1014.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS Accession No./ web link/ Federal Register citation
Proposed Certificate of Compliance, Proposed Technical Specifications, and Preliminary Safety Evaluation Report for Certificate of Compliance No. 1014, Renewed Amendment No. 19	
User Need for Rulemaking for the Holtec HI-STORM 100 Cask System, Certificate of Compliance No. 1014, Renewed Amendment No. 19 (December 23, 2024).	ML24312A177 (Package).
Environmental Documents	
Environmental Assessment for Proposed Rule Entitled, “Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites.” (1989).	ML051230231.
“Environmental Assessment and Finding of No Significant Impact for the Final Rule Amending 10 CFR part 72 License and Certificate of Compliance Terms” (2010).	ML100710441.
Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel: Final Report (NUREG–2157, Volumes 1 and 2) (2014).	ML14198A440 (Package).
“Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites” Final Rule (July 18, 1990)	55 FR 29181.
Holtec International HI-STORM 100 Cask Design System Amendment No. 19 Request Documents	
Holtec International—HI-STORM 100 Multipurpose Canister Storage System Amendment 19 Request (August 9, 2024).	ML24222A858 (Package).
Holtec International—HI-STORM 100 Amendment 19 Responses to Requests for Additional Information (November 4, 2024).	ML24309A286 (Package).
Holtec International—HI-STORM 100 Amendment 19 Additional Responses to Requests for Additional Information (November 13, 2024).	ML24318C533 (Package).
Other Documents	
Holtec International—HI-STORM Flood/Wind Amendment 7 Final Safety Evaluation Report, Enclosure 4 (August 13, 2024).	ML24199A241.

Document	ADAMS Accession No./ web link/ Federal Register citation
"Agreement State Program Policy Statement; Correction" (October 18, 2017)	82 FR 48535.
Plain Language in Government Writing (June 10, 1998)	63 FR 31885.
Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites: Final Rule (July 18, 1990)	55 FR 29181.
List of Approved Spent Fuel Storage Casks: Holtec HI-STORM 100 Addition (May 1, 2000)	65 FR 25241.

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC–2024–0215. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2024–0215); (2) click the "Subscribe" link; and (3) enter an email address and click on the "Subscribe" link.

Dated: February 28, 2025.

For the Nuclear Regulatory Commission.

Mirela Gavrilas,

Executive Director for Operations.

[FR Doc. 2025–04010 Filed 3–12–25; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2025–BT–DET–0002]

RIN 1904–AF70

Energy Conservation Program: Proposed Withdrawal of Determination of Miscellaneous Gas Products as a Covered Consumer Product

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rule; proposed withdrawal of determination.

SUMMARY: As part of its implementation of the Executive Order, "Unleashing American Energy" (Jan. 20, 2025), the U.S. Department of Energy ("DOE") is reviewing existing agency actions to ensure, among other things, that all regulatory requirements related to energy are grounded in clearly applicable law and that the American people's freedom to choose from a variety of goods and appliances is not restricted. As a result of this review, DOE is proposing to withdraw its prior determination that miscellaneous gas products ("MGPs"), which are comprised of decorative hearths and outdoor heaters, qualify as covered products under Part A of Title III of the Energy Policy and Conservation Act, as amended ("EPCA"). After further

consideration of the relevant statutory authority and available information, DOE is proposing to withdraw its determination that MGPs are covered products under EPCA for which DOE is authorized to establish test procedures and energy conservation standards.

DATES: Written comments, data, and information are requested and will be accepted on or before April 14, 2025.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–DET–0002. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–DET–0002, by any of the following methods:

(1) *Email:* MscGasProds2025DET0002@ee.doe.gov. Include the docket number EERE–2025–BT–DET–0002 in the subject line of the message.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc ("CD"), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles ("faxes") will be accepted. For detailed instructions on submitting comments and additional information on this process, *see* section V of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if a public meeting is held), comments, and other supporting documents/materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in

the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-DET-0002. The docket web page contains instructions on how to access all documents, including public comments, in the docket. *See* section IV of this document for information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Ms. Julia Hegarty, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. Email: ApplianceStandardsQuestions@ee.doe.gov.

Mr. Matthew Schneider, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–4798. Email: Matthew.Schneider@hq.doe.gov.

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I. Introduction

The following section briefly discusses the statutory authority underlying this notice of proposed withdrawal of determination, as well as some of the relevant historical background related to the inclusion of MGPs as covered equipment under the Energy Policy and Conservation Act (“EPCA”), as amended.

A. Statutory Authority

EPCA¹ authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part B² of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency for certain consumer products, referred to generally as “covered products”.³ In addition to specifying a list of consumer products that are covered products, EPCA authorizes the Secretary of Energy to classify additional types of consumer products as covered products. EPCA defines a “consumer product” in relevant part as any article (other than an automobile) of a type—(A) which in operation consumes, or is designed to consume, energy; and (B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.⁴ (42 U.S.C. 6291(a)(1)). For a given consumer product to be classified as a covered product, the Secretary must determine that: classifying the product as a covered product is necessary or appropriate to carry out the purposes of this chapter; and the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (“kWh”) (or its British thermal unit (“Btu”) equivalent) per year. (42 U.S.C. 6292(b)(1)).⁵

When deciding whether a consumer product should be classified as a covered product, DOE must first determine whether these criteria from 42 U.S.C. 6292(b)(1) are met. Once a determination is made, the Secretary may prescribe test procedures to measure the energy efficiency or energy use of such product. (42 U.S.C. 6293(a)(1)(B)). Furthermore, once a product is determined to be a covered product, the Secretary may set standards for such product, subject to the provisions in 42 U.S.C. 6295(o) and (p), provided that DOE determines that four additional criteria at 42 U.S.C. 6295(l) have been met. Specifically, 42 U.S.C. 6295(l) requires the Secretary to determine that: the average household energy use of the products has exceeded 150 kWh per household for a 12-month period; the aggregate 12-month energy use of the products has exceeded 4,200 gigawatt hours; substantial improvement in energy efficiency of products of such type is technologically feasible; and application of a labeling rule under 42 U.S.C. 6294 is unlikely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) that achieve the maximum energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(l)(1)).

B. Background

On February 7, 2022, DOE published a notice of proposed determination (“NOPD”) that proposed to determine coverage for MGPs, which are comprised of decorative hearths and outdoor heaters. 87 FR 6786 (“February 2022 NOPD”). The rulemaking history of MGPs as well as hearth products is discussed in the February 2022 NOPD. 87 FR 6786, 6787–6788.

After considering public comments, data, and information from interested parties submitted on the February 2022 NOPD, DOE finalized the coverage

determination for MGPs. 87 FR 54330 (Sept. 6, 2022) (“September 2022 Determination”). As part of the determination, DOE adopted definitions of “miscellaneous gas products,” “decorative hearth product,” and “outdoor heater.”⁶

Concurrent with the determination process, DOE initiated an effort to evaluate the potential for energy conservation standards for MGPs by publishing a request for information. 87 FR 35925 (“June 2022 RFI”). The June 2022 RFI solicited information from the public to help DOE determine whether potential standards for miscellaneous gas products would result in significant energy savings and whether such standards would be technologically feasible and economically justified. Subsequently on November 17, 2022, DOE published a notice of data availability, presenting various data collected through the June 2022 RFI and seeking additional input from stakeholders before proceeding with an energy conservation standards rulemaking. 87 FR 68931. To date, DOE has not proposed energy conservation standards or test procedures for MGPs.

II. General Discussion

Under EPCA, DOE may add consumer products to the list of covered products for which energy conservation standards can be established. *See* 42 U.S.C. 6292(a)(20). After coverage is determined, DOE may adopt standards and test procedures regulating such products, pursuant to the requirements set out in the statute. *See generally*, 42 U.S.C. 6293, 6295. The coverage determination procedures require DOE to conclude that a type of consumer product should be a “covered product,” meaning that “(1) classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this chapter,” and “(2) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.” *Id.* at 42 U.S.C. 6292(b).

Fundamental to a coverage determination is the identification of a scope of coverage—*i.e.*, determining which type or types of articles comprise a covered product. *See* 42 U.S.C. 6292(b) (“The Secretary may classify a type of consumer product as a covered product”) (emphasis added). While requirements for establishing a scope of coverage are not specified in EPCA, it is clear that the function of a consumer product plays an essential role in determining which type or types of

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A and is hereinafter referred to as such.

³ The enumerated list of covered products is at 42 U.S.C. 6292(a)(1)–(19).

⁴ As such, in considering the potential scope of coverage, DOE does not consider whether an individual product is distributed in commerce for residential or commercial use, but whether it is of a type of product distributed in commerce for residential use.

⁵ DOE has defined “household” to mean an entity consisting of either an individual, a family, or a group of unrelated individuals, who reside in a particular housing unit. For the purpose of this definition:

Group quarters means living quarters that are occupied by an institutional group of 10 or more unrelated persons, such as a nursing home, military barracks, halfway house, college dormitory, fraternity or sorority house, convent, shelter, jail or correctional institution.

Housing unit means a house, an apartment, a group of rooms, or a single room occupied as separate living quarters, but does not include group quarters.

Separate living quarters means living quarters: (i) to which the occupants have access either directly from outside of the building, or through a common hall that is accessible to other living quarters and that does not go through someone else’s living quarters, and (ii) occupied by one or more persons who live and eat separately from occupant(s) of other living quarters, if any, in the same building. 10 CFR 430.2.

⁶ *See* 10 CFR 430.2.

articles comprise a covered product. Under 42 U.S.C. 6295(o)(5), for example, DOE may set more than one energy conservation standard for covered products that serve more than one major function by setting one energy conservation standard for each major function. As a result, energy conservation standards are inextricably tied to the major function(s) of a covered product. For example, the major function of a central air conditioner is to provide cooling, and the energy conservation standard for central air conditioners, Seasonal Energy Efficiency Ratio 2 (“SEER2”), is a measure of cooling efficiency. Similarly, the energy conservation standard for consumer clothes dryers, Combined Energy Factor (“CEF”), measures how many pounds of clothes can be dried per kilowatt-hour of energy consumed, *i.e.*, drying efficiency. And, while a specific covered product or equipment category can encompass a wide variety of products or equipment, *e.g.*, commercial refrigeration equipment, they all still share a major function, which identifies that grouping of products or equipment as a distinct *type*. A coverage determination must be premised on the finding that classifying a type of consumer product as a covered product is necessary or appropriate to carry out the purposes of EPCA. Far from necessary or appropriate, grouping products that do not share any major functions as a single type of covered product would run contrary to the purposes of EPCA.

The September 2022 Determination was a departure from this precedent. Miscellaneous gas products, as defined, encompass products that are used primarily for both aesthetic or decorative purposes, and products used primarily for heating. As noted above, in the September 2022 Determination, DOE defined “miscellaneous gas products” to include both outdoor heaters and decorative hearth products. “Outdoor heater” was further defined to mean a gas-fired appliance designed for use in outdoor spaces only, and which is designed to provide heat proximate to the unit. DOE defined “decorative hearth product” to mean a gas-fired appliance that—

- (1) Simulates a solid-fueled fireplace or presents a flame pattern;
- (2) Includes products designed for indoor use, outdoor use, or either indoor or outdoor use;
- (3) Is not for use with a thermostat;
- (4) For products designed for indoor use, is not designed to provide space heating to the space in which it is installed; and

(5) For products designed for outdoor use, is not designed to provide heat proximate to the unit. 10 CFR 430.2.

It is clear from these definitions that outdoor heaters and decorative hearth products do not share any major functions that would allow for these products to be grouped together and regulated as a single *type* of consumer product. Indeed, in response to the February 2022 NOPD, DOE received several comments suggesting the scope of MGPs was too broad and that decorative hearths and outdoor heaters should be regulated separately. *See* 87 FR 54335–54336. In response to comments on the February 2022 NOPD, DOE concluded that outdoor heaters and decorative hearth products were “similar enough in function and operation that it is appropriate to group them together.” *Id.* at 87 FR 54336.

DOE has reevaluated its September 2022 Determination for MGPs and is now proposing to withdraw said determination as it tentatively concludes that outdoor heaters and decorative hearth products are not similar enough in function to be grouped together for the purposes of establishing a new type of covered product. It is clear from the definitions of “outdoor heater” and “decorative hearth” that these products do not share any major functions. Outdoor heaters are specifically designed to provide heat, while decorative hearth products are not designed to provide space heating (indoor) or heating proximate to the unit (outdoor). As a result, DOE has tentatively determined that MGPs, as defined in the September 2022 Determination, are not a “type of consumer product” for which DOE can establish coverage under 42 U.S.C. 6295(b)(1) and that as a result the coverage determination is not necessary or appropriate to carry out the purposes of statute.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory

objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (“OIRA”) in the Office of Management and Budget (“OMB”) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this final regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE

has made its procedures and policies available on the Office of the General Counsel's website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed withdrawal of a determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal does not establish test procedures or standards for MGPs and if adopted, DOE would no longer have the authority to consider adopting such measures. Therefore, DOE initially concludes that the impacts of the proposed determination would not have a "significant economic impact on a substantial number of small entities," and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed withdrawal of a determination, which proposed that MGPs do not meet the criteria for a covered product for which the Secretary may consider prescribing energy conservation standards pursuant to 42 U.S.C. 6295(o) and (p), imposes no new information or record-keeping requirements. Accordingly, the OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 ("NEPA"), DOE is analyzing this proposed determination in accordance with the National Environmental Policy Act ("NEPA") and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for rulemakings that are strictly procedural. 10 CFR part 1021, subpart D, appendix A6. DOE anticipates that this rulemaking qualifies for categorical exclusion A6 because it is a strictly procedural rulemaking and otherwise meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final determination.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies

or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed withdrawal of a determination and has tentatively determined that it would not have a 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed determination. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive

agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed withdrawal of a determination meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA") requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this proposed withdrawal of a determination according to UMRA and its statement of policy and determined that the proposed determination does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family

Policymaking Assessment for any rule that may affect family well-being. This proposed withdrawal of a determination would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed withdrawal of a determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf. DOE has reviewed this proposed withdrawal of a determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For

any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed withdrawal of a determination, which does not amend or establish energy conservation standards for MGPs, is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Information Quality

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667.

In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.⁷ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and

technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.⁸

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed withdrawal of a determination and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.”

IV. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this notification of proposed determination no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments

⁷ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

⁸ The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (“CBI”). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters’ names

compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

B. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed determination. DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

Issue 1: DOE requests comment interested parties on whether withdrawing the coverage determination miscellaneous gas products as a covered product is consistent with the purposes of EPCA.

Issue 2: DOE seeks feedback from interested parties on the scope of coverage previously adopted for miscellaneous gas products, which included decorative hearth products and outdoor heaters, and whether such products share any major functions that could be the basis for establishing a new covered product encompassing both types of equipment.

DOE is also interested in receiving views concerning other relevant issues that participants believe would affect the tentative conclusions presented in this document.

After the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it may prepare a final withdrawal of the coverage determination for MGPs.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this Notice of proposed rule; proposed withdrawal of determination.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Signing Authority

This document of the Department of Energy was signed on March 5, 2025, by Louis Hrkman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 6, 2025.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, DOE proposes to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

* * * * *

■ 2. Section 430.2 is amended by removing the following definitions: “Decorative hearth product”, “Miscellaneous gas products”, and “Outdoor heater”.

[FR Doc. 2025–03839 Filed 3–12–25; 8:45 am]

BILLING CODE 6450–01–P

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

[Docket No. FAA–2025–0341; Project Identifier MCAI–2024–00679–E]

RIN 2120–AA64

Airworthiness Directives; Safran Helicopter Engines, S.A. (Type Certificate Previously Held by Turbomeca, S.A.) Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Safran Helicopter Engines, S.A. (Safran) Model ARRIUS 2F and ARRIUS 2R engines. This proposed AD was prompted by a manufacturer investigation that revealed certain high-pressure (HP) turbine blades may contain non-compliant porosity rates due to a change in the manufacturing process. This proposed AD would require replacement of affected HP turbine blades, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by April 28, 2025.

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

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

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

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

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–0341; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADS@easa.europa.eu; website: easa.europa.eu.

- You may view this material at the FAA, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT:

David Bergeron, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (860) 386–1805; email: david.j.bergeron@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2025–0341; Project Identifier MCAI–2024–00679–E” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential

under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to David Bergeron, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2024–0218, dated November 18, 2024 (EASA AD 2024–0218), to correct an unsafe condition on all Safran Model ARRIUS 2F and ARRIUS 2R engines. EASA AD 2024–0218 states that a manufacturer investigation revealed certain HP turbine blades may have a weakened mechanical strength and be susceptible to premature rupture due to non-compliant porosity rates caused by a change in the manufacturing process. Since EASA issued EASA AD 2024–0218, Safran published a revised service bulletin to increase the use limits from 2,500 engine cycles to 4,500 engine cycles (ARRIUS 2F engines) and from 5,000 engine cycles to 9,000 engine cycles (ARRIUS 2R engines). Based on this, EASA issued EASA AD 2024–0218R1, dated December 19, 2024 (EASA AD 2024–0218R1) (also referred to as the MCAI). The weakened mechanical strength and potential premature rupture of HP turbine blades, if not corrected, could lead to an in-flight shutdown and a significant reduction of the control of the helicopter.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–0341.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2024–0218R1, which specifies procedures for replacement of the affected HP turbine blades with serviceable HP turbine blades. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM

after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the material already described, except for any differences identified as exceptions in the regulatory text of this AD.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 127 engines installed on helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace HP turbine blades	40 work-hours × \$85 per hour = \$3,400	\$103,250	\$106,650	\$13,544,550

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Safran Helicopter Engines, S.A. (Type Certificate Previously Held by Turbomeca S.A.): Docket No. FAA–2025–0341; Project Identifier MCAI–2024–00679–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 28, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Safran Helicopter Engines, S.A. (type certificate previously held by Turbomeca S.A.) (Safran) Model ARRIUS 2F and ARRIUS 2R engines, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0218R1, dated December 19, 2024 (EASA AD 2024–0218R1).

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a manufacturer investigation that revealed certain high-pressure (HP) turbine blades may have a weakened mechanical strength, making them susceptible to premature rupture due to non-compliant porosity rates caused by a change in the manufacturing process. The FAA is issuing this AD to prevent failure of the HP turbine blades. The unsafe condition, if not addressed, could result in an in-flight

shutdown and a significant reduction in the control of the helicopter.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with EASA AD 2024–0218R1.

(h) Exceptions to EASA AD 2024–0218R1

(1) Where EASA AD 2024–0218R1 requires compliance from its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2024–0218R1 defines a serviceable part as "A HP turbine blade, eligible for installation in accordance with SAFRAN instructions, that is not an affected part," this AD requires replacing that text with "Any HP turbine blade, eligible for installation, that is not an affected part."

(3) This AD does not adopt the "Remarks" section of EASA AD 2024–0218R1.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2024–0218R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: AMOC@faa.gov.

(k) Additional Information

For more information about this AD, contact David Bergeron, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (860) 386–1805; email: david.j.bergeron@faa.gov.

(I) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) Emergency AD 2024-0218R1, dated December 19, 2024.

(ii) [Reserved]

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

(4) You may view this material at the FAA, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222-5110.

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

Issued on March 6, 2025.

Steven W. Thompson,

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

[FR Doc. 2025-03983 Filed 3-12-25; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2025-0345; Project Identifier MCAI-2024-00475-T]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2022-27-01, which applies to certain Airbus SAS Model A350-941 and -1041 airplanes. AD 2022-27-01 requires replacing affected fasteners and applying additional head nut cap protection at the front and rear spars in the center wing box (CWB). Since the FAA issued AD 2022-27-01, the FAA determined that additional Airbus SAS Model A350 manufacturer serial numbers (MSNs) are affected by the same potential unsafe condition. This proposed AD would continue to require

the actions in AD 2022-27-01 and would expand the applicability to include the additional Airbus SAS Model A350 MSNs, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 28, 2025.

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

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

- **Fax:** 202-493-2251.

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

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

AD Docket: You may examine the AD docket at regulations.gov Docket No. FAA-2025-0345; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADS@easa.europa.eu; website easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at regulations.gov under Docket No. FAA-2025-0345.

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206-231-3225; email Dan.Rodina@faa.gov.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed

under the **ADDRESSES** section. Include “Docket No. FAA-2025-0345; Project Identifier MCAI-2024-00475-T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206-231-3225; email Dan.Rodina@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2022-27-01, Amendment 39-22286 (87 FR 80026, December 29, 2022) (AD 2022-27-01), for certain Airbus SAS Model A350-941 and -1041 airplanes. AD 2022-27-01 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2022-0080, dated May 9, 2022, to correct an unsafe condition.

AD 2022-27-01 requires replacing affected fasteners and applying additional head nut cap protection at the front and rear spars in the CWB, as

specified in EASA AD 2022–0080. The FAA issued AD 2022–27–01 to address fasteners installed in the CWB rotating inside their fastener holes. The unsafe condition, if not addressed, could lead to loss of a fastener clamping and cracking of the nut sealant cover, possibly resulting, in case of lightning strike, in a fuel tank explosion and consequent loss of the airplane.

Actions Since AD 2022–27–01 Was Issued

Since the FAA issued AD 2022–27–01, EASA superseded AD 2022–0080, dated May 9, 2022, and issued EASA AD 2024–0161, dated August 19, 2024 (EASA AD 2024–0161) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes. The MCAI states that additional Airbus SAS Model A350 MSNs are affected by the same potential unsafe condition, and the service information referenced in the MCAI has been revised to identify the additional airplanes. EASA AD 2024–0161 retains the requirements of EASA AD 2022–0080 and expands the applicability to include additional Airbus SAS Model A350 MSNs.

The FAA is proposing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–0345.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2022–27–01, this proposed AD would retain all the requirements of AD 2022–27–01. Those requirements are referenced in EASA AD 2024–0161,

which, in turn, is referenced in paragraph (g) of this proposed AD.

Material Incorporated by Reference Under 1 CFR Part 51

EASA 2024–0161 specifies procedures for replacing affected fasteners installed on the left-hand and right-hand CWB at the front and rear spar areas and for adding head nut cap protection at the front and rear spars in the CWB. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA’s Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would retain all requirements of AD 2022–27–01. This proposed AD would expand the applicability to include additional Airbus SAS Model A350 MSNs. This proposed AD would require accomplishing the actions specified in EASA AD 2024–0161 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2024–0161 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2024–0161 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2024–0161 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2024–0161. Material required by EASA AD 2024–0161 for compliance will be available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–0345 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 34 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace fasteners	Up to 83 work-hours × \$85 per hour = \$7,055.	Up to \$17,716	Up to \$24,771	Up to \$842,214.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil

aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not

have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a “significant regulatory action” under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:
 ■ a. Removing Airworthiness Directive (AD) 2022–27–01, Amendment 39–22286 (87 FR 80026, December 29, 2022); and
 ■ b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2025–0345; Project Identifier MCAI–2024–00475–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 28, 2025.

(b) Affected ADs

This AD replaces AD 2022–27–01, Amendment 39–22286 (87 FR 80026, December 29, 2022) (AD 2022–27–01).

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0161, dated August 19, 2024 (EASA AD 2024–0161).

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted a report that during flight and fatigue testing it was detected that some fasteners installed in the center wing box (CWB) rotated inside their fastener holes. The FAA is issuing this AD to address fasteners installed in the CWB rotating inside their fastener holes. The unsafe condition, if not addressed, could lead to loss of a fastener clamping and cracking of the nut sealant cover, possibly resulting, in case of lightning strike, in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and

compliance times specified in, and in accordance with, EASA AD 2024–0161.

(h) Exceptions to EASA AD 2024–0161

(1) Where EASA AD 2024–0161 refers to “23 May 2022 [the effective date of EASA AD 2022–0080],” this AD requires using February 2, 2023 (the effective date of AD 2022–27–01).

(2) This AD does not adopt the “Remarks” section of EASA AD 2024–0161.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(ii) AMOCs approved previously for AD 2022–27–01 are approved as AMOCs for the corresponding provisions of EASA AD 2024–0161 that are required by paragraph (g) of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

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

(j) Additional Information

For more information about this AD, contact Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email Dan.Rodina@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2024–0161, dated August 19, 2024.

(ii) [Reserved]

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

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

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

Issued on March 7, 2025.

Victor Wicklund,

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

[FR Doc. 2025–03942 Filed 3–12–25; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[SB: MD Docket No. 24–85; FCC 25–11; FR ID 283344]

Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) adopted a Further Notice of Proposed Rulemaking (FNPRM) that seeks additional comments on revising the regulatory fees for space and earth station payors.

DATES: Submit comments on or before March 27, 2025; and reply comments on or before April 11, 2025.

ADDRESSES: You may submit comments, identified by MD Docket No. 24–85, by any of the following methods:

- *Federal Communications Commission’s Website:* <https://www.fcc.gov/ecfs>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format

documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: 202-418-0530.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Stephen Duall, Space Bureau, at (202) 418-1103, or Stephen.Duall@fcc.gov.

SUPPLEMENTARY INFORMATION: Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- **Electronic Filers:** Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs>.

- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

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

Providing Accountability Through Transparency Act. The Providing Accountability Through Transparency Act, Public Law 118-9, requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. The required summary of the *FNPRM* is available at <https://www.fcc.gov/proposed-rulemakings>.

Synopsis

I. Introduction

1. This *FNPRM* continues an examination of how the Federal Communications Commission (Commission) assesses regulatory fees for space and earth station fee payors consistent with section 9 of Communications Act of 1934, as amended (Act or Communications Act), 47 U.S.C 159. This examination seeks to develop further the record on proposals that were initially made earlier in the *Space and Earth Station Regulatory Fees NPRM*, 89 FR 20582 (Mar. 25, 2024), but which were not adopted in fiscal year (FY) 2024.

II. Background

2. Pursuant to 47 U.S.C. 159, the Commission must assess and collect regulatory fees each fiscal year in an amount that can reasonably be expected to equal the amount of its annual salaries and expenses (S&E) appropriation. In accordance with the statute, each year, in an annual fee proceeding, the Commission proposes adjustments to the prior fee schedule under 47 U.S.C. 159(c) to "(A) reflect unexpected increases or decreases in the number of units subject to the payment of such fees; and (B) result in the collection of the amount required" by the Commission's annual appropriation. Pursuant to 47 U.S.C. 159A(b)(1), the Commission must notify Congress immediately upon adoption of any adjustment. The Commission will also propose amendments to the fee schedule under 47 U.S.C. 159(d) "if the Commission determines that the schedule requires amendment so that such fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities. Pursuant to 47 U.S.C. 159A(b)(2), the Commission must notify Congress at least 90 days prior to making effective any amendments to the regulatory fee schedule.

3. The existing schedule of regulatory fees for space and earth station payors is contained in 47 CFR 1.1156. There are four current categories of space station payors: (1) Space Stations (Geostationary Orbit); (2) Space Stations (Non-Geostationary Orbit)—Less Complex; (3) Space Stations (Non-Geostationary Orbit)—Other; and (4) Space Station (Small Satellites). For the purposes of inclusion in the "Space Stations (Non-Geostationary Orbit)—Less Complex" category, "less complex" NGSO systems are defined as NGSO

satellite systems planning to communicate with 20 or fewer U.S. authorized earth stations that are primarily used for Earth Exploration Satellite Service (EESS) and/or Automatic Identification System (AIS). Similarly, "Small Satellites" are defined as space stations licensed pursuant to the streamlined small satellite process contained in 47 CFR 25.103 and 25.122. The Space Stations (Small Satellites) category also includes "small spacecraft" licensed pursuant to the analogous streamlined procedures of 47 CFR 25.103 and 25.123. In addition, there is a single category of earth station payors—Earth Stations: Transmit/Receive & Transmit only.

4. Two categories of regulatory fees were initially established by Congress for space stations fee payors in the initial statutory schedule of regulatory fees adopted in 1993: (1) Space Station (per operational station in geosynchronous orbit); and (2) Space Station (per system in low-earth orbit). Although the latter category was subsequently renamed in our rules to include all space stations in non-geostationary orbit, these two categories remained the sole space station regulatory fee categories for more than 25 years. Over the last five fiscal years, however, the Commission has found it necessary to amend repeatedly its categories of space station regulatory fees for space stations, as well as the methodologies for assessing those regulatory fees, in order to reflect more closely the requirements of section 9 of the Act.

5. In 2019, the Commission created a new space station regulatory fee category for small satellites and spacecraft that operate in non-geostationary orbits, separate from the fee assessed for NGSO space stations. The following year, in 2020, the Commission included non-U.S. licensed space stations with U.S. market access within the fee categories for GSO and NGSO space stations, finding that doing so was necessary to level the playing field since non-U.S. licensed space stations benefit from the Commission's regulatory activities in much the same manner as U.S. licensees. At the same time, the Commission reapportioned regulatory fees between GSO and NGSO space stations, allocating 80% of space station regulatory fees to GSO space stations and 20% to NGSO space stations.

6. In 2021, the Commission again revisited its space station fees categories, this time to separate the NGSO space stations fee category into two separate categories—"less complex" NGSO space stations and "other" NGSO

space stations. The Commission adopted a 20/80 allocation between the “less complex” and “other” NGSO space station fee categories within the NGSO fee category.

7. In 2022, the Commission adopted the methodology for calculating the regulatory fee for the small satellite category. The Commission adopted a methodology whereby small satellite regulatory fees were set at 1/20th of the average of the NGSO “less complex” and “other” space station regulatory fees. In addition, the Commission determined that it was appropriate to assess regulatory fees on small satellites on a per license basis, rather than on the per system basis used for “less complex” and “other” NGSO space station categories.

8. In June 2024, the Commission amended the methodology used to calculate regulatory fees for small satellites by no longer calculating it as a percentage of the NGSO “less complex” and “other” space station fee categories, and instead set the regulatory fee for “Space Stations (per license/call sign in non-geostationary orbit) (47 CFR part 25) (Small Satellite)” for FY 2024 at the level set for FY 2023 (\$12,215), with annual adjustments thereafter to reflect the percentage change in the FCC appropriation, unit count, and FTE allocation percentage from the previous fiscal year. It also determined to assess regulatory fees for space stations that are principally used for Rendezvous & Proximity Operations (RPO) or On-Orbit Servicing (OOS), including Orbit Transfer Vehicles (OTV), using the existing fee category for “small satellites” on an interim basis until the Commission can develop more experience in how these space stations will be regulated.

9. Most recently, in September 2024, the Commission revised the allocation of space station regulatory fees using the existing methodology for calculating their proportional share of regulatory fees from 80% of space station regulatory fees being allocated to GSO space station fee payors and 20% of the space station regulatory fees being allocated to NGSO space station fee payors to 60% of space station regulatory fees being allocated to GSO space station payors and 40% to NGSO space station payors (that is, changing from an “80/20 GSO/NGSO split” to a “60/40 GSO/NGSO split”). It also adopted a re-apportionment of regulatory fees between earth and space station payors based on the percentage of direct FTEs involved in the licensing and regulation of each category.

10. In the June and September 2024 orders, the Commission did not act on

the remaining proposals that were made in the *Space and Earth Station Regulatory Fees NPRM*. Those proposals include assessing regulatory fees on authorized, but not operational, space and earth stations; using an alternative methodology for assessing space station regulatory fees; establishing tiers within existing NGSO space station fee categories based on the number of space stations in the system; and creating new categories of earth station regulatory fees. The Commission instead concluded that action on these issues may benefit from further consideration, and stated that further comment on these remaining proposals would be sought in a further notice of proposed rulemaking.

III. Discussion

A. Assessment of Fees on Authorized, but not Operational, Space and Earth Stations

11. The Commission seeks comment on a proposal to assess regulatory fees on all authorized space and earth stations beginning in FY 2025, not only on stations that are operational, as is currently the case. The Commission tentatively concluded in the *Space and Earth Station Regulatory Fees NPRM* that the objectives of section 9 of the Act would be better met by assessing regulatory fees once a space or earth station is licensed or authorized, rather than, as now, waiting until a space or earth station becomes operational. The Commission seeks additional comment on whether to assess regulatory fees on authorized, not just operational, stations in time to make it effective for the assessment and collection of FY 2025 regulatory fees.

12. Currently, regulatory fees for space stations are payable only when the space stations are certified by their operator to be operational. An earth station payor is required to pay regulatory fees once it has certified that the earth station’s construction is complete, but in the rare instances in which a license limits an earth station’s operational authority to a particular satellite system, the fee is not due until the first satellite of the related system becomes “operational” within the meaning of our rules. The *Space and Earth Station Regulatory Fees NPRM* sought comment on whether the objectives of section 9 of the Act would be better met by assessing regulatory fees when the stations are authorized, rather than when they are operational.

13. The *Space and Earth Station Regulatory Fees NPRM* examined if there is any statutory bar to assessing regulatory fees once a station is

authorized, rather than when it is operational. The origin for assessing regulatory fees on space stations when they become operational, rather than when licensed, appears to be the text of the original fee schedule contained in section 9(g) of the Act from 1993. Congress deleted section 9(g) in the 2018 RAY BAUM’s Act. Both the new and old versions of section 9 explicitly provides the Commission authority to adjust its regulatory fees by rule if it determines that the schedule of fees requires amendment. No comments were received in response to the *Space and Earth Station Regulatory Fees NPRM* that identified any statutory bar to assessing regulatory fees on authorized, but not operational, stations. Nor did any commenter object to the Commission’s tentative conclusion.

14. The majority of comments in response to the *Space and Earth Station Regulatory Fees NPRM* strongly supports the proposal to assess regulatory fees on authorized stations, rather than on operational stations. As observed in the *Space and Earth Station Regulatory Fees NPRM*, significant FTE resources are involved with the licensing of space and earth stations, even before a station becomes operational. The Commission also observed that a licensee or grantee already benefits from the substantial FTE resources used to review and grant the application or petition to operate a station, as well as from the FTE resources used to protect the benefits conferred by the grant of a license or of U.S. market access, such as use of spectrum and orbital resources and protection from interference, which convey upon issuance of the license or grant. Given the bespoke nature of many satellite systems, Space Bureau staff expertise is utilized by the industry before, during, and after an application (including modifications thereof) or petitions for rulemaking are filed. In such situations, fee payors with systems that become operational earlier than other licensed systems bear the entire fee burden of regulatory work done on behalf of all regulated systems. Other comments in response to the *Space and Earth Station Regulatory Fees NPRM* do not support the proposal to assess regulatory fees on all non-operational stations.

15. The Commission tentatively concludes that the concerns raised regarding costs, financial risks, and the stifling of innovation do not outweigh the need to assess regulatory fees on regulatees of the same class who benefit from the Commission’s FTE efforts. While the Commission understands the desire to delay assessing regulatory fees

on a satellite operator until the system becomes operational and generates revenue, it does not believe that this best comports with the statute nor is it fair to other fee payors in the same category. Moreover, assessing fees on all authorized space stations is consistent with the requirements of the Act. In section 9 of the Communications Act, Congress prescribed a method of collecting an amount equal to the full S&E appropriation by keying the regulatory fee assessment to the Commission's FTE burden. As a result, the fee assigned to each regulatory fee category relates to the FTE burden associated with oversight and regulation of each regulatory fee category by the relevant core bureaus. The Space Bureau FTEs exercise oversight over all authorized space stations regardless of whether they are operational at the start of the fiscal year. Broadening the base of regulatory fee payors to include authorized space and earth stations, reduces the per unit measure fee for everyone in the same class. The Commission tentatively finds that this broadening of the base of payors to all authorized space stations would be an important component of the alternative methodology for assessing space and earth station regulatory fees that was proposed in the *Space and Earth Station Regulatory Fees FNPRM*. This is because including authorized space stations could be more administrable to assess the number of authorized space stations in a NGSO system than the number of actual operational space stations at any given time. That is, the administrability of the alternative methodology could be severely reduced if the current policy of assessing regulatory fees only on operational space stations is maintained, since it would be necessary to ascertain the operational status of space stations in each NGSO system in order to calculate regulatory fees. The Commission seeks comment on these observations, tentative findings, and tentative conclusions.

16. Kepler urges that FTE resources spent on pre-operational licensing activities would be better recovered through filing/application fees than through regulatory fees. Fees collected pursuant to our section 8 authority are deposited in the general fund of the U.S. Treasury and are accordingly not available as an offsetting collection for our annual S&E appropriation. The Commission continues to tentatively conclude that the objectives of section 9 of the Act would be better served by assessing regulatory fees on authorized, not just operational, space stations, and

the Commission seeks further comment on this tentative conclusion.

17. The Commission seeks comment on specific ways that the proposal to assess regulatory fees on authorized space and earth stations could be implemented. Should the Commission continue to provide a list of all space stations that are eligible to be assessed regulatory fees in an appendix to the annual notice of proposed rulemaking for the assessment and collection of regulatory fee for the fiscal year? Or is it unnecessary to continue to publish this list in the notice of proposed rulemaking since the list of authorized space stations is already publicly available via the Space Bureau's Approved Space Station List? The Commission also seeks comment on any changes that may be necessary to the format of the information maintained on the Space Bureau's Approved Space Station List if we were to rely on it as a means of assessing regulatory fees in the future. Should the Approved Space Station List include a column specifying the number of authorized space stations for each approved NGSO system? In addition, the Commission seeks comment on whether it should assess regulatory fees on authorized space and earth stations regardless of when in the fiscal year the authorizations are granted. The Commission currently assesses regulatory fees on stations that are operational as of the start of the fiscal year (*i.e.*, October 1). The Commission also seeks comment whether other points in time or periods of time should be referenced when establishing that fees are due for a given fiscal year. Should the Commission assess regulatory fees on stations authorized at the start of the fiscal year and/or authorized for more than a certain percentage of the fiscal year—half of the fiscal year, a quarter of the fiscal year, or some other unit of the fiscal year? What procedure best comports with the statutory requirements of section 9 and the Commission's overarching goals of a fair, administrable, and sustainable regulatory fee system?

18. If the Commission adopts the proposal to assess regulatory fees on authorized space and earth stations, would it be fair, administrable, and sustainable to adopt separate fee categories for space and earth stations that are authorized, but not fully operational? Kepler suggests that the FTE burdens associated with licensing and oversight of authorized, but non-operational, stations are less than those associated with operational stations. As observed in the *Space and Earth Station Regulatory Fees NPRM*, substantial FTE

resources in the Space Bureau are dedicated to the review and action on space and earth station applications, and the FNPRM tentatively concludes that entities with authorized, but not yet operational stations, still benefit from these resources, as well as from a wide-range of regulatory benefits, utilizing both direct and indirect FTEs. The Commission seeks comment on Kepler's suggestion, with particular focus on how a separate fee category for authorized, but not operational, space and earth stations could be calculated and administered, if adopted.

19. The Commission also seeks comment specifically on whether it is feasible to assess a separate category of annual regulatory fees for space stations that remain authorized solely to conduct telemetry, tracking, and command (TT&C) operations, for example in order to complete end-of-life disposal plans pursuant to orbital debris mitigation plans approved by the Commission as part of the authorization process. In these instances, the space stations are still authorized by the Commission because their license has not terminated, and they continue to be subject to regulatory oversight by the Commission for compliance with their end-of-life disposal plans. Astro Digital asserts that "licensees of the deorbiting space systems are not providing any satellite service and, accordingly, not benefitting from any FCC regulatory activities." Astro Digital states that requiring an entity to pay regulatory fees for potentially years after end of commercial service could impose significant costs on space station operators. The Commission seeks comment on whether such space stations authorized only to conduct TT&C differs, if at all, in the context of assessing regulatory fees from authorized but not yet operational space stations. If there are differences would such differences, in the context of section 9 of the Communications Act, support a separate fee category for either situation? The Commission particularly seeks comment on how such categories could be calculated and administered, as well as how they could fit into existing space station fee categories or the alternative methodology for assessing space station regulatory fees.

20. The Commission seeks further comment on the proposal to assess regulatory fees in instances where there are separately identifiable space station authorizations, but which the Commission currently does not consider the space stations to be separably operational and therefore not subject to regulatory fees. For example, space stations classified as on-orbit spares

currently are not considered to be operational space stations separate from the space stations that they are spares for and are not assessed regulatory fees. Another category is space stations that are both licensed by the Commission and also granted U.S. market access for certain operations of the space stations, which currently are assessed only a single regulatory fee rather than one for each authorization, each under a different call sign. In these instances, however, the Commission has observed that separable direct FTEs are utilized to license and regulate these space stations. The Commission seeks further comment on this observation.

21. In the *Space and Earth Station Regulatory Fees NPRM*, the Commission reevaluated a prior tentative conclusion that a space station attached to a GSO space station as part of Rendezvous and Proximity Operations (RPO) or On-Orbit Servicing (OOS) operations would not be assessed fees separate from, and in addition to, any regulatory fees assessed on the space station that is being serviced or that is having its mission extended. The premise underlying the prior tentative conclusion was that the RPO or OOS space station is operating as part of an existing GSO space station, rather than as a separate independent space station, and therefore there is no independent operating space station for a separate fee assessment and that the regulatory fee burden for the RPO or OOS space station would be included in the fees collected from the GSO space station fee payors. Instead, the Commission tentatively concluded just the opposite in the *Space and Earth Station Regulatory Fees NPRM*, that as long as a RPO or OOS space station retains a separate authorization, with its own call sign, it is a separate space station for our regulatory purposes, so that there is a space station for a separate fee assessment independent of the space station being serviced or having its mission extended. The Commission reaffirms this tentative conclusion that assessing a regulatory fee on authorized space stations performing RPO or OOS operations is more administrable, since otherwise the fee status of the RPO or OOS space station would depend on whether the RPO or OOS space station is attached to another space station on the date when regulatory fees are assessed, or whether it may be operating unattached, for example, between servicing missions, which could lead to uncertainty as to whether regulatory fees are due or not, as well as potential gaming of regulatory fees through the timing of missions. The

Commission seeks further comment on this tentative conclusion.

22. The Commission also seeks comment on whether to assess regulatory fees on authorized, but not operational, space stations in FY 2025, or whether to delay such an assessment until FY 2026, or later, in order to give the Commission and regulatees time to adjust to the change in fee methodology. For example, if alterations to the information maintained in Space Bureau's Approved Space Station List are needed to implement the proposed change, would a delay until FY 2026 better allow such alterations to be made? Additionally, would delay of assessing regulatory fees on authorized, rather than operational, space stations until FY 2026 give regulatees the chance to amend applications or modify existing licenses or grants of U.S. market access to bring the number of authorized space stations more in line with the number of their operational space stations?

B. Alternative Methodology for Assessing Space Station Regulatory Fees

23. The Commission seeks further comment on the proposal to assess regulatory fees for space stations using an alternative methodology from the one currently being used. Specifically, the Commission seeks additional comment on whether to adopt the alternative methodology that was proposed in the *Space and Earth Station Regulatory Fees NPRM*. The Commission also seeks comment on whether to adopt the alternative methodology for assessing space station fees beginning for FY 2025. The Commission also tentatively concludes that the alternative methodology better achieves the objectives of section 9 of the Act, but seeks comment on this tentative conclusion.

1. Challenges Leading to Alternative Fee Methodology Proposal

24. The development of the current space station fee categories has occupied considerable time and efforts, and space station regulatory fees have featured prominently in every proceeding to assess and collect annual regulatory fees since fiscal year 2019. These efforts have required Commission staff to spend considerable FTE resources every year reviewing and evaluating space station regulatory fees.

25. Under the current methodology for assessing space station regulatory fees, the Commission first determines a percentage of the Space Bureau's FTE resources allocated to the licensing and regulation of GSO space stations compared to NGSO space stations. This

requires regular reevaluation of the share of work devoted to each category, which is in turn endogenous to changes taking place in the satellite industry. Without spending considerable FTE resources on this exercise, the Commission could be faced with a GSO/NGSO allocation that does not fairly reflect the share of FTE resources attributed to each payor category.

26. In addition to reviewing the GSO/NGSO allocation, the Commission further determines the percentage of FTE resources allocated between "less complex" NGSO systems and all other NGSO systems. As acknowledged repeatedly by the Commission, this step requires challenging determinations of the expected FTE burdens to be allocated to the various classes of space stations. The Commission must also often respond to repeated challenges about which factors determine whether an NGSO system is "less complex" or not, and if additional NGSO space stations could be included in this category. Moreover, regulatees argue that the "other" category for NGSO space stations is too broad, leading to smaller systems with fewer space stations paying the same regulatory fee as larger systems with many times the number of space stations. The Commission must also often consider new types of space stations, and whether they can be assessed regulatory fees under an existing category, or if creation of a new category of regulatory fees is needed. Accordingly, it is increasingly difficult to assess regulatory fees using orbital parameters as a primary means of allocation of FTE resources and the determination of "complexity" as a secondary means of allocation among NGSO space stations given the increasing diversity of the space stations being licensed and regulated.

27. As observed in the *Space and Earth Station Regulatory Fees NPRM*, the recent creation of Space Bureau provides an opportune time to revisit past conclusions about the regulatory burdens associated with space and earth station fee payors and how those fees should be assessed. The increased burdens of regulating space stations as a result of the changes in the satellite industry will increase the share of regulatory fees to be assessed on space station regulatees, compared to the number of FTEs regulating space stations in the International Bureau. Accordingly, there is increased importance now in examining how FTEs are apportioned among the categories of Space Bureau fee payors to ensure that the fee apportionment

methodology is administrable, fair, and sustainable.

28. Assessing regulatory fees for space stations is particularly challenging due to the nature of the space stations that are authorized and regulated by the Commission. First, the operations of space stations are not homogenous. They differ in the orbits and spectrum used, in terms of the quantity of spectrum used, which particular frequency bands are utilized, and whether these frequencies are utilized on a primary, secondary, or other basis. They also differ in the number of space stations that can operate under a single authorization, with one space station authorized per GSO call sign, up to ten space stations authorized per NGSO small satellite license, and anywhere from one to potentially tens of thousands under a single NGSO space station system. Thus, there are myriad factors that could distinguish one class of space stations from another, which in turn affects the factors that can be considered in the regulation of such space stations. Second, there is a relatively low number of units on which to assess and collect space station regulatory fees. Under the current methodology, for FY 2024 there were 16 units of small satellite fee payors, 140 units of GSO space stations, 6 units of “less complex” NGSO space stations, and 11 units of other NGSO space stations. Thus, any increase in the amount of regulatory fees assessed for space stations typically must be borne by a relatively small number of units, a situation that is intensified if an NGSO system is able to consolidate several individual space station authorizations into a single system, counted as a single unit for regulatory fee purposes, as is currently the case today.

29. In addition, many of the methods for assessing and collecting regulatory fees for Commission regulatees outside of the Space Bureau’s purview appear ill-suited for space station regulatory fees. The *Space and Earth Station Regulatory Fees NPRM* sought comment on a range of these alternate methods, including assessing regulatory fees per subscriber, per unit of spectrum authorized, and per class of service authorized. It identified potential difficulties with use of each of these alternate methods, and no commenter in response to the *Space and Earth Station Regulatory Fees NPRM* endorsed the use of any of them, by themselves, as methods for assessing space station regulatory fees. The combination of these alternate methods to assess regulatory fees, such as establishing a matrix of regulatory fees based on multiple factors—for example the

amount of spectrum used and services provided—could be challenging to administer because space stations rarely operate in a single frequency band or provide a single type of service. The types and purposes of space stations that seek authorization for spectrum usage by the Commission continue to expand and diversify in ways that make it increasingly unlikely to fit space stations used for novel space activities within regulatory fee categories tailored to existing narrow-defined factors such as services provided or nature of spectrum usage. The Commission tentatively concludes that using subscriber counts, units of spectrum authorized, or class of service, either individually or in combination, is not a useful unit measure for assessing regulatory fees on space and earth stations and may not reflect the FTE burdens of oversight and regulation of these stations. The Commission seeks comment on this tentative conclusion.

2. Implementation of Alternative Fee Categories and Methodology

30. The Commission seeks further comment on whether to implement an alternative methodology largely as it was proposed in the *Space and Earth Station Regulatory Fees NPRM*. Under this alternative methodology, the Commission would first determine the Space Bureau’s share of the total annual S&E appropriation for the given fiscal year using the existing methodology used by the Commission. After the Space Bureau’s share is determined, the FNPRM proposes that the share be allocated between earth station and space station fee payors proportional to the Space Bureau FTE resources that are involved in the licensing and regulation of each segment. The alternative methodology also would preserve a separate fee category for Space Stations (per license/call sign) (Small Satellite), with the inclusion of RPO, OOS, and OTV space stations, on an interim basis, in this existing fee category, as adopted in the *Space Station Regulatory Fee Order* in June 2024, 89 FR 60572 (Jul. 26, 2024). The amount assessed for regulatory fees for the Space Stations (Small Satellite) fee category would be subtracted from the amount of space station regulatory fees to be assessed on all remaining space station payors. Under the alternative methodology, fees would be assessed on authorized space stations, not just operational space stations.

31. The alternative methodology would establish a common initial unit of regulatory fees for all space stations, regardless of which orbit they are designed to operate in, and to eliminate

separate fee categories for Space Stations (Geostationary Orbit), Space Stations (Non-Geostationary Orbit)—Less complex, and Space Stations (Non-Geostationary Orbit)—Other. The alternative methodology would have a single space station fee category for “Space Stations (Per Call Sign in Geostationary Orbit or Per System of [to be determined] or Fewer Authorized Space Stations in Non-Geostationary Orbit).” The alternative methodology creates a single unit for assessing a share of Space Bureau FTE resources allocated to the licensing and regulation of all space stations. It recognizes, however, the difference in GSO and NGSO space stations in that a single GSO space station is not the same as a system of potentially hundreds or thousands of NGSO space stations. Accordingly, the unit provides for more than one space station to be included in the category for an NGSO system. In the *Space and Earth Station Regulatory Fees NPRM*, the number proposed for this single unit was 100 space stations. The Commission seeks further comment on this proposal.

32. The Commission also recognizes that NGSO systems can be authorized to include substantially more than 100 space stations, potentially in the thousands or tens of thousands, although such systems become less typical as the number of space stations authorized in the system increases. This is likely due to the fact that NGSO systems with a larger number of authorized space stations require the larger number of space stations to provide service in a large geographic area (usually global) and provide more transmission capacity in order to provide high-data rate, two-way connectivity. In addition, a larger number of earth stations are needed to support global, high-data rate two-way connectivity, and larger spectrum authorizations are required to provide the spectrum bandwidth needed for the desired services. More financial resources are generally required to construct, launch, and operate an NGSO system as the number of space stations authorized in a system increase. This is not always the case, however, and there are NGSO systems with a relatively large number of authorized space stations that are not used for high-data rate, two-way connectivity, and which may be relatively inexpensive to construct, launch, and operate. But as a general principle, a larger number of space stations authorized in an NGSO system correlates to the rarity of such systems due to the increased higher financial resources needed to construct,

launch, and operate the system, and correlates to the use of such a system to provide services with ubiquitous, high-data rate connectivity.

33. The alternative methodology would account for these NGSO systems with more than 100 authorized space stations. The *Space and Earth Station Regulatory Fees NPRM* proposed to create additional tiers to account for NGSO systems with more than 100 authorized space stations, for example 500 or 1,000 space stations per NGSO system per additional tier. Each tier would be counted as an additional unit for assessment of space station regulatory fees. The total number of units (initial and additional units) would be added together and the total space station allocation of the Space Bureau share would be evenly divided among the total number of units, resulting in a per unit regulatory fee for the fiscal year. For example, if the unit tiers are defined per 500 additional authorized space stations, the initial unit range will be 1–100 authorized space stations, the first additional unit would be assessed to systems with 101–500 authorized space stations, and an additional unit would then be assessed for each additional block of 500 authorized space stations. Similarly, if the additional unit tiers are defined per 1,000 additional authorized space stations, the initial unit range would be 1–100 authorized space stations, the first additional unit would be assessed to systems with 101–1,000 authorized space stations, and an additional unit would then be assessed for additional block of 1,000 authorized space stations. Thus, NGSO systems with larger numbers of authorized space stations would be assessed higher regulatory fees in the aggregate than those with a smaller number of authorized space stations, although the per unit of regulatory fees would be the same for all space stations, whether GSO or NGSO. The Commission seeks further comment on this proposal, as well the observations that the Commission made in the *Space and Earth Station Regulatory Fees NPRM* about the impact of this proposal compared to the existing methodology for assessing space station regulatory fees.

34. The Commission seeks further comment on whether 500 or 1,000 authorized space stations per NGSO system per tier is the appropriate metric for assessing additional units for regulatory fee assessments. Although Iridium supports tiers that use increments of 500 additional satellites after the initial tier of 100, the Commission otherwise received a limited record on this issue in response

to the *Space and Earth Station Regulatory Fees NPRM*, and thus the Commission seeks further comment on this question. Is 500 or 1,000 additional satellites the appropriate number, or is another number more appropriate? Should the number of authorized NGSO space stations per additional tier be decided with the objective of achieving the same proportionate share of Space Bureau FTE resources between GSO and NGSO space station fee payors that we determined was the case for FY 2024 (that is, 60 percent of space station FTE resources allocated to GSO space station fee payors and 40 percent allocated to NGSO space station fee payors), at least as an initial starting point for the alternative methodology? Or is there another basis for determining the number of authorized NGSO space stations per additional tier to reflect FTE resources and achieve the Commission's goals of fair, administrable, and sustainable regulatory fees?

35. The Commission recognizes that this alternative methodology differs from the existing methodology for assessing space stations fees, particularly for NGSO space stations. In particular, the alternative methodology would discontinue the use the “complexity” of an NGSO system as method for allocating regulatory fees. Assessing regulatory fees on NGSO space station systems based on “less complex” or “other” is a relatively recent development and has proven to be challenging to implement, since the “complexity” of a NGSO space station system can involve myriad factors, such as the spectrum sharing environment of frequency bands desired to be used, the quantity of spectrum used, the services to be provided, and the orbital parameters utilized. Adjudicating the complexity of all these factors, which present themselves differently among NGSO systems, takes significant staff resources and has involved repeated revisiting in annual regulatory fee proceedings. In addition, some comments suggest that that policy determinations involved in the FCC's regulation of space stations should be incorporated into our regulatory fee proceeding in order to assess fees.

36. The alternative methodology would discontinue attempts to use any proxy for the allocation of FTE resources other than number of space stations that are authorized. All FTEs involved with space station licensing and regulation in the Space Bureau are assessed equally among all units of space station fee payors, without any *a priori* determinations about the allocation of FTE resources between GSO or NGSO space stations, or

between different types of NGSO systems, other than the number of authorized space stations in the system. This allocation of Space Bureau resources matches the practice of the staff within the Space Bureau, which generally does not work in isolation on any particular type of space station licensing or regulation, but may work on different types and at different levels of intensity, from month-to-month or year-to-year. Thus, it may be reasonable to allocate all of Space Bureau resources that are allocated to space station licensing and regulation to all space stations and to use the alternative methodology to establish an objectively measurable metric by which to assess a proportional share of Space Bureau space station regulatory fees. This alternative methodology may have substantial benefits compared to the existing methodology, even if it were to be amended as proposed in the *Space and Earth Station Regulatory Fees NPRM*. The Commission seeks comment on these benefits.

37. The Commission acknowledges that using the number of space stations in an NGSO system to assess regulatory fees may not always correlate perfectly to the FTE resources involved in licensing and regulating a particular NGSO system. There may always be outlier situations where an NGSO system with a handful of authorized space stations could require more FTE resources to license and regulate than an NGSO system with 1000 or more authorized space stations. The Commission's methodology for calculating regulatory fees, however, need not reach scientific precision and instead must simply be reasonable.

38. The Commission seeks comment on whether fee payors under NGSO space station fee categories, other than fee payors in the Small Satellites fee category, would continue to be assessed regulatory fees on a per system, rather than per call sign basis. Under this approach, if an NGSO system consists of space stations authorized under multiple call signs, it would not be assessed an initial unit for each call sign, but rather would be assessed an initial unit for its entire system, but all space stations in the system authorized under all call signs would be counted to assess additional units per tier of 500 or 1,000 space stations, as proposed above. The Commission seeks comment on this proposal.

39. The Commission seeks further comment on variations of the alternative methodology that were raised in the *Space and Earth Station Regulatory Fees NPRM*, as well as in comments in response to it. Kinéis proposes a multi-

tiered approach to the alternative fee methodology that incorporates the aggregate authorized on-orbit mass of space stations as an additional factor to the number of authorized space stations when assessing space station regulatory fees. Kuiper proposes a modified version of the alternative methodology, which would initially maintain the relative share of Space Bureau regulatory fees that the existing methodology places on fee payors. The Commission seeks comment on these proposals and whether and how the variations suggested in these comments could be incorporated as part of the alternative fee methodology.

3. Benefits of Alternative Fee Methodology

40. As observed in the *Space and Earth Station Regulatory Fees NPRM*, this alternative methodology may be more administrable, fair, and sustainable than the existing methodology. Some comments received in response to the *Space and Earth Station Regulatory Fees NPRM* support this expectation. Other comments express support for further examination of the alternative methodology, either as originally proposed or as modified, through a further notice and comment proceeding. SpaceX does not agree that the alternative methodology would be more administrable, fair, and sustainable than the existing methodology. The Commission seeks further comment on the potential benefits of the proposed alternative fee methodology, both as set forth in the *Space and Earth Station Regulatory Fees NPRM*, and as further elucidated below.

41. The Commission tentatively finds that the main potential benefit of the proposed alternative fee methodology is that it resolves the allocation of Space Bureau FTE resources among various types of space station fee payors in a manner that does not require the Commission to make repeated determinations as to the percentage of FTE resources attributable to various categories of fee payors. Instead, once space stations are authorized, they are allocated a unit of share of the Space Bureau's FTE resources attributable to space station licensing and regulation. If the authorized space station is GSO, it would increase the percentage share of overall space station fees attributable to GSO space stations. If it is an NGSO system, it would increase the overall percentage share of NGSO space stations. Accordingly, it would no longer be necessary for the Commission to calculate the percentage share of Space Bureau FTE resources attributable

to GSO versus NGSO licensing and regulation; the percentage share would automatically adjust itself as space stations are added, or as authorizations terminate and licensed space stations are removed. Similarly, because NGSO space stations would not be assessed a single regulatory fee unit, but may be assessed multiple units of regulatory fees as the number of authorized space stations in the system increase, the proportion of fees allocated among NGSO systems also would automatically adjust, and NGSO systems with a substantially larger number of authorized space stations would pay a larger share of space station fees than NGSO systems with a small number of authorized space stations. The Commission tentatively finds that the balance of fees between GSO and NGSO, as well as among NGSO systems, would automatically be accomplished. The Commission seeks comment on this potential benefit.

42. In addition, every additional authorized space station or system of space stations would add to the number of units over which space station regulatory fees are apportioned, which would result in the lowering of the per unit regulatory fee for all space station payors, all other things being equal to the previous fiscal year. Under the existing methodology, regulatory fees for a particular category of fee payors go down per unit as more space stations or systems become operational in that category. Although such a decrease in fees might be beneficial for payors in that category, it may not reflect the increased amount of FTE resources required for that category of fee payors because of the additional resources needed for authorizing and regulating an increasing number of space stations or systems. This can lead to a discrepancy in that a category with a rapidly increasing number of space stations or systems being authorized is assessed lower regulatory fees than a category where the number of payors remains steady or even declines. This discrepancy could continue until the Commission makes the challenging determination to alter the allocation of regulatory fees among the fee categories. The Commission seeks further comment on this analysis.

43. As observed in the *Space and Earth Station Regulatory Fees NPRM*, the alternative methodology may be more sustainable than the existing methodology. Because fees are spread across all space station payors, it avoids the situation where the loss of a single payor in an existing fee category could result in significant increases to the regulatory fees paid by the remaining

payors in that category, absent Commission action to reexamine fee allocations. For example, the elimination of a single fee payor in the existing NGSO "other" space station category could result in a large increase in the per unit fee for the other payors in this fee category, absent additional Commission action. Under the alternative methodology, the consequences of the elimination would be spread across all space station fee payors. The Commission seeks further comment on this potential benefit, as well as any other potential benefits of the proposed alternative fee methodology.

C. Amendment of Existing Methodology for Assessing Space Station Regulatory Fees

44. Alternatively, the Commission seeks further comment on amending the Commission's existing methodology to assess space station regulatory fees for future fiscal years.

1. Creation of NGSO Small and Large Constellation Fee Categories

45. The Commission seeks further comment on a proposal to divide the existing regulatory fee subcategory of "Space Stations (Non-Geostationary Orbit)—Other" into two tiers: "Large Constellations" of more than 1,000 authorized space stations; and "Small Constellations" of 1,000 or fewer authorized space stations. This proposal was made in the *Space and Earth Station Regulatory Fee NPRM*. Although it was not adopted for FY 2024, it was identified for further consideration in the *FY 2024 Regulatory Fees Second Report and Order*, 89 FR 78452 (Sept. 25, 2024).

46. As observed in the *Space and Earth Station Regulatory Fees NPRM*, the existing category for NGSO "other" space station systems assesses the same annual regulatory fee for all NGSO space station systems that are not categorized as "less complex" or "small satellites." NGSO space station payors have argued that this "one fee fits all" assessment is unfair, as it assesses the same regulatory fee on an NGSO system consisting of 100 space stations as the fee assessed for an NGSO system consisting of potentially 10,000 or more space stations. The current single regulatory fee for all NGSO "other" space station payors resulted in requests by fee payors of smaller NGSO systems seeking to be assessed regulatory fees as NGSO "less complex" systems, even though the record at the time did not support a finding that the regulatory work for such systems was significantly less than other types of NGSO systems.

The Commission expects that such arguments and requests will intensify after the substantial increase in regulatory fees from FY 2023 to FY 2024, particularly for the NGSO space station categories.

47. Comments in response to *Space and Earth Station Regulatory Fees NPRM* expressed broad, but not universal, support for the proposal to create tiers within the NGSO space stations “other” regulatory fee category. The majority of comments supported the proposal as justified and reflective of the differences in regulatory and licensing burdens between “small” and “large” NGSO constellations. SpaceX opposed the proposal, however, arguing that the Commission has previously rejected using the number of satellites in a system as a basis for apportioning fees, and that number of satellites in an NGSO system is not a reasonable proxy for the complexity of a NGSO system and the FTE resources allocated to licensing and regulating such systems. In addition, comments were not uniformly in support of the number of authorized space stations to use as the dividing line between categories. Although the majority of comments on this point supported using 1,000 authorized space stations as the dividing line, Kinéis opposed using a single metric or number of space stations as the dividing line. No commenter supported using 500 space stations as a dividing line or proposed an alternative number.

48. The Commission seeks additional comment on the proposal to divide the existing regulatory fee subcategory of “Space Stations (Non-Geostationary Orbit)—Other” into two tiers: “Large Constellations” of more than 1,000 authorized space stations; and “Small Constellations” of 1,000 or fewer authorized space stations. The Commission specifically seeks further comment on why the number of space stations in an NGSO system would or would not be an appropriate metric for assessing FTE burdens associated with NGSO space station systems, and whether 1,000 authorized space stations is the appropriate dividing line between the proposed categories of “small” and “large” constellations.

49. The Commission observes that other possible proxies identified in the *Space and Earth Station Regulatory Fees NPRM* that might reasonably equate with the share of FTE burdens associated with NGSO space station systems—the number of subscribers, the amount of spectrum authorized, the class of service provided, or the on-orbit mass—are not supported as viable metrics by commenters, and the

Commission tentatively concludes not to use them going forward, at least as separate, individual metrics for assessing regulatory fees for space stations. The Commission also tentatively concludes that the creation of two tiers, rather than three or more tiers, will facilitate administrability, because there are relatively few units within the existing NGSO space station “other” category, and dividing that category into many tiers with a narrow range of space stations per tier would not have benefits that outweigh the costs and uncertainty created by the need to revisit the tiers every year as the number of space stations shift in relatively minor ways. The Commission seeks comment on this observation and these tentative conclusion.

50. The Commission also seeks comment on the proposal by SpaceX to adopt two tiers for the NGSO space stations “other” category based on a “risk-informed” methodology that considers whether an NGSO space station system is operated above or below an altitude of 600 kilometers when determining the allocation of FTE burdens. SpaceX argues that apportioning NGSO space station regulatory fees in this manner would be the fairest, most administrable, and most sustainable proxy for FTE regulatory burdens. It argues that NGSO space stations operating at altitudes above 600 km generally present greater regulatory complexity than if the same system were operated at lower altitudes. Comments received as part of the *Space and Earth Station Regulatory Fees NPRM* oppose SpaceX’s “risk-informed” methodology, particularly the proposal to use altitude as a basis for assessing regulatory fees among space stations payors. The Commission seeks comment on SpaceX’s proposal.

51. The Commission seeks additional comment on the proposal to divide the total NGSO—“other” fees between the two subcategories on a 50/50 basis (that is, half of the NGSO “other” fees paid by “large constellations” and half paid by “small constellations”). Comments in response to the *Space and Earth Station Regulatory Fees NPRM* were divided on this question. Many commenters expressed support for the proposed division, while other comments opposed it and proposed an alternate division. The Commission seeks further comment on what division is appropriate and the reasoning supporting the division.

52. The Commission seeks comment on whether to eliminate the NGSO “less complex” and “other” categories and include all NGSO space stations within NGSO “small” and “large”

constellations fee categories as proposed above. In light of proposals to move away from assessing regulatory fees for space stations based on the “complexity” of the space stations as a proxy for FTE burden, would it be reasonable to also discontinue the use of the term “less complex” in our existing regulatory fee categories for NGSO space stations? The Commission observes that all fee payors currently in the NGSO space stations “less complex” category would fall within the NGSO small constellations fee category using the proposal of 1,000 authorized space stations as the dividing line between “small” and “large” constellations. The Commission seeks comment on this observation and proposal, as well as how the elimination of the “less complex” and “other” fee categories would affect the proposal to allocate FTE burdens between “small” and “large” constellation fee categories on a 50/50 basis. Would a 50/50 allocation be appropriate if the entirety of NGSO space station fees were allocated between “small” and “large” constellations, without first allocating 20% of NGSO space station fees to the NGSO space stations “less complex” category and 80% to the NGSO space stations “other” category?

2. Additional Space Station Fee Proposals

53. The Commission also seeks further comment on any additional proposals made by commenters to amend the existing NGSO “less complex” and “other” fee categories. For example, Maxar and Telesat propose to create additional tiers of “small” and “large” NGSO constellations within the NGSO “less complex” fee category, with the dividing line being 100 authorized space stations and the total “less complex” share of NGSO space station fees allocated 50/50 between large and small constellations. The Commission seeks further comment in connection with this, or any other, outstanding proposal made in response to the *Space and Earth Station Regulatory Fees NPRM*.

D. Creation of Additional Earth Station Fee Categories

54. The Commission seeks additional comment on whether to create subcategories of earth station regulatory fee payors to better differentiate the amount of regulatory burdens associated with different types of earth station licenses. The *Space and Earth Station Regulatory Fees NPRM* sought comment on the question of whether to create subcategories of earth station regulatory fee payors, in addition to the existing

single category of “Transmit/Receive & Transmit Only (per authorization or registration).” Although the Commission adopted the proposal to apportion regulatory fees between earth and space station payors based on the percentage of direct FTEs involved in the licensing and regulation of each category, it declined to adopt additional regulatory fee categories for earth stations. Comments in response to the *Space and Earth Station Regulatory Fees NPRM* expressed doubt that the creation of subcategories of earth stations with differing fee amounts is feasible, and urged that the record be further developed before creating subcategories of earth station regulatory fees. As a result, the Commission stated that additional comment regarding the creation of additional earth station regulatory fee categories would be sought as part of a future further notice of proposed rulemaking.

55. The Commission now seeks further comment on the questions raised in the *Space and Earth Station Regulatory Fees NPRM* regarding the possible creation of subcategories of earth station regulatory fee payors. For example, should VSAT, Mobile-Satellite Earth Stations, and Fixed Earth Stations—Transmit/Receive & Transmit Only be reinstated as distinct fee categories, each with a separate fee assessment? Are there certain types of earth station licenses that require more FTE resources to license and regulate, and that account for a higher share of FTE burdens than other categories of earth station licensees, for which a higher regulatory fee should be assessed? Are there categories of earth station licensees that require less FTE resources to license and regulate and therefore should be assessed a lower regulatory fee?

56. The Commission observes it is challenging to separate the time spent by FTEs on different categories of earth station licenses because Earth Station Licensing Division staff work on all categories of earth stations and staff work is not recorded or segregated in a manner that is beneficial to clearly apportioning FTE time between various categories of earth station licenses. Some comments received in response to the *Space and Earth Station Regulatory Fees NPRM* indicate that such an undertaking would be “exceedingly difficult” or “particularly challenging” to administer fairly or efficiently, while other comments state that it is possible to identify types of earth stations that require less FTE burdens than other types. The Commission seeks comment on whether there are any identifiable methods to reasonably apportion FTE

work to various subcategories of earth stations? Comments should address the administrability of any proposed categories and whether the Space Bureau would be able to assign costs of specific regulatory activities to any proposed categories of earth station regulatory fees.

IV. Initial Regulatory Flexibility Analysis

57. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *FNPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments specified on the **DATES** section of this document. The Commission will send a copy of the *FNPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

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

58. The Commission is required by Congress pursuant to 47 U.S.C. 159 to assess and collect regulatory fees each year to recover the regulatory costs associated with the Commission’s oversight and regulatory activities in an amount that can reasonably be expected to equal the amount of its annual appropriation. As part of last year’s adoption of regulatory fees, the Commission noted that FY 2023 would be the last year where the Commission will do so for the International Bureau, given the creation of the Space Bureau, and Office of International Affairs. The Commission also noted that an examination of the regulatory fees, and categories for non-geostationary orbit (NGSO) space stations would be useful in light of changes resulting from the creation of the Space Bureau, and as part of a more holistic review of the FTE burden of the Space Bureau in FY 2024. Earlier this year, the Commission took certain steps to revise regulatory fees for space and earth station payors, but also determined that further consideration, as part of a future notice of proposed rulemaking, would be beneficial. The *FNPRM* continues the Commission’s examination and review of regulatory fees for space and earth station payors regulated by the new Space Bureau, specifically seeking comment on a range of proposed changes to the assessment of regulatory fees for space and earth stations remaining from the *Space and*

Earth Station Regulatory Fees NPRM. The Commission examines and seeks comment on assessing regulatory fees on authorized, but not operational space and earth stations; using an alternative methodology for assessing space station regulatory fees; establishing tiers with sub-categories for small and large constellations of non-geostationary orbit (NGSO) space stations within the existing Space Stations (Non-Geostationary Orbit)—Other fee category based on the number of authorized space stations in the NGSO system; and creating new sub-categories of earth station regulatory fees. The goal of these proposals is to update the regulatory fees and categories for earth and space stations in light of changes resulting from the creation of the Space Bureau and as part of a more holistic review of the regulatory fees for earth and space stations.

B. Legal Basis

59. The proposed action is authorized pursuant to 47 CFR 154(i), 154(j), 159, 159A, and 303(r).

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

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

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

businesses in the United States, which translates to 33.2 million businesses.

62. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2022, there were approximately 530,109 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

63. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2022 Census of Governments indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,845 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts) with enrollment populations of less than 50,000. Accordingly, based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 entities fall into the category of “small governmental jurisdictions.”

64. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic “dish” antenna at the subscriber’s location. DBS is included in the Wired Telecommunications Carriers industry which comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception,

establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.

65. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that 3,054 firms operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Based on this data, the majority of firms in this industry can be considered small under the SBA small business size standard. According to Commission data however, only two entities provide DBS service—DIRECTV (owned by AT&T) and DISH Network, which require a great deal of capital for operation. DIRECTV and DISH Network both exceed the SBA size standard for classification as a small business. Therefore, the Commission must conclude based on internally developed Commission data, in general DBS service is provided only by large firms.

66. *Fixed Satellite Small Transmit/Receive Earth Stations.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to Fixed Satellite Small Transmit/Receive Earth Stations. Satellite Telecommunications is the closest industry with an SBA small business size standard. The SBA size standard for this industry classifies a business as small if it has \$44 million or less in annual receipts. For this industry, U.S. Census Bureau data for 2017 show that there was a total of 275 firms that operated for the entire year. Of this total, 242 firms had revenue of less than \$25 million. Consequently, using the SBA’s small business size standard most fixed satellite small transmit/receive earth stations can be considered small entities. The Commission notes however, that the SBA’s revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau’s Satellite Telecommunications industry definition. Additionally, the Commission does not request nor collect annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of fixed satellite small transmit/receive earth stations that would be classified as a small business under the SBA size standard.

67. *Fixed Satellite Very Small Aperture Terminal (VSAT) Systems.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to Fixed

Satellite Very Small Aperture Terminal (VSAT) Systems. A VSAT is a relatively small satellite antenna used for satellite-based point-to-multipoint data communications applications. VSAT networks provide support for credit verification, transaction authorization, and billing and inventory management. Satellite Telecommunications is the closest industry with an SBA small business size standard. The SBA size standard for this industry classifies a business as small if it has \$44 million or less in annual receipts. For this industry, U.S. Census Bureau data for 2017 show that there were a total of 275 firms that operated for the entire year. Of this total, 242 firms had revenue of less than \$25 million. Thus, for this industry under the SBA size standard, the Commission estimates that the majority of Fixed Satellite Very Small Aperture Terminal (VSAT) System licensees are small entities. The Commission notes however, that the SBA’s revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau’s Satellite Telecommunications industry definition. Additionally, the Commission does not request nor collect annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of Fixed Satellite Very Small Aperture Terminal (VSAT) System licenses that would be classified as a small business under the SBA size standard.

68. *Home Satellite Dish (HSD) Service.* HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD antennas are between four and eight feet in diameter and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from program packagers that are licensed to facilitate subscribers’ receipt of video programming. Because HSD provides subscription services, HSD falls within the industry category of Wired Telecommunications Carriers. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated for the entire year. Of this total, 2,964 firms operated with fewer than 250 employees. Thus, under the SBA size standard, the majority of firms

in this industry can be considered small.

69. *Mobile Satellite Earth Stations.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to Mobile Satellite Earth Stations. Satellite Telecommunications is the closest industry with a SBA small business size standard. The SBA small business size standard classifies a business with \$44 million or less in annual receipts as small. For this industry, U.S. Census Bureau data for 2017 show that there were 275 firms that operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million. Thus, for this industry under the SBA size standard, the Commission estimates that the majority of Mobile Satellite Earth Station licensees are small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, based on Commission data as of February 1, 2024, there were 16 Mobile Satellite Earth Stations licensees. The Commission does not request nor collect annual revenue information from satellite telecommunications providers, and is therefore unable to estimate the number of Mobile Satellite Earth Station licensees that would be classified as a small business under the SBA size standard.

70. *Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs).* SMATV systems or PCOs are video distribution facilities that use closed transmission paths without using any public right-of-way. They acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. SMATV systems or PCOs are included in the Wired Telecommunications Carriers' industry which includes wireline telecommunications businesses. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this total, 2,964 firms operated with fewer than 250 employees. Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

71. *Satellite Telecommunications.* This industry comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$44 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million. Consequently, using the SBA's small business size standard most satellite telecommunications service providers can be considered small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, the Commission neither requests nor collects annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of satellite telecommunications providers that would be classified as a small business under the SBA size standard.

72. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (e.g., dial-up ISPs) or Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of \$40 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than \$25 million. Based on this data, the Commission estimates that the majority

of "All Other Telecommunications" firms can be considered small.

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

73. The *FNPRM* does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements for small entities. Small and other regulated entities are required to pay regulatory fees on an annual basis. The cost of compliance with the annual regulatory assessment for small entities is the amount assessed for their regulatory fee category and should not require small entities to hire professionals to comply.

74. The *FNPRM* continues the Commission's review of regulatory fees for small and other space and earth station payors, and gives parties an opportunity to file comments on possible changes to the existing methodology for assessing space and earth station regulatory fees from the *Space and Earth Station Regulatory Fees NPRM* that were not addressed by the Commission. If any of the proposals discussed in the *FNPRM* are adopted the regulatory fee burden on some satellite entities could be reduced. The Commission will propose and finalize the regulatory fee rates for space and earth station payors as part of its annual Commission-wide FY 2025 regulatory fee proceeding. Commenters will have an opportunity in that proceeding to provide comments on the proposed regulatory fee rates for small and other space and earth station regulatees.

75. Notwithstanding the methodology for assessing space and earth station regulatory fees the Commission adopts, small entities that qualify will be able to take advantage of the exemption from payment of regulatory fees allowed under the de minimis threshold. In addition, as described in the *FY 2023 Report and Order*, 88 FR 63694 (Sept. 15, 2023), small entities may request a waiver, reduction, deferral, and/or installment payment of their regulatory fees. The waiver process is an easier filing process for smaller entities that may not be familiar with the Commission's procedural filing rules.

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

76. The RFA requires an agency to describe any significant alternatives that could minimize impacts to small entities that it has considered in reaching its proposed approach, which may include the following four alternatives, among others: (1) the

establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

77. The proposal in the *FNPRM* to assess regulatory fees on all authorized space and earth stations, not only on stations that are deemed to be separably operational, which is the current Commission policy, could lower the costs and financial risks for small and other space and earth station regulatory fee payors overall as a result of broadening the base of regulatory fee payors to include authorized space and earth stations, which could produce lower per unit regulatory fees. Although the current policy defers payment of regulatory fees until the time that revenue can be generated through operations, and it is possible that regulatees with operational systems may be able to bear those costs more easily than those without, under the current policy some FTE burdens are never recovered if an authorized system does not become operational, and some FTE burdens are deferred for many years to the detriment of small and other fee payors whose systems become operational earlier, and consequently must pay higher regulatory fees.

78. The tier approach, as part of an alternative methodology for assessing space station regulatory fees that eliminates the distinction between GSO, NGSO, and all the subcategories of NGSO, while preserving a separate fee category for small satellites, would likely reduce the regulatory fee burden on smaller entities that may not qualify as small satellites. The alternative methodology seeks comment on a single category for “Space Stations (Per Call Sign in Geostationary Orbit or Per System in Non-Geostationary Orbit),” which would be tiered, with a single GSO space station or a NGSO system with up to 100 authorized space stations constituting the first tier and being counted as one unit for assessment of space station regulatory fees, and additional tiers added to account for NGSO systems with more than 100 authorized space stations, with the possibility of 500 or 1,000 additional space stations per NGSO system per tier. Each tier would be counted as an additional unit for assessment of space station regulatory fees. Using this approach, GSO payors and NGSO

systems of 100 authorized space stations or fewer would be assessed the lowest regulatory fees, while payors with multiple authorized GSO space stations, or with NGSO systems with more than 100 authorized space stations would be assessed higher regulatory fees, with the highest regulatory fees assessed to payors with a large number of GSO space stations, and to payors with NGSO systems consisting of thousands of authorized space stations. This alternative methodology could be more administrable, fair, and sustainable than the existing methodology, and the *FNPRM* seeks comment on all aspects of this alternative methodology for assessing space station regulatory fees.

79. The *FNPRM* also seeks comment on amending its existing methodology to assess space station regulatory fees for future fiscal years. Specifically, the *FNPRM* seeks further comment on a proposal to divide the existing regulatory fee subcategory of “Space Stations (Non-Geostationary Orbit)—Other” into two tiers: “Large Constellations” of more than 1,000 authorized space stations; and “Small Constellations” of 1,000 or fewer authorized space stations. The current single regulatory fee for all NGSO “other” space station payors resulted in requests by fee payors of smaller NGSO systems seeking to be assessed regulatory fees as NGSO “less complex” systems, even though the record at the time did not support a finding that the regulatory work for such systems was significantly less than other types of NGSO systems. If adopted, the proposal for the tiered approach for the NGSO space station “other” category would likely reduce the regulatory fee burden on smaller satellite constellations, and on smaller entities. Related to the proposals to establish tiers, the Commission considers, and the *FNPRM* specifically seeks further comment on whether or not the number of space stations in an NGSO system could be an appropriate metric for assessing FTE burdens associated with NGSO space station systems, and whether 1,000 authorized space stations is the appropriate dividing line between the proposed tiers for “small” and “large” constellations.

80. The Commission also seeks comment on an alternative proposed in comments to adopt two tiers for the NGSO space stations “other” category based on a “risk-informed” methodology that determines the allocation of FTE burdens based on whether an NGSO space station system is operated above or below an altitude of 600 kilometers. Space X claims that this option is the fairest, most

administrable, and the most sustainable proxy for FTE regulatory burdens. Another proposed alternative which the *FNPRM* seeks additional comment on is dividing the total NGSO—“other” fees between the two subcategories on a 50/50 basis requiring “large constellations” to pay half of the NGSO—Other fees and “small constellations” to pay the other half.

81. Moreover, the *FNPRM* seeks comment on any additional, alternative proposals made by commenters to amend the existing NGSO “less complex” and “other” fee categories, or any other outstanding proposals made in response to the *Space and Earth Station Regulatory Fees NPRM*. For instance, the Commission requests comment on a proposal by Maxar and Telesat to create additional tiers of “small” and “large” NGSO constellations within the NGSO “less complex” fee category that designates 100 authorized space stations as the appropriate benchmark to differentiate between small and large constellations, and to allocate the total “less complex” share of NGSO space station fees 50/50 between large and small constellations.

82. In the *Space and Earth Station Regulatory Fees Report and Order*, the Commission considered but declined to create additional subcategories of earth station regulatory fees. Consistent with its determination that the record on this matter required further development, the *FNPRM* considers and seeks further comment on this issue. The Commission inquires whether VSAT, Mobile-Satellite Earth Stations, and Fixed Earth Stations—Transmit/Receive & Transmit Only should be reinstated as distinct fee categories, each with a separate fee assessment, or alternatively, whether there are types of earth station licenses that require more FTE resources to license and regulate, and that account for a higher share of FTE burdens than other categories of earth station licensees, justifying the assessment of a higher regulatory fee, or similarly types of earth station licenses that require less resources to license and regulate supporting lower regulatory fee assessments. In light of mixed comments received in response to the *Space and Earth Station Regulatory Fees NPRM*, ranging from “exceedingly difficult” or “particularly challenging” to administer fairly or efficiently, to possible to identify types of earth stations that require less FTE burdens than other types regarding the feasibility of apportioning the time spent by FTEs on separate categories of earth station licenses, the Commission’s further consideration of this approach in the *FNPRM* seeks comment on whether

there are any identifiable methods to reasonably apportion FTE work to assign specific regulatory activity costs to various subcategories of earth stations.

83. Lastly, another matter the Commission considers in the *FNPRM* that could benefit small entities is when to assess regulatory fees if the Commission adopts its proposal to assess all authorized space and earth stations including those that are not operational. Specifically the Commission inquires, and seeks comment on, whether to apply the assessment based on the alternative fee calculation methodology, if adopted, in FY2025, or to delay application of this assessment until FY2026, or later, to provide the Commission and regulatees time to adjust to the change in the fee calculation methodology.

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

84. None.

Federal Communications Commission.

Marlene Dortch,
Secretary.

[FR Doc. 2025-03993 Filed 3-12-25; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[GN Docket Nos. 13–185, 25–70, 25–71; FCC 25–12; FR ID 283609]

Competitive Bidding Rules for Auction of AWS–3 Licenses

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) seeks comment on changes to its rules regarding eligibility for designated entity bidding credits in auctions for licenses in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz (AWS–3) bands. The Commission also seeks comment on an update to its competitive bidding rules that would align this rule with the Small Business Act.

DATES: Comments are due on or before March 31, 2025; reply comments are due on or before April 14, 2025.

ADDRESSES: You may submit comments, identified by GN Docket Nos. 25–70, 25–71, and 13–185, by any of the following methods:

- *Federal Communications Commission's Website:* [https://](https://www.fcc.gov/ecfs)

www.fcc.gov/ecfs. Follow the instructions for submitting comments.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: 202–418–0530.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Lyndsey Grunewald of the Office of Economics and Analytics, Auction Division, at (202) 418–0957 or Lyndsey.Grunewald@fcc.gov, or Yasiman Montgomery of the Office of Economics and Analytics, Auction Division, at (202) 418–0424 or Yasiman.Montgomery@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking (NPRM)* in GN Docket Nos. 25–70, 25–71, and 13–185, FCC 25–12, adopted on February 27, 2025, and released on February 28, 2025. The full text of this document is available for public inspection at the following internet address: <https://www.fcc.gov/document/fcc-proposes-updates-bidding-rules-aws-3-inventory-auction>.

Comment Filing Procedures

Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. Comments should refer to GN Docket Nos. 25–70, 25–71, and 13–185. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing for each docket.

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service Express Mail. All filings must be addressed to the Secretary, Federal Communications Commission.

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

- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

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

Ex Parte Rules. The proceeding the *NPRM* initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Providing Accountability Through Transparency Act. Consistent with the

Providing Accountability Through Transparency Act, Public Law 118–9, a summary of the *NPRM* will be available on <https://www.fcc.gov/proposed-rulemakings>.

Synopsis

I. Introduction

1. In the Spectrum and Secure Technology and Innovation Act of 2024, Public Law 118–159, Congress directed the Commission to initiate a system of competitive bidding to grant licenses for spectrum in its inventory in the AWS–3 spectrum bands. Auction proceeds will support the Commission’s Supply Chain Reimbursement Program, which implements the Secure and Trusted Communications Networks Act of 2019 by reimbursing eligible advanced communications service providers for their costs to remove, replace, and dispose of untrustworthy Huawei Technologies Company or ZTE Corporation equipment and services.

2. In the *NPRM*, the Commission takes the first step towards an effective auction by proposing to harmonize outdated rules related to competitive bidding for such licenses with more recent Commission practice in spectrum auctions. The Commission also proposes to update its general part 1 competitive bidding rules to reflect statutory requirements regarding the categorization of an entity as a small business concern.

3. For roughly 30 years, the Commission effectively and efficiently used auctions to assign spectrum licenses to those who value them most highly, and in doing so served the public interest goals of encouraging innovation and promoting competition in wireless services. The Commission’s actions today advance those same goals while fulfilling Congress’s recent mandate with respect to AWS–3 spectrum.

II. Background

4. The term AWS–3 is used by the Commission to refer to spectrum in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz bands. In 2014, the Commission assigned licenses for spectrum in the AWS–3 bands through competitive bidding in Auction 97. Nevertheless, there remains spectrum in these bands that is not currently licensed, due to various circumstances, including the selective defaults by two winning bidders on their bids for a significant number of licenses. Pursuant to congressional mandate, the Commission will now offer licenses for such unassigned AWS–3 spectrum in a new auction.

5. Prior to Auction 97, the Commission adopted service-specific rules for licenses within those bands, which specified that such licenses would be subject to competitive bidding and that the competitive bidding procedures contained in part 1 of the Commission’s rules would apply, unless otherwise specified. The Commission also adopted AWS–3-specific rules related to the treatment of entities designated by Congress in section 309(j)(3) and (4) of the Communications Act of 1934, as Amended to be given opportunities to participate in spectrum-based services (designated entities or DEs), including eligibility standards for small and very small business bidding credits.

6. Since then, two significant regulatory and legislative developments have left the AWS–3 competitive bidding rules out of step with current Commission practice for spectrum auctions. First, when the Commission updated its part 1 competitive bidding rules in 2015, it amended the eligibility requirements for small business bidding credits, adopted a 15% bidding credit for rural service providers, and established a process to implement a reasonable cap on the total amount of bidding credits that an eligible small business or rural service provider may be awarded in any auction. Second, in 2018, Congress amended the Small Business Act to prohibit an agency from prescribing a size standard for categorizing a business concern that provides services as a small business concern based on its annual average gross revenues unless the proposed size standard is based on the average over no less than a five-year period.

7. The AWS–3 competitive bidding rules have not been updated to reflect these developments, and the general part 1 bidding rules have not been updated to reflect the changes to the Small Business Act. The Commission therefore proposes to do so now.

III. Updating the Designated Entity Rules for the AWS–3 Spectrum Bands

8. Section 309(j)(4)(D) of the Communications Act instructs the Commission to ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of bidding preferences. Since 1994, the Commission has offered these designated entities bidding credits, which provide a percentage discount on winning bids, to facilitate their participation in auctions of spectrum

licenses. The Commission sets out the general framework for DE bidding credits in its part 1 competitive bidding rules and separately adopts rules in particular services that define designated entity eligibility and bidding credit amounts for each service, taking into account the capital requirements and other characteristics of each particular service.

9. Under the existing framework for competitive bidding for licenses in the AWS–3 spectrum bands, a winning bidder for AWS–3 licenses is eligible for a small business bidding credit if that entity, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding \$40 million for the preceding three years. A winning bidder for AWS–3 licenses is eligible for a very small business bidding credit if that entity, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding \$15 million for the preceding three years.

10. In light of the congressional mandate to initiate a system of competitive bidding to grant licenses for spectrum in its inventory in the AWS–3 spectrum bands, the Commission proposes to harmonize the AWS–3 DE rules with both the updated part 1 rules for designated entities and the Small Business Act’s new five-year average gross receipts benchmark. Specifically, the Commission proposes to define a small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$55 million for the preceding five years; and to amend the AWS–3 definition of a very small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$20 million for the preceding five years. Moreover, in accordance with the schedule of DE bidding credits set forth in part 1, the Commission proposes that a qualifying small business would be eligible for a bidding credit of 15% and a qualifying very small business would be eligible for a bidding credit of 25%. The Commission also proposes to create a separate 15% bidding credit for rural service providers. For auctions of AWS–3 licenses, consistent with the part 1 rules, a cap would be established on an auction-by-auction basis on the total discount that a winning bidder eligible for a small business bidding credit or rural service provider bidding credit may receive.

A. Harmonizing Average Gross Revenue Thresholds for Small Business Bidding Credits With the Part 1 Rules

11. In 2015, the Commission updated the part 1 gross revenue thresholds for small business bidding credit eligibility. Specifically, the Commission amended 47 CFR 1.2110(f) to increase the three tiers of gross revenue thresholds defining eligibility for each small business bidding credit as follows:

- Businesses with average annual gross revenues for the preceding three years not exceeding \$4 million would be eligible for a 35% bidding credit;
- Businesses with average annual gross revenues for the preceding three years not exceeding \$20 million would be eligible for a 25% bidding credit; and
- Businesses with average annual gross revenues for the preceding three years not exceeding \$55 million would be eligible for a 15% bidding credit.

12. When the Commission adopted the revenue thresholds and associated bidding credits for the generally applicable schedule of small business bidding credits in part 1, its intent was to encourage small business participation in spectrum license auctions, and to ensure that its gross revenue definitions accurately reflect what constitutes a small business in today's marketplace, taking into consideration the relative size of the large, national providers. Beginning in 2015, with the adoption of competitive bidding rules for licenses in the 600 MHz band in Auction 1002, the Commission consistently has used only the two largest designated entity business size standards and associated bidding credits outlined in its part 1 rules when adopting service specific rules for competitive bidding for spectrum licenses. This approach has facilitated the successful participation of many eligible small businesses in Commission auctions over the last decade. The Commission expects that entities seeking to participate in the auction of licenses in the AWS-3 bands may face challenges similar to those utilizing the spectrum in other 5G-ready services that have been auctioned more recently, including issues and costs related to developing markets, technologies, and services. The Commission therefore proposes to adopt for the AWS-3 service rules the small business definitions for the two higher gross revenues thresholds of \$55 million and \$20 million that are in its standardized part 1 schedule for small business bidding credits.

13. The Commission seeks comment on whether the characteristics of services that utilize spectrum in the

AWS-3 bands and their individual licensing models suggest that it should adopt the small business size standards and associated bidding credits proposed in the *NPRM*. Commenters addressing this proposal or advocating for any alternative should explain why licenses in the AWS-3 bands should be treated similarly or differently than licenses for spectrum for other 5G-ready services, and are strongly encouraged to provide specific, data-driven arguments in support of their proposals.

B. Implementing Small Business Act Benchmarks for Categorizing a Business as a Small Business Concern Based on Average Annual Gross Revenues

14. The standardized schedule of bidding credits provided in the AWS-3 competitive bidding rules defines small and very small businesses based on average gross revenues for the preceding three years. In December 2018, Congress amended the Small Business Act with respect to how an agency such as the Commission may prescribe size standards for categorizing a business concern as a small business concern. In relevant part, Congress required that Federal agencies that categorize business concerns that provide services as a small business concern based on annual average gross receipts may only do so if the agency considers such receipts over a period of not less than five years. All service-specific small business definitions the Commission has adopted for bidding credit eligibility since 2020 contain the congressionally mandated five-year lookback period, but the Commission has not yet amended any of its prior-existing rules to conform with the Small Business Act's standards. Therefore, in preparing to auction the licenses for AWS-3 spectrum in its inventory, the Commission proposes to amend the AWS-3 competitive bidding rules to reflect the same five-year benchmark mandated by the Small Business Act, and the Commission seeks comment on this proposal.

C. Rural Service Provider Bidding Credit in the AWS-3 Spectrum Bands

15. In the *Updating Part 1 Report and Order*, 80 FR 56764 (Sept. 18, 2015), the Commission created a 15% bidding credit for eligible rural service providers. In making this bidding credit available for the first time, the Commission concluded that, in furtherance of statutory objectives of section 309(j)(3)(A-B) of the Act, the rural service provider bidding credit would allow a diversity of service providers to compete more effectively for spectrum licenses in rural areas.

Consistent with the findings in the *Updating Part 1 Report and Order* and its approach in other bands where the spectrum is likely to be used to provide 5G services, in any future auction of licenses in the AWS-3 bands, the Commission proposes to offer a rural service provider, as defined in 47 CFR 1.2110(f)(4)(i), that has not claimed a small business bidding credit, a 15% bidding credit. The Commission seeks comment on this proposal.

16. Commenters addressing this proposal or advocating for any alternative should consider whether there are any particular characteristics of licenses in the AWS-3 bands that may affect whether rural service providers will apply for a bidding credit.

IV. Updating the Benchmark for Determining a Small Business's Average Gross Revenues Under the Part 1 Rules

17. As noted, all service-specific competitive bidding rules that the Commission has adopted since the Small Business Act was amended in 2018 have incorporated a five-year average gross receipts benchmark for determining eligibility for small business bidding credits. Nonetheless, the part 1 competitive bidding rules still reflect the three-year benchmark adopted by the Commission in 2015. To ensure continued consistency with the requirements of the Small Business Act in spectrum bands that may be subject to competitive bidding in the future, the Commission proposes to codify these requirements in its part 1 competitive bidding rules such that eligibility for small business bidding credits would be based on an entity's average gross revenues for the preceding five years. The Commission seeks comment on this proposal.

V. Tribal Licensing Window

18. In 2019, the Commission adopted a pre-auction Tribal licensing window in the 2.5 GHz band to give Tribal nations an opportunity to obtain licenses for unassigned spectrum over Tribal lands in rural areas. The Commission seek comment on the possibility of a similar Tribal licensing window for any relevant portions of the limited number of inventory AWS-3 licenses expected to be made available for auction in this proceeding.

19. The Spectrum and Secure Technology and Innovation Act, Public Law 118-159, provides that the Commission shall initiate systems of competitive bidding to grant licenses for spectrum in the inventory of the Commission in the AWS-3 bands. The

Act also directs proceeds from the auction to support, among other things, the Commission's Supply Chain Reimbursement Program. Does the statutory directive to employ competitive bidding for these licenses permit a Tribal licensing window like the one in the 2.5 GHz band prior to an auction of the AWS-3 licenses?

20. The Commission seeks comment on the putative benefits of a Tribal licensing window, to the extent it is allowed by law. For example, do the AWS-3 licenses for the spectrum in the Commission's inventory provide sufficient bandwidth to give Tribal entities an opportunity to provide broadband wireless service? Does the presence of Federal operations and the requirement to coordinate with such operations affect the suitability of this spectrum for a Tribal licensing window? For example, similar to the approach in the 2.5 GHz band, should the Commission offer AWS-3 licenses with overlay rights covering geographic license areas in which a license is granted through a Tribal licensing window in order to avoid irregular gaps between spectrum areas? Should the Commission adopt eligibility criteria that are similar to that used in the 2.5 GHz Tribal licensing window, such as limiting eligible entities to federally recognized Tribes, entities owned and controlled by such Tribes, or consortia of such Tribes? If the Commission does not adopt the same or similar eligibility criteria to that used for the 2.5 GHz Tribal Window, what alternative criteria should the Commission use? The Commission seeks comment on whether rule changes to the AWS-3 service rules would be necessary to implement these or other frameworks.

21. The Commission also seeks general comment on the potential impact of a Tribal licensing window on the auction of AWS-3 licenses. For example, how might any necessary rule changes affect the auction's timing? Should the Commission utilize the same procedures for an AWS-3 Tribal licensing window as those used in the 2.5 GHz window?

VI. Procedural Matters

22. *Paperwork Reduction Act Analysis.* The *NPRM* seeks comment on proposed rules that may result in new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the OMB to comment on the information collection requirements contained in the *NPRM*, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small

Business Paperwork Relief Act of 2002, the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

23. *Initial Regulatory Flexibility Analysis.* The policies and rules proposed in the *NPRM* may have a significant economic impact on a substantial number of small entities. Therefore, as required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in the *NPRM*. The IRFA is set forth in Appendix B to the *NPRM*. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM*. The Commission will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

24. The *NPRM* initiates a proceeding to update the designated entity rules for the AWS-3 spectrum bands in order to enable the Commission to offer through competitive bidding, and in the near future, licenses for spectrum within those bands that is currently in the Commission's inventory. Together these proposals will further the Commission's goal to facilitate the use of fallow spectrum and the deployment of fifth generation wireless (5G) services by efficiently bringing to auction licenses covering spectrum that is likely to be used to provide 5G services. The Commission also seeks comment on the possibility of a pre-auction Tribal licensing window for any relevant portions of inventory AWS-3 licenses expected to be made available for auction and on the putative benefits of such a window.

25. Specifically, the *NPRM* proposes to:

- Provide small businesses and rural service providers with greater opportunity to participate in the provision of 5G service by aligning the Commission's outdated, service-specific eligibility requirements for AWS-3 with current practice;
- Modify the part 1 size definitions for small business bidding credits so that the length of time over which revenues are averaged for determining bidding credit eligibility is five years, in

conformance with the Small Business Act.

26. The proposed action is authorized pursuant to 47 U.S.C. 151, 154(i), 301, 303(r), 304, and 309(j).

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

28. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.

29. Next, the type of small entity described as a small organization is generally any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

30. Finally, the small entity described as a small governmental jurisdiction is defined generally as governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand. U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of

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

31. *Licenses Assigned by Auctions.* The Commission's small business size standards with respect to licenses assigned by auction involve eligibility for bidding credits and installment payments in the auction of licenses for various wireless frequencies. In the auction of these licenses, the Commission may define and adopt criteria for different classes of small businesses—very small, small or entrepreneur. The criteria for these small business classes may be statutorily defined in the Commission's rules or may require consultation with the U.S. Small Business Administration, Office of Size Standards. For licenses subject to auction, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. In addition, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

32. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The Small Business Act size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 715 providers have 1,500 or fewer

employees. Consequently, using the Small Business Act's small business size standard, most of these providers can be considered small entities.

33. *Advanced Wireless Services (AWS).* Spectrum is made available and licensed in these bands for the provision of various wireless communications services. Wireless Telecommunications Carriers (except Satellite) is the closest industry with a Small Business Act small business size standard applicable to these services. The Small Business Act small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the Small Business Act size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

34. According to Commission data as of December 2021, there were approximately 4,472 active AWS licenses. The Commission's small business size standards with respect to AWS involve eligibility for bidding credits in the auction of licenses for these services. For the auction of AWS licenses, the Commission previously has defined a small business as an entity with average annual gross revenues for the preceding three years not exceeding \$40 million, and a very small business as an entity with average annual gross revenues for the preceding three years not exceeding \$15 million. Pursuant to these definitions, 57 winning bidders claiming status as small or very small businesses won 215 of 1,087 licenses. In the most recent auction of AWS licenses 15 of 37 bidders qualifying for status as small or very small businesses won licenses.

35. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time the Commission is not able to estimate the number of licensees with active licenses that would qualify as small under the Small Business Act's small business size standard.

36. *Satellite Telecommunications.* This industry comprises firms primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications. Satellite telecommunications service providers include satellite and earth station operators. The Small Business Act small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees. Consequently, using the Small Business Act's small business size standard, a little more than two-thirds of these providers can be considered small entities.

37. The Commission expects that the rules proposed in the *NPRM* will impose new and/or additional reporting or recordkeeping and/or other compliance obligations on small entities as well as other applicants and licensees, if adopted. The Commission believes that these rules assist the Commission in meeting its statutory goals by facilitating the auction, and subsequent use, of unassigned spectrum. The Commission does not believe that the costs and/or administrative burdens associated with the rules will unduly burden small entities. The Commission notes that several of the proposed rule changes modify requirements that were adopted prior to the last major update to the Commission's competitive bidding rules in 2015 in order to bring them in line with the policies and procedures that have been used in auctions of 5G-ready services since 2015. Therefore, small entities that have participated in Commission auctions since 2015 may already be familiar with such policies and requirements and have the processes and procedures in place to facilitate compliance resulting in minimal incremental costs to comply with the proposals in the *NPRM*.

38. Typically, the auction procedures inform prospective applicants that they

should familiarize themselves with the Commission's general competitive bidding rules, Commission decisions regarding competitive bidding procedures, application requirements, obligations of Commission licensees, construction permit holders, and support recipients, and the Commission's service rules for the frequency band available in the auction or for construction permits or universal service support, and that they must be thoroughly familiar with the procedures, terms, and conditions contained in the public notice adopting procedures for the auction. The Commission therefore does not expect that the amended definitions proposed in the *NPRM* will increase the need for small entities to hire attorneys, engineers, consultants, or other professionals because it does not increase the level of education or due diligence beyond what was required of applicants under the previous competitive bidding rules for the AWS-3 spectrum bands.

39. The *NPRM* proposes a number of rule changes that will affect reporting, recordkeeping, and other compliance requirements. Each of these changes is described in the IRFA. The *NPRM* also seeks comment on the possibility of a pre-auction Tribal licensing window for any relevant portions of inventory AWS-3 licenses expected to be made available for auction.

40. In the *NPRM*, the Commission proposes to amend the Commission's rules related to designated entities eligible for bidding credits for licenses subject to auction in the AWS-3 bands. The Commission proposes to use the same revenue thresholds that the Commission has used in recent years to determine eligibility for small and very small business bidding credits, which are provided for in the Commission's part 1 standardized schedule of bidding credits. The Commission proposes to amend the AWS-3 bidding credit eligibility criteria to align with the Small Business Act's requirement that Federal agencies that categorize business concerns that provide services as a small business concern based on annual average gross receipts only do so if the agency considers such receipts over a period of not less than five years. Specifically, the Commission proposes a requirement for an entity to have average gross revenues for the preceding five years not exceeding \$55 million to be a small business, and such an entity would be eligible for a bidding credit of 15%. To be classified as a very small business an entity would be required to have average gross revenues for the preceding five years not exceeding \$20

million and would be eligible for a bidding credit of 25%. The Commission also proposes to offer a rural service bidding credit.

41. In addition, the Commission proposes to modify the Commission's general part 1 competitive bidding rules to incorporate the five-year average gross receipts benchmark for the purpose of determining which entities qualify for small business bidding credits for consistency with the Small Business Act.

42. The RFA requires an agency to describe and discuss any significant alternatives to its proposed approach that would minimize economic impacts to small entities while allowing the agency to achieve its regulatory objectives. Such alternatives may include: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof for small entities.

43. The proposals in the *NPRM* would update the competitive bidding rules for the AWS-3 spectrum bands to align with current practices. Because the proposed rules are similar to the designated entity rules that have been used in recent auctions of wireless, 5G-ready spectrum, many small businesses will already be familiar with these requirements. This could lessen the compliance costs for small entities who have participated in any wireless spectrum auction since 2015. The Commission seeks comment on whether any other approach would minimize compliance costs for small entities wishing to participate in this auction.

44. *Competitive Bidding and Bidding Credits for Small Entities.* The Commission administers bidding credit programs to promote small business service provider participation in auctions and in the provision of spectrum-based services. Based on the Commission's analysis of past auction data, the relative costs of participation are lowered for small businesses that take full advantage of the bidding credit programs. The current designated entity rules for auctions of licenses in AWS-3 spectrum bands were adopted prior to the last major update to the part 1 competitive bidding rules in 2015. Thus, as mentioned in the prior section, the Commission has proposed to modify these designated entity rules so that they conform with the designated entity

rules set forth in part 1, subpart Q, of the Commission's rules and are consistent with recent auctions. Specifically, the Commission proposes to modify the designated entity rules for these services to apply the current part 1 definition of a qualifying small business and a very small business and apply the bidding credits for these two categories, and for rural service providers. The Commission also proposes to modify the part 1 size definitions for small business bidding credits so that the amount of time over which revenues are averaged for determining bidding credit eligibility is five years, in conformance with the Small Business Act.

45. The Commission provides resources and educational materials to assist all auction participants, including small entities, with understanding the requirements of auction participation, including applying for bidding credits. Small entities and other auction participants may seek clarification of, or guidance regarding, auction procedures, the competitive bidding rules, and any requirements related to the authorizations or support to be made available through the auction from Commission staff prior to each auction's application window. Additionally, an FCC Auctions Hotline provides small entities one-on-one access to Commission staff for information about the auction process and procedures. The FCC Auctions Technical Support Hotline is another resource that provides technical assistance to applicants, including small entities, on issues such as access to or navigation within the electronic short-form application (FCC Form 175) and use of the bidding system. The Commission seeks comment on additional means to assist small entities with participation in spectrum auctions.

46. No Federal rules duplicate, overlap, or conflict with the proposed rules.

VII. Ordering Clauses

48. *It is ordered*, pursuant to the authority found in sections 1, 2, 4(i), 303, and 309(j) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, and 309(j); the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, H.R.5009, 118th Cong. Div. D, Title LIV, section 5403; and § 1.411 of the Commission's Rules, 47 CFR 1.411, that the Notice of Proposed Rulemaking is *hereby adopted*.

49. *It is further ordered* that the Commission's Office of the Secretary, *shall send* a copy of the Notice of Proposed Rulemaking, including the

Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 27

Administrative practice and procedure, Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1 and 27 to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note; 47 U.S.C. 1754, unless otherwise noted.

- 2. Amend § 1.2110 by revising paragraphs (b)(1)(i) and (f)(2)(i) to read as follows:

§ 1.2110 Designated entities.

* * * * *

(b) * * *

(1) * * *

(i) The gross revenues of the applicant (or licensee), its affiliates, its controlling interests, and the affiliates of its controlling interests shall be attributed to the applicant (or licensee) and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is

eligible for status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules in this chapter. An applicant seeking status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules in this chapter, must disclose on its short- and long-form applications, separately and in the aggregate, the gross revenues for each of the previous five years of the applicant (or licensee), its affiliates, its controlling interests, and the affiliates of its controlling interests.

* * * * *

(f) * * *

(2) * * *

(i) *Size of bidding credits.* A winning bidder that qualifies as a small business, and has not claimed a rural service provider bidding credit pursuant to paragraph (f)(4) of this section, may use the following bidding credits corresponding to its respective average gross revenues for the preceding 5 years:

(A) Businesses with average gross revenues for the preceding 5 years not exceeding \$4 million are eligible for bidding credits of 35 percent;

(B) Businesses with average gross revenues for the preceding 5 years not exceeding \$20 million are eligible for bidding credits of 25 percent; and

(C) Businesses with average gross revenues for the preceding 5 years not exceeding \$55 million are eligible for bidding credits of 15 percent.

* * * * *

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

- 3. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

- 4. Amend § 27.1106 by revising paragraphs (a) and (b) and adding paragraph (c) to read as follows:

§ 27.1106 Designated Entities in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz bands.

* * * * *

(a) *Small business.* (1) A small business is an entity that, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding \$55 million for the preceding five (5) years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding \$20 million for the preceding five (5) years.

(b) *Bidding credits.* A winning bidder that qualifies as a small business as defined in this section or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(i)(C) of this chapter, subject to the cap specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a very small business as defined in this section or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i)(B) of this chapter, subject to the cap specified in § 1.2110(f)(2)(ii) of this chapter.

(c) *Rural service provider bidding credit.* A rural service provider, as defined in § 1.2110(f)(4) of this chapter, which has not claimed a small business bidding credit may use a bidding credit of 15 percent as specified in § 1.2110(f)(4)(i) of this chapter, subject to the cap specified in § 1.2110(f)(4)(ii) of this chapter.

[FR Doc. 2025–03801 Filed 3–12–25; 8:45 am]

BILLING CODE 6712–01–P

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs: Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced-price meals and free milk and Summer Electronic Benefit Transfer benefits for the period from July 1, 2025, through June 30, 2026. These guidelines are used by schools, institutions, and facilities participating in the National School Lunch Program (and Commodity School Program), School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program, Summer Food Service Program as well as States and Indian Tribal Organizations that administer the Summer Electronic Benefits Transfer for Children Program. The annual adjustments are required by section 9 of the Richard B. Russell National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for changes in the Consumer Price Index.

DATES: July 1, 2025.

FOR FURTHER INFORMATION CONTACT: Penny Burke, Program Monitoring and Operational Support Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 1320 Braddock Place, Suite 401, Alexandria, Virginia 22314. Tel. (720) 822-8597.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

The affected programs are listed in the Assistance Listings (<https://sam.gov/>) under No. 10.553, No. 10.555, No. 10.556, No. 10.558, and No. 10.559 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR part 415).

Background

Pursuant to sections 9(b)(1), 13A(h)(2), and 17(c)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1), 42 U.S.C. 1762(h)(2), and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)(1)(A)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals for the National School Lunch Program (7 CFR part 210), the Commodity School Program (7 CFR part 210), School Breakfast Program (7 CFR part 220), Summer Food Service Program (7 CFR part 225), Child and Adult Care Food Program (7 CFR part 226), free milk in the Special Milk Program for Children (7 CFR part 215), and program benefits in the Summer EBT Program (7 CFR part 292). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size. The guidelines are used to determine eligibility for free and reduced price meals, free milk, and Summer EBT benefits in accordance with applicable program rules.

Definition of Income

In accordance with the Department's policy as provided in the Food and Nutrition Service publication Eligibility Manual for School Meals, "income," as the term is used in this notice, means income before any deductions such as income taxes, Social Security taxes, insurance premiums, charitable contributions, and bonds. It includes the following: (1) monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) Social Security; (5) dividends or interest

on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources that would be available to pay the price of a child's meal.

"Income", as the term is used in this notice, does *not* include any income or benefits received under any Federal programs that are excluded from consideration as income by any statutory prohibition. Furthermore, the value of meals, milk, or EBT benefits to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the Richard B. Russell National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 2025 through June 30, 2026. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the year 2025 Federal income poverty guidelines by 1.30 and 1.85, respectively, and by rounding the result upward to the next whole dollar.

This notice displays only the annual Federal poverty guidelines issued by the Department of Health and Human Services because the monthly and weekly Federal poverty guidelines are not used to determine the Income Eligibility Guidelines. The chart details the free and reduced price eligibility criteria for monthly income, income received twice monthly (24 payments per year), income received every two weeks (26 payments per year) and weekly income.

Income calculations are made based on the following formulas: monthly income is calculated by dividing the annual income by 12; twice monthly income is computed by dividing annual

income by 24; income received every two weeks is calculated by dividing annual income by 26; and weekly income is computed by dividing annual income by 52. All numbers are rounded

upward to the next whole dollar. The numbers reflected in this notice for a family of four in the 48 contiguous States, the District of Columbia, Guam and the territories represent an increase

of 3.0 percent over last year's level for a family of the same size.

Authority: Section 9(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1)(A)).

INCOME ELIGIBILITY GUIDELINES
[Effective from July 1, 2025 to June 30, 2026]

Household size	Federal poverty guidelines	Reduced Price Meals—185%					Free meals—130%				
		Annual	Monthly	Twice per month	Every two weeks	Weekly	Annual	Monthly	Twice per month	Every two weeks	Weekly
	Annual										
48 Contiguous States, District of Columbia, Guam, and Territories											
1	15,650	28,953	2,413	1,207	1,114	557	20,345	1,696	848	783	392
2	21,150	39,128	3,261	1,631	1,505	753	27,495	2,292	1,146	1,058	529
3	26,650	49,303	4,109	2,055	1,897	949	34,645	2,888	1,444	1,333	667
4	32,150	59,478	4,957	2,479	2,288	1,144	41,795	3,483	1,742	1,608	804
5	37,650	69,653	5,805	2,903	2,679	1,340	48,945	4,079	2,040	1,883	942
6	43,150	79,828	6,653	3,327	3,071	1,536	56,095	4,675	2,338	2,158	1,079
7	48,650	90,003	7,501	3,751	3,462	1,731	63,245	5,271	2,636	2,433	1,217
8	54,150	100,178	8,349	4,175	3,853	1,927	70,395	5,867	2,934	2,708	1,354
For each add'l family member, add	5,500	10,175	848	424	392	196	7,150	596	298	275	138
Alaska											
1	19,550	36,168	3,014	1,507	1,392	696	25,415	2,118	1,059	978	489
2	26,430	48,896	4,075	2,038	1,881	941	34,359	2,864	1,432	1,322	661
3	33,310	61,624	5,136	2,568	2,371	1,186	43,303	3,609	1,805	1,666	833
4	40,190	74,352	6,196	3,098	2,860	1,430	52,247	4,354	2,177	2,010	1,005
5	47,070	87,080	7,257	3,629	3,350	1,675	61,191	5,100	2,550	2,354	1,177
6	53,950	99,808	8,318	4,159	3,839	1,920	70,135	5,845	2,923	2,698	1,349
7	60,830	112,536	9,378	4,689	4,329	2,165	79,079	6,590	3,295	3,042	1,521
8	67,710	125,264	10,439	5,220	4,818	2,409	88,023	7,336	3,668	3,386	1,693
For each add'l family member, add	6,880	12,728	1,061	531	490	245	8,944	746	373	344	172
Hawaii											
1	17,990	33,282	2,774	1,387	1,281	641	23,387	1,949	975	900	450
2	24,320	44,992	3,750	1,875	1,731	866	31,616	2,635	1,318	1,216	608
3	30,650	56,703	4,726	2,363	2,181	1,091	39,845	3,321	1,661	1,533	767
4	36,980	68,413	5,702	2,851	2,632	1,316	48,074	4,007	2,004	1,849	925
5	43,310	80,124	6,677	3,339	3,082	1,541	56,303	4,692	2,346	2,166	1,083
6	49,640	91,834	7,653	3,827	3,533	1,767	64,532	5,378	2,689	2,482	1,241
7	55,970	103,545	8,629	4,315	3,983	1,992	72,761	6,064	3,032	2,799	1,400
8	62,300	115,255	9,605	4,803	4,433	2,217	80,990	6,750	3,375	3,115	1,558
For each add'l family member, add	6,330	11,711	976	488	451	226	8,229	686	343	317	159

Tameka Owens,
*Acting Administrator and Assistant
Administrator, Food and Nutrition Service.*

[FR Doc. 2025-03821 Filed 3-12-25; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Forest Service

Idaho Panhandle National Forest; Idaho; Idaho Panhandle National Forest Noxious Weed Treatment Project; Withdrawal

AGENCY: Forest Service, Agriculture
(USDA).

ACTION: Notice; withdrawal.

SUMMARY: The Idaho Panhandle National Forest is withdrawing its Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS)

for the Noxious Weed Treatment Project. The original NOI was published on pages 70954-70955 of the **Federal Register** on November 16, 2011. The Forest plans to complete an Environmental Assessment (EA) to determine if there are significant effects warranting the preparation of an EIS.

FOR FURTHER INFORMATION CONTACT:

Questions concerning this notice should be directed to Forest Environmental Coordinator Anjel Tomayko by email at anjeleeca.tomayko@usda.gov or by phone at 208-765-7259. Individuals who use telecommunication devices for the deaf/hard-of-hearing (TDD) may call the Federal Relay Service (FRS) at 1-

800-877-8339, 24 hours a day, every day of the year, including holidays.

Gregory C. Smith,
*Associate Deputy Chief, National Forest
System.*

[FR Doc. 2025-03949 Filed 3-12-25; 8:45 am]

BILLING CODE 3411-15-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Wyoming Advisory Committee; Cancellation

AGENCY: Commission on Civil Rights.

ACTION: Notice; cancellation of meeting.

The Commission on Civil Rights published a notice in the **Federal Register** concerning a meeting of the Wyoming Advisory Committee. The meeting, scheduled for Thursday, March

13, 2025, at 1:00 p.m. MT, has been cancelled. The notice is in the **Federal Register** on Wednesday, February 5, 2025, in FR Document Number 2025–02245 on pages 9016–9017.

FOR FURTHER INFORMATION CONTACT:

Liliana Schiller, Support Services Specialist, at lschiller@usccr.gov or (202) 770–1856.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2025–04033 Filed 3–12–25; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

National Advisory Committee Meeting Cancellation

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of meeting cancellation.

SUMMARY: The National Advisory Committee on Racial, Ethnic, and Other Populations (NAC) meeting previously scheduled for May 1–2, 2025, is cancelled.

FOR FURTHER INFORMATION CONTACT:

Shana Banks, Advisory Committee Branch Chief, Office of Program, Performance and Stakeholder Integration (PPSI), shana.j.banks@census.gov, Department of Commerce, Census Bureau, telephone 301–763–3815. For TTY callers, please use the Federal Relay Service at 1–800–877–8339.

Ron Jarmin, Acting Director, Census Bureau, approved the publication of this notice in the **Federal Register**.

Dated: March 6, 2025.

Shannon Wink,

Program Analyst, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2025–03963 Filed 3–12–25; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 250310–0032]

X–RIN 0694–XC116

Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Copper

AGENCY: Bureau of Industry and Security, Office of Strategic Industries and Economic Security, U.S. Department of Commerce.

ACTION: Notice of request for public comments.

SUMMARY: The Secretary of Commerce has initiated an investigation to determine the effects on U.S. national security of imports of copper in all forms, including, but not limited to, raw mined copper; copper concentrates; refined copper; copper alloys; scrap copper; and derivative products. This investigation has been initiated under section 232 of the Trade Expansion Act of 1962, as amended. Interested parties are invited to submit written comments, data, analyses, or other information pertinent to the investigation to the Department of Commerce’s Bureau of Industry and Security. This notice identifies issues on which the Department is especially interested in obtaining the public’s views.

DATES: Comments may be submitted at any time but must be received by April 1, 2025.

ADDRESSES: Comments on this notice, may be submitted to the Federal rulemaking portal at: www.regulations.gov. The www.regulations.gov ID for this notice is BIS–2025–0010. Please refer to X–RIN 0694–XC116 in all comments.

All filers using the portal should use the name of the person or entity submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC.” Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page. The corresponding non-confidential version of those comments must be clearly marked “PUBLIC.” The file name of the non-confidential version should begin with the character “P.” Any submissions with file names that do not begin with either a “BC” or a “P” will be assumed to be public and will be made publicly available at: <https://www.regulations.gov>. Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential version to create an image of the file, rather than submitting a digital copy

with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

FOR FURTHER INFORMATION CONTACT:

Stephen Astle, Director, Defense Industrial Base Division, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce (202) 482–2533, copper232@bis.doc.gov. For more information about the Section 232 program, including the regulations and the text of previous investigations, see www.bis.doc.gov/232.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 2025, the President issued Executive Order 14220, Addressing the Threat to National Security From Imports of Copper (90 FR 11001), instructing the Secretary of Commerce (“Secretary”) to initiate an investigation under section 232 of the Trade Expansion Act (19 U.S.C. 1862) to determine the effects on national security of imports of copper in all forms including, but not limited to, raw mined copper; copper concentrates; refined copper; copper alloys; scrap copper; and derivative products. On March 10, 2025, the Secretary initiated the section 232 investigation.

Written Comments

This investigation is being undertaken in accordance with part 705 of the National Security Industrial Base Regulations (15 CFR parts 700 to 709) (“NSIBR”). Interested parties are invited to submit written comments, data, analyses, or information pertinent to this investigation to the Office of Strategic Industries and Economic Security, U.S. Department of Commerce (“the Department”), no later than April 1, 2025. The Department is particularly interested in comments and information directed to the criteria listed in § 705.4 of the regulations as they affect national security, including the following: (i) the current and projected demand for copper in United States defense, energy, and critical infrastructure sectors; (ii) the extent to which domestic production, smelting, refining, and recycling can meet demand; (iii) the role of foreign supply chains, particularly from major exporters, in meeting United States demand; (iv) the concentration of United States copper imports from a small number of suppliers and the associated risks; (v) the impact of foreign government subsidies, overcapacity, and predatory trade practices on United States industry competitiveness; (vi) the economic

impact of artificially suppressed copper prices due to dumping and state-sponsored overproduction; (vii) the potential for export restrictions by foreign nations, including the ability of foreign nations to weaponize their control over refined copper supplies; (viii) the feasibility of increasing domestic copper mining, smelting, and refining capacity to reduce import reliance; and (ix) the impact of current trade policies on domestic copper production and whether additional measures, including tariffs or quotas, are necessary to protect national security.

Material submitted by members of the public that is business confidential information will be exempted from public disclosure as provided for by § 705.6 of the regulations. See the **ADDRESSES** section of this notice. Communications from agencies of the United States Government will not be made available for public inspection. The Bureau of Industry and Security does not maintain a separate public inspection facility. Requesters should first view the Bureau's web page, which can be found at <https://efoia.bis.doc.gov/> (see "Electronic FOIA" heading). If requesters cannot access the website, they may call 202-482-0795 for assistance. The records related to this assessment are made accessible in accordance with the regulations published in part 4 of title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

Eric Longnecker,

Deputy Assistant Secretary for Technology Security.

[FR Doc. 2025-04061 Filed 3-11-25; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 250310-0030]

X-RIN 0694-XC117

Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Timber and Lumber

AGENCY: Bureau of Industry and Security, Office of Strategic Industries and Economic Security, U.S. Department of Commerce.

ACTION: Notice of request for public comments.

SUMMARY: The Secretary of Commerce has initiated an investigation to determine the effects on the national security of imports of wood products: timber, lumber, and their derivative

products. This investigation has been initiated under section 232 of the Trade Expansion Act of 1962, as amended. Interested parties are invited to submit written comments, data, analyses, or other information pertinent to the investigation to the Department of Commerce's Bureau of Industry and Security. This notice identifies issues on which the Department is especially interested in obtaining the public's views.

DATES: Comments may be submitted at any time but must be received by April 1, 2025.

ADDRESSES: Comments on this notice, may be submitted to the Federal rulemaking portal at: www.regulations.gov. The www.regulations.gov ID for this notice is BIS-2025-0011. Please refer to X-RIN 0694-XC117 in all comments.

All filers using the portal should use the name of the person or entity submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters "BC." Any page containing business confidential information must be clearly marked "BUSINESS CONFIDENTIAL" on the top of that page. The corresponding non-confidential version of those comments must be clearly marked "PUBLIC." The file name of the non-confidential version should begin with the character "P." Any submissions with file names that do not begin with either a "BC" or a "P" will be assumed to be public and will be made publicly available at: <https://www.regulations.gov>. Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential version to create an image of the file, rather than submitting a digital copy with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

FOR FURTHER INFORMATION CONTACT: Stephen Astle, Director, Defense Industrial Base Division, Office of Strategic Industries and Economic Security, Bureau of Industry and

Security, U.S. Department of Commerce (202) 482-2533, wood232@bis.doc.gov. For more information about the Section 232 program, including the regulations and the text of previous investigations, see www.bis.doc.gov/232.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2025, the President Issued Executive Order 14223, Addressing the Threat to National Security from Imports of Timber, Lumber (90 FR 11359), instructing the Secretary of Commerce (Secretary) to initiate an investigation under section 232 of the Trade Expansion Act (19 U.S.C. 1862) to determine the effects on national security of imports of wood products: timber, lumber, and their derivative products. On March 10, 2025, the Secretary initiated the 232 investigation.

Written Comments

This investigation is being undertaken in accordance with part 705 of the National Security Industrial Base Regulations (15 CFR parts 700 to 709) ("NSIBR"). Interested parties are invited to submit written comments, data, analyses, or information pertinent to this investigation to the Office of Strategic Industries and Economic Security, U.S. Department of Commerce ("the Department"), no later than April 1, 2025. The Department is particularly interested in comments and information directed to the criteria listed in § 705.4 of the regulations as they affect national security, including the following: (i) the current and projected demand for timber and lumber in the United States; (ii) the extent to which domestic production of timber and lumber can meet domestic demand; (iii) the role of foreign supply chains, particularly of major exporters, in meeting United States timber and lumber demand; (iv) the impact of foreign government subsidies and predatory trade practices on United States timber, lumber, and derivative product industry competitiveness; (v) the feasibility of increasing domestic timber and lumber capacity to reduce imports; (vi) the impact of current trade policies on domestic timber, lumber, and derivative product production, and whether additional measures, including tariffs or quotas, are necessary to protect national security; and (vii) any other relevant factors.

Material submitted by members of the public that is business confidential information will be exempted from public disclosure as provided for by § 705.6 of the regulations. See the **ADDRESSES** section of this notice.

Communications from agencies of the United States Government will not be made available for public inspection. The Bureau of Industry and Security does not maintain a separate public inspection facility. Requesters should first view the Bureau's web page, which can be found at <https://efoia.bis.doc.gov/> (see "Electronic FOIA" heading). If requesters cannot access the website, they may call 202-482-0795 for assistance. The records related to this assessment are made accessible in accordance with the regulations published in part 4 of title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

Eric Longnecker,

Deputy Assistant Secretary for Technology Security.

[FR Doc. 2025-04060 Filed 3-11-25; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-016]

Passenger Vehicle and Light Truck Tires From the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Antidumping Administrative Review; Notice of Amended Final Results

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

SUMMARY: On November 26, 2024, the U.S. Court of International Trade (the Court) issued a partial judgment in *YC Rubber Co. (North America) LLC., et al. v. United States*, Consol., Court no. 19-00069, sustaining, in part, the U.S. Department of Commerce (Commerce)'s first remand results pertaining to the administrative review of the antidumping duty (AD) order on passenger vehicle and light truck tire (passenger tires) from the People's Republic of China (China) covering the period August 1, 2016, through July 31, 2017. Commerce is notifying the public that the Court's partial judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Kenda Rubber (China) Co., Ltd. (Kenda).

DATES: Applicable November 26, 2024.

FOR FURTHER INFORMATION CONTACT: Charles DeFilippo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of

Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3797.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 2019, Commerce published its *Final Results* in the 2016-2017 AD administrative review of passenger tires from China. Commerce calculated a rate of 64.57 percent for Zhaoqing Junhong Co., Ltd. (Junhong) and relied on that rate to establish the rate for the separate rate respondents.¹

In its August 29, 2022, opinion, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) remanded the *Final Results*, concluding that Commerce erred in restricting its examination to a single mandatory respondent and in applying the single mandatory respondent's rate to the separate rate respondents.² Therefore, on remand, Commerce sought to select an additional mandatory respondent to review and selected Kenda as a mandatory respondent.³ In March and May 2023, Kenda submitted responses to sections A through D of Commerce's AD questionnaire.⁴ In June 2023, Kenda submitted responses to Commerce's supplemental questionnaire.⁵ In the first remand redetermination, issued in October 2023, Commerce: (1) recalculated Kenda's estimated weighted-average dumping margin to be 18.15 percent based on its reported data; (2) recalculated the separate rate and applied it to Shandong Linglong Tyre Co. (Linglong); and (3) continued to find Shandong Wanda Boto Tyre Co., Ltd.

¹ See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 17781 (April 26, 2019) (*Final Results*).

² See *YC Rubber Co. (North America) LLC., et al. v. United States*, 2022 U.S. App. LEXIS 14259, (Fed. Cir. 2022).

³ See Memorandum, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Respondent Selection," dated March 10, 2023.

⁴ See Kenda's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Kenda's Response to Section A and Double Remedy Questionnaire," dated April 17, 2023; see also Kenda's Letter, "Certain Passenger Vehicle and Light Truck Tires from China: Kenda Section C Questionnaire Response," dated May 2, 2023; Kenda's Letter, "Certain Passenger Vehicle and Light Truck Tires from China: Kenda Section D Questionnaire Response," dated May 9, 2023.

⁵ See Kenda's Letters, "Certain Passenger Vehicle and Light Truck Tires from China: Kenda First Supplemental Questionnaire Response: Questions 2, 3, and 5-12," dated June 22, 2023; and "Certain Passenger Vehicle and Light Truck Tires from China: Kenda First Supplemental Questionnaire Response: Questions 1, 4, and 13-15," dated June 27, 2023.

(Wanda Boto), Mayrun Tyre (Hong Kong) Limited (Mayrun), Shandong Hengyu Science & Technology Co., Ltd. (Hengyu), and Winrun Tyre Co., Ltd. (Winrun) to be part of the China-wide entity.⁶ The Court remanded for a second time, concluding that Commerce: (1) may have erred in the order in which it selected a second respondent; (2) did not support with substantial evidence its denial of separate rate status for Mayrun, Hengyu, Winrun, and Wanda Boto; and (3) did not sufficiently explain its denial of the new withdrawal requests submitted during the first remand.⁷

In its second remand redetermination, issued in October 2024, pursuant to the *Remand Order*, Commerce reexamined the U.S. Customs and Border Protection (CBP) data and determined that the correct order of selection for a second mandatory respondent was: (1) Wanda Boto; (2) Hengyu; (3) Mayrun; (4) Winrun; (5) Linglong, and (6) Kenda. Thus, on remand, Commerce selected Linglong as an additional mandatory respondent; however, because Linglong refused to participate, Commerce continued to rely on Kenda as the second mandatory respondent. In addition, Commerce found that: (1) Wanda Boto, Mayrun, Hengyu, Winrun, and Linglong failed to establish their entitlement to a separate rate and thus were part of the China-wide entity; and (2) that it is inappropriate to accept the untimely review withdrawal requests filed by Mayrun, Hengyu, Winrun, and Linglong. Finally, Commerce recalculated the cash deposit rate applicable to the China-wide entity to account for combined export subsidies and estimated domestic subsidy pass-through of 11.13 percent.⁸ In response to a motion by Kenda for partial judgement, the Court issued a partial judgement sustaining Commerce's final redetermination with respect to Kenda's dumping margin calculation.⁹

⁶ See *YC Rubber Co. (North America) LLC., et al. v. United States*, Consol. Court No. 19-000069, Slip Op. 21-1489 (CIT February 2, 2023), dated October 31, 2023 (*First Remand Results*), available at <https://access.trade.gov/public/FinalRemandRedetermination.aspx>.

⁷ See *YC Rubber Co. (North America) LLC., et al. v. United States*, 711 F. Supp. 3d 1387 (CIT 2024).

⁸ See *YC Rubber Co. (North America) LLC., et al. v. United States*, Consol. Court No. 19-000069, Slip Op. 24-74 (CIT June 18, 2024) (*Second Remand Results*).

⁹ See *YC Rubber Co. (North America) LLC., et al. v. United States*, Consol. Court No. 19-000069, ECF Nos. 124 and 125 (CIT November 26, 2024).

Timken Notice

In its decision in *Timken*,¹⁰ as clarified by *Diamond Sawblades*,¹¹ the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s November 26, 2024, judgment constitutes a final decision of the Court that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment regarding the dumping margin calculation for Kenda, Commerce is amending its *Final Results* with respect to Kenda as follows:

Exporter/producer	Weighted-average dumping margin (percent)
Kenda Rubber (China) Co., Ltd	18.15

Cash Deposit Requirements

Because Kenda has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to CBP. Accordingly, this notice will not affect Kenda’s current cash deposit rate.

Liquidation of Suspended Entries

Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by Kenda in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,¹² we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

¹⁰ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹¹ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹² See 19 CFR 351.106(c)(2).

Dated: March 6, 2025.

Christopher Abbott,

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

[FR Doc. 2025–04007 Filed 3–12–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A–570–967, C–570–968]

Aluminum Extrusions From the People’s Republic of China: Notice of Amended Final Scope Rulings Pursuant to Court Decision

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

SUMMARY: On October 8, 2024, in the consolidated appeal of *Worldwide Door Components, Inc., v. United States, Endura Products, INC.*, Court No. 2023–1532 and *Columbia Aluminum Products, LLC, v. United States, Endura Products, INC.*, Court No. 2023–1534 (collectively, *Worldwide Federal Circuit*), the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) reversed the U.S. Court of International Trade’s (CIT) *Second Remand Order*, and sustained the non-protested portions of Commerce’s *First Remand Redeterminations*. The Federal Circuit also vacated the CIT’s subsequent opinions and orders in this case following the *Second Remand Order*. In the *First Remand Redeterminations*, Commerce continued to find that certain door thresholds imported by Worldwide Door Components, Inc. (Worldwide) and Columbia Aluminum Products, Inc. (Columbia) are within the scope of the antidumping (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People’s Republic of China (China). The CIT originally sustained Commerce’s *Third Remand Redeterminations* finding the products in question outside the scope of the *Orders* under respectful protest, and on December 29, 2022, Commerce published a notice of court decisions not in harmony with its final scope ruling and notice of amended final scope ruling. However, consistent with the Federal Circuit’s decision reversing and vacating the CIT’s opinion and order, Commerce is now amending the final scope rulings, as they were represented in the *Amended Final Scope Rulings*, to find that the Worldwide and Columbia door thresholds at issue are subject to the *Orders*.

DATES: Applicable January 7, 2024.

FOR FURTHER INFORMATION CONTACT: Erin Kearney, 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) 482–0167.

SUPPLEMENTARY INFORMATION:**Background**

On December 19, 2018, Commerce issued its Final Scope Rulings¹ that certain door thresholds imported by Worldwide and Columbia fall within the scope of the *Orders*.² Worldwide and Columbia appealed Commerce’s Final Scope Ruling. On December 23, 2020, pursuant to the CIT’s first remand orders in *Worldwide I* and *Columbia I*,³ Commerce issued its *First Remand Redeterminations*, in which Commerce continued to find that Worldwide’s and Columbia’s door thresholds were subassemblies included in the scope of the *Orders* and, therefore, failed to satisfy the requirements for the finished merchandise exclusion.⁴

In *Worldwide II* and *Columbia II*, the CIT determined that Commerce impermissibly based its analysis in the *First Remand Redeterminations* on inferences that were contradicted or unsupported by other information on the record.⁵ The CIT directed Commerce to reconsider whether Worldwide’s and

¹ See Memorandum, “Antidumping and Countervailing Duty Order on Aluminum Extrusions from the People’s Republic of China: Final Scope Rulings on Worldwide Door Components Inc., MJB Wood Group, Inc. and Columbia Door Thresholds,” dated December 19, 2018 (Final Scope Rulings).

² See *Aluminum Extrusions from the People’s Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011); and *Aluminum Extrusions from the People’s Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (collectively, the *Orders*).

³ See *Worldwide Door Components, Inc. v. United States*, 466 F. Supp. 3d 1370 (CIT 2020) (*Worldwide I*); and *Columbia Aluminum Products, LLC v. United States*, 470 F. Supp. 3d 1353 (CIT 2020) (*Columbia I*).

⁴ See *Final Results of Redetermination Pursuant to Court Remand, Aluminum Extrusions from the People’s Republic of China, Worldwide Door Components, Inc. v. United States*, Court No. 19–00012, Slip Op. 20–128 (CIT August 27, 2020), dated December 23, 2020, available at <https://access.trade.gov/resources/remands/20-128.pdf>; *Final Results of Redetermination Pursuant to Court Remand, Aluminum Extrusions from the People’s Republic of China, Columbia Aluminum Products, LLC v. United States*, Court No. 19–00013, Slip Op. 20–129 (CIT August 27, 2020), dated December 23, 2020, available at <https://access.trade.gov/resources/remands/20-129.pdf> (collectively, *First Remand Redeterminations*).

⁵ See *Worldwide Door Components, Inc. v. United States*, 537 F. Supp. 3d 1403, 1404–05, 1408–09 (CIT 2021) (*Worldwide II*); and *Columbia Aluminum Products, LLC v. United States*, 536 F. Supp. 3d 1346 (CIT 2021) (*Columbia II*).

Columbia's door thresholds required cutting or machining prior to incorporation into another product, and to determine whether Worldwide's and Columbia's door thresholds qualified for the finished merchandise exclusion.⁶ On December 13, 2021, Commerce issued its *Second Remand Redeterminations*, in which Commerce determined that Worldwide's and Columbia's door thresholds were excluded from the *Orders* as finished merchandise.⁷

In *Worldwide III* and *Columbia III*, the CIT held that Commerce's *Second Remand Redeterminations* misconstrued aspects of the CIT's decision in *Worldwide II* and *Columbia II* and were not submitted in a form the CIT could sustain upon judicial review.⁸ The CIT directed Commerce to issue a new determination, in a form that would go into effect if sustained upon judicial review, determining whether the extruded aluminum components of Worldwide's and Columbia's door thresholds are within the scope of the *Orders*.⁹

In the *Third Remand Redeterminations*, Commerce continued to find, in accordance with the CIT's holdings, that Worldwide's and Columbia's door thresholds are outside the scope of the *Orders* based on the finished merchandise exclusion; Commerce also provided further explanation for the basis of that finding and clarified that Commerce did not intend to issue any other scope ruling or other agency determination subsequent to the CIT's order.¹⁰ The CIT

subsequently sustained Commerce's remand redeterminations in *Worldwide IV* and *Columbia IV*.¹¹ On December 29, 2022, Commerce published a notice of court decisions not in harmony with its final scope ruling and notice of amended final scope ruling.¹²

On October 8, 2024, the Federal Circuit reversed and the CIT and sustained the non-protested portions of Commerce's *First Remand Redeterminations* and vacated the CIT's subsequent opinions and orders.¹³ The Federal Circuit held that Commerce's finding in the *First Remand Redeterminations* that the Worldwide and Columbia door thresholds at issue are subassemblies covered by the scope of the *Orders* is supported by substantial evidence.¹⁴

Second Amended Final Scope Ruling

Because there is now a final and conclusive court decision reinstating Commerce's scope rulings in the *First Remand Redeterminations*, we are amending the *First Amended Final Scope Rulings* with respect to Worldwide and Columbia's door thresholds.¹⁵ In accordance with the Federal Circuit's decision in *Worldwide Federal Circuit*, the Worldwide and Columbia door thresholds at issue in the Final Scope Rulings are subject to the *Orders*.

Accordingly, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of Worldwide and Columbia's door thresholds until appropriate liquidation instructions are sent. As of the date of publication of this notice in the **Federal Register**, the cash deposit rate for entries of Worldwide and Columbia's door thresholds will be the applicable cash deposit rate of the exporters of the merchandise from China to the United States.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e)(1), and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: March 7, 2025.

Christopher Abbott,

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

[FR Doc. 2025-04006 Filed 3-12-25; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE751]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet on March 27, 2025, and on March 31, 2025, through April 7, 2025.

DATES: The Council's Executive/Finance Committee will meet in closed session on Thursday March 27, 2025, from 1 p.m. to 5 p.m. The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Monday, March 31, 2025, and continue through Tuesday, April 1, 2025. The Council's Advisory Panel (AP) will begin at 8 a.m. Monday, March 31, 2025, and continue through Friday, April 4, 2025. The Council will begin at 8 a.m. on Thursday, April 3, 2025, and continue through Monday, April 7, 2025. All times listed are Alaska Time.

ADDRESSES: The meetings will be a virtual conference. Join the meetings online through the links at <https://www.npfmc.org/upcoming-council-meetings>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501-2252; telephone: (907) 271-2809. Instructions for attending the meeting via video conference are given under connection information, below.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; email: diana.evans@noaa.gov; telephone: (907) 271-2809. For technical support, please contact our Council administrative staff, email: npfmc.admin@noaa.gov.

SUPPLEMENTARY INFORMATION:

⁶ See *Worldwide II*, 537 F. Supp. 3d at 1404-05, 1414; and *Columbia II*, 536 F. Supp. 3d at 1354.

⁷ See *Final Results of Redetermination Pursuant to Court Remand, Worldwide Door Components, Inc. v. United States*, Court No. 19-00012, Slip Op. 21-115 (CIT September 14, 2021), dated December 13, 2021, available at <https://access.trade.gov/resources/remands/21-115.pdf>; *Final Results of Redetermination Pursuant to Court Remand, Columbia Aluminum Products, LLC v. United States*, Court No. 19-00013, Slip Op. 21-116 (CIT September 14, 2021), dated December 13, 2021, available at <https://access.trade.gov/resources/remands/21-116.pdf> (collectively, *Second Remand Redeterminations*).

⁸ See *Worldwide III*, 589 F. Supp. 3d 1185, 1192-95 (CIT 2022); and *Columbia III*, 587 F. Supp. 3d 1375, 1382-85 (CIT 2022).

⁹ See *Worldwide III*, 589 F. Supp. 3d at 1195; and *Columbia III*, 587 F. Supp. 3d at 1385.

¹⁰ See *Final Results of Redetermination Pursuant to Court Remand, Worldwide Door Components, Inc. v. United States*, Court No. 19-00012, Slip Op. 22-91 (CIT August 10, 2022), dated September 8, 2022, available at <https://access.trade.gov/resources/remands/22-91.pdf>; and *Final Results of Redetermination Pursuant to Court Remand, Columbia Aluminum Products, LLC v. United States*, Court No. 19-00013, Slip Op. 22-92 (CIT August 10, 2022), dated September 8, 2022, available at <https://access.trade.gov/resources/remands/22-92.pdf> (collectively, *Third Remand Redeterminations*).

¹¹ See *Worldwide Door Components, Inc. v. United States*, 606 F. Supp. 3d 1363 (CIT 2022) (*Worldwide IV*); *Columbia Aluminum Products, LLC v. United States*, 607 F. Supp. 3d 1275 (CIT 2022) (*Columbia IV*).

¹² See *Aluminum Extrusions from the People's Republic of China: Notice of Court Decisions Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Rulings Pursuant to Court Decisions*, 87 FR 80160 (December 29, 2022) (*First Amended Final Scope Rulings*).

¹³ See *Worldwide Door Components, Inc. v. United States*, 119 F.4th 959, 972 (Fed. Cir. 2024) (*Worldwide Federal Circuit*).

¹⁴ *Id.*

¹⁵ See *First Amended Final Scope Rulings*.

Agenda

Thursday, March 27, 2025

The Executive/Finance Committee will meet in closed session to discuss internal administrative matters.

Monday, March 31, 2025 Through Tuesday, April 1, 2025

The SSC agenda will include the following issues:

1. MRA Adjustments—Preliminary Review of MRA Adjustments Analysis
2. Survey Modernization and AFSC Report—Review and provide recommendations on AFSC survey modernization efforts, and survey prioritization

The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/3081> prior to the meeting, along with meeting materials.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer-review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

Monday, March 31, 2025, Through Friday, April 4, 2025

The Advisory Panel agenda will include the following issues:

1. Area 4 Vessel Use Caps—Review Final Action Analysis
2. Small Sablefish Release—Review Final Action Analysis
3. MRA Adjustment—Review Preliminary Analysis
4. Programmatic Evaluation—Review Discussion Paper
5. NMFS Annual Cost Recovery—Report and review discussion paper
6. GOA Tanner Crab Protections—Review discussion paper
7. Central Rockfish Program Review—Review Report
8. Staff Tasking

Thursday, April 3, 2025, Through Monday, April 7, 2025

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

1. B Reports (Executive Director, NMFS Management, NOAA General Counsel (GC), Alaska Fishery Science Center (AFSC), Alaska Department of Fish and Game

(ADF&G), United States Coast Guard (USCG), United States Fish and Wildlife Service (USFWS), International Pacific Halibut Commission (IPHC), National Institute for Occupational Safety & Health (NIOSH) report, Cooperative reports, Advisory Panel, SSC report)

2. Area 4 Vessel Use Caps—Review Final Action Analysis
3. Small Sablefish Release—Review Final Action Analysis
4. MRA Adjustment—Review Preliminary Analysis
5. NMFS Annual Cost Recovery—Report and review discussion paper
6. GOA Tanner Crab Protections—Review discussion paper
7. Central Rockfish Program—Review Report
8. Staff Tasking

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: <https://www.npfmc.org/upcoming-council-meetings>. For technical support, please contact our administrative staff, email: npfmc.admin@noaa.gov.

Public Comment

Public comment letters will be accepted and should be submitted electronically through the links at <https://www.npfmc.org/upcoming-council-meetings>. The Council strongly encourages written public comment for this meeting, to avoid any potential for technical difficulties to compromise oral testimony. The written comment period is open from March 7, 2025 to March 28, 2025, and closes at 12 p.m., Alaska Time on Friday, March 28, 2025.

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

Dated: March 7, 2025.

Rey Israel Marquez,

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

[FR Doc. 2025–03951 Filed 3–12–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XE752]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public hybrid meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Fishery Monitoring Advisory Committee (FMAC) will meet May 12, 2025.

DATES: The meeting will be held on Monday, May 12, 2025, from 9 a.m. to 1 p.m. Alaska Time.

ADDRESSES: The meeting will be a hybrid meeting. On Monday, May 12, attend in-person at North Pacific Fishery Management Council office, 1007 W 3rd Ave., Anchorage, Alaska Suite 400 or join online through the link <https://meetings.npfmc.org/Meeting/Details/3079>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, Suite 400, Alaska 99501–2252; telephone (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Sara Cleaver, Council staff; email: sara.cleaver@noaa.gov. For technical support, please contact Council administrative staff, email: npfmc.admin@noaa.gov.

SUPPLEMENTARY INFORMATION:**Agenda**

Monday, May 12, 2025

The May 2025 FMAC agenda will include review of the 2024 Observer Annual report; NMFS updates, including budget, and other business.

The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/3079> prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smartphone; or by phone only. Connection information will be posted online at: <https://meetings.npfmc.org/Meeting/Details/3079>.

Public Comment

Public comment letters will be accepted and should be submitted electronically to <https://meetings.npfmc.org/Meeting/Details/3079>.

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

Dated: March 7, 2025.

Rey Israel Marquez,

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

[FR Doc. 2025–03952 Filed 3–12–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XE714]

Atlantic Highly Migratory Species; Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops.

SUMMARY: Free Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops will be held in April, May, and June of 2025. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted in 2025 and will be announced in a future notice. In addition, NMFS has implemented online recertification workshops for persons who have already taken an in-person training.

DATES: The Atlantic Shark Identification Workshops will be held on April 17, 2025, May 15, 2025, and June 20, 2025. The Safe Handling, Release, and Identification Workshops will be held on April 4, 2025, May 5, 2025, and June 18, 2025.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Medford, NY, Manahawkin, NJ and Fort Lauderdale, FL. The Safe Handling, Release, and Identification Workshops will be held in Mount Pleasant, SC, Fort Walton Beach, FL, and Ronkonkoma, NY.

FOR FURTHER INFORMATION CONTACT: Anna Quintrell by email at anna.quintrell@noaa.gov or by phone at 301-427-8503.

SUPPLEMENTARY INFORMATION: Atlantic highly migratory species (HMS) fisheries (tunas, swordfish, sharks, and billfish) are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments pursuant to the authority of the

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635. Section 635.8 describes the requirements for the Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops. The workshop schedules, registration information, and a list of frequently asked questions regarding the Atlantic Shark Identification and Safe Handling, Release, and Identification workshops are available online at: <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops> and <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops>.

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057, October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Thus, certificates that were initially issued in 2022 will expire in 2025.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit that first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate must be in any trucks or other conveyances

that are extensions of a dealer's place of business.

Workshop Dates, Times, and Locations

1. April 17, 2025, 12 p.m.–4 p.m., Comfort Inn Medford, 2695 Route 112, Medford, NY 11763.
2. May 15, 2025, 12 p.m.–4 p.m., Holiday Inn Manahawkin, 151 Route 72 East, Manahawkin, NJ 08050.
3. June 20, 2025, 12 p.m.–4 p.m., Hampton Inn Cypress Creek, 720 E Cypress Creek Road, Fort Lauderdale, FL 33334.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at ericssharkguide@yahoo.com or at 386-852-8588. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited access and swordfish limited access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Safe Handling, Release, and Identification Workshop certificate in order to renew either

permit (71 FR 58057, October 2, 2006). These certificate(s) are valid for 3 years. Certificates issued in 2022 will expire in 2025. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited access permits. Additionally, new shark and swordfish limited access permit applicants who intend to fish with longline or gillnet gear must attend a Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued.

In addition to vessel owners, at least one operator on board vessels issued a limited access swordfish or shark permit that uses longline or gillnet gear is required to attend a Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates on board at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited access permits on which longline or gillnet gear is used.

Workshop Dates, Times, and Locations

1. April 4, 2025, 9 a.m.–2 p.m., Hilton Garden Inn, 300 Wingo Way, Mount Pleasant, SC 29464.

2. May 5, 2025, 9 a.m.–2 p.m., Hilton Garden Inn, 1297 Miracle Strip Parkway SE, Fort Walton Beach, FL 32448.

3. June 18, 2025, 9 a.m.–2 p.m., Hilton Garden Inn, 3485 Veterans Memorial Highway, Ronkonkoma, NY 11779.

Registration

To register for a scheduled Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at 386–682–0158. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy

of the vessel registration or documentation, and proof of identification;

- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification; and

- Vessel operators must bring proof of identification.

Workshop Objectives

The Safe Handling, Release, and Identification Workshops are designed to teach the owner and operator of a vessel that fishes with longline or gillnet gear the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, smalltooth sawfish, Atlantic sturgeon, and prohibited sharks. In an effort to improve reporting, the proper identification of protected species and prohibited sharks will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species and prohibited sharks, which may prevent additional regulations on these fisheries in the future.

Online Recertification Workshops

NMFS implemented an online option for shark dealers and owners and operators of vessels that fish with longline and gillnet gear to renew their certificates in December 2021. To be eligible for online recertification workshops, dealers and vessel owners and operators need to have previously attended an in-person workshop. Information about the courses is available online at <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops> and <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops>. To access the course please visit: <https://hmsworkshop.fisheries.noaa.gov/start>.

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

Dated: March 7, 2025.

Karen H. Abrams,

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

[FR Doc. 2025–04027 Filed 3–12–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE314]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of America (Formerly Gulf of Mexico)

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

ACTION: Notice; issuance of letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA regulations for taking marine mammals incidental to geophysical surveys related to oil and gas activities in the Gulf of America, originally published as "Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico," notification is hereby given that a Letter of Authorization (LOA) has been issued to WesternGeco for the take of marine mammals incidental to geophysical survey activity in the Gulf of America (GOA).

DATES: The LOA is effective from March 1, 2025, through December 31, 2025.

ADDRESSES: The LOA, LOA request, and supporting documentation are available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico>. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

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

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed

authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively “industry operators”), in U.S. waters of the GOA¹ over the course of 5 years (86 FR 5322, January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses, and became effective on April 19, 2021.

The regulations at 50 CFR 217.180 *et seq.* allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on

marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

NMFS subsequently discovered that the 2021 rule was based on erroneous take estimates. We conducted another rulemaking using correct take estimates and other newly available and pertinent information relevant to the analyses supporting some of the findings in the 2021 final rule and the taking allowable under the regulations. We issued a final rule in April 2024, effective May 24, 2024 (89 FR 31488, April 24, 2024).

The 2024 final rule made no changes to the specified activities or the specified geographical region in which those activities would be conducted, nor to the original 5-year period of effectiveness. In consideration of the new information, the 2024 rule presented new analyses supporting affirmance of the negligible impact determinations for all species, and affirmed that the existing regulations, which contain mitigation, monitoring, and reporting requirements, are consistent with the “least practicable adverse impact” standard of the MMPA.

Summary of Request and Analysis

WesternGeco plans to conduct a three-dimensional (3D) ocean bottom node (OBN) survey over 240 lease blocks in the Green Canyon and Walker Ridge areas, with water depths ranging from approximately 1,600 to 3,000 meters (m). See section F of the LOA application for a map of the area.

WesternGeco anticipates using three source vessels, and would use one of the following source configurations: a conventional airgun array source consisting of 28 elements with a total volume of 5,000 cubic inches (in³) or a combination of the conventional airgun array source and a low-frequency tuned pulse source (TPS). Please see WesternGeco’s application for additional detail.

The TPS was not included in the acoustic exposure modeling developed in support of the rule. However, the TPS was previously described and evaluated in support of previous LOAs and we rely on those analyses here (86 FR 37309, 37310, July 15, 2021; see also 87 FR 55790, 55791, September 12, 2022). For additional detail regarding sources,

see section C of the LOA application. Based on this information we have determined there will be no effects of a magnitude or intensity different from those evaluated in support of the rule. NMFS therefore expects that use of modeling results supporting the final rule relating to use of airgun arrays are expected to be conservative as a proxy for use in evaluating potential impacts of use of the TPS.

Consistent with the preamble to the final rule, the survey effort proposed by WesternGeco in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (89 FR 31488, April 24, 2024). In order to generate the appropriate take number for authorization, the following information was considered: (1) survey type; (2) location (by modeling zone²); (3) number of days; (4) source; and (5) month.³ In this case, because WesternGeco may also elect to use the specified 28-element, 5,000 in³ airgun array source, the 5,110 in³ airgun array proxy was selected. The acoustic exposure modeling performed in support of the rule provides 24-hour exposure estimates for each species, specific to each modeled source and survey type in each zone and month.

No 3D OBN surveys were included in the modeled survey types, and use of existing proxies (*i.e.*, two-dimensional (2D), 3D narrow-azimuth (NAZ), 3D wide-azimuth (WAZ), Coil) is generally conservative for use in evaluation of 3D OBN survey effort, largely due to the greater area covered by the modeled proxies. Summary descriptions of these modeled survey geometries are available in the preamble to the proposed rule (83 FR 29212, 29220, June 22, 2018). Coil was selected as the best available proxy survey type in this case because the spatial coverage of the planned survey is most similar to the coil survey pattern. The planned OBN survey will involve three source vessels sailing along closely spaced survey lines, with daily survey area coverage of approximately 125 kilometers squared (km²) per day, similar to that assumed for the coil survey proxy. Among the different parameters of the modeled survey patterns (*e.g.*, area covered, line spacing, number of sources, shot

² For purposes of acoustic exposure modeling, the GOA was divided into seven zones. Zone 1 is not included in the geographic scope of the rule.

³ Acoustic propagation modeling was performed for two seasons: Winter (December–March) and Summer (April–November). Marine mammal density data is generally available on a monthly basis, and therefore further refines take estimates temporally.

¹ Pursuant to Executive Order 14172, “Restoring Names That Honor American Greatness,” and Department of the Interior Secretarial Order 3423, “The Gulf of America,” the body of water formerly known as the Gulf of Mexico is now called the Gulf of America. Accordingly, this **Federal Register** Notice hereafter refers to the Gulf of America.

interval, total simulated pulses), NMFS considers area covered per day to be most influential on daily modeled exposures exceeding Level B harassment criteria. Although WesternGeco is not proposing to perform a survey using the coil geometry, the coil proxy is most representative of the effort planned by WesternGeco in terms of predicted Level B harassment exposures.

The survey will take place over approximately 130 days with 100 days of sound source operation, with 20 days planned in Zone 5 and 80 days planned in Zone 7. The monthly distribution of survey days is not known in advance, though we assume that the planned 100 days of source operation would occur contiguously. Take estimates for each species are based on the time period that produces the greatest value.

For the Rice's whale, take estimates based on the modeling yielded results that are not realistically likely to occur when considered in light of other relevant information concerning Rice's whale habitat preferences considered during the rulemaking process. NMFS' 2024 final rule provided detailed discussion regarding Rice's whale habitat (see, e.g., 89 FR 31508, 31519, April 24, 2024). In summary, recent survey data, sightings, and acoustic data support Rice's whale occurrence in waters throughout the GOA between approximately 100 m and 400 m depth along the continental shelf break, and associated habitat-based density modeling has identified similar habitat (i.e., approximately 100 to 400 m water

depths along the continental shelf break) as being Rice's whale habitat (Garrison *et al.*, 2023; Soldevilla *et al.*, 2022, 2024).

Although Rice's whales may occur outside of the general depth range expected to provide suitable habitat, we expect that any such occurrence would be rare. WesternGeco's planned activities will occur in water depths of approximately 1,600 to 3,000 m in the central GOA. Thus, NMFS does not expect there to be the reasonable potential for take of Rice's whale in association with this survey and, accordingly, does not authorize take of Rice's whale through the LOA.

Based on the results of our analysis, NMFS has determined that the level of taking expected for this survey and authorized through the LOA is consistent with the findings made for the total taking allowable under the regulations. See table 1 in this notice and table 6 of the rule (89 FR 31488, April 24, 2024).

Small Numbers Determination

Under the rule, NMFS may not authorize incidental take of marine mammals in an LOA if it will exceed "small numbers." In short, when an acceptable estimate of the individual marine mammals taken is available, if the estimated number of individual animals taken is up to, but not greater than, one-third of the best available abundance estimate, NMFS will determine that the numbers of marine mammals taken of a species or stock are small (see 89 FR 31535, May 24, 2024).

For more information please see NMFS' discussion of small numbers in the 2021 final rule (86 FR 5438, January 19, 2021).

The take numbers for authorization are determined as described above in the Summary of Request and Analysis section. Subsequently, the total incidents of harassment for each species are multiplied by scalar ratios to produce a derived product that better reflects the number of individuals likely to be taken within a survey (as compared to the total number of instances of take), accounting for the likelihood that some individual marine mammals may be taken on more than 1 day (see 86 FR 5404, January 19, 2021). The output of this scaling, where appropriate, is incorporated into adjusted total take estimates that are the basis for NMFS' small numbers determinations, as depicted in table 1.

This product is used by NMFS in making the necessary small numbers determinations through comparison with the best available abundance estimates (see discussion at 86 FR 5391, January 19, 2021). For this comparison, NMFS' approach is to use the maximum theoretical population, determined through review of current stock assessment reports (SAR; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and model-predicted abundance information (<https://seamap.env.duke.edu/models/Duke/GOM/>). Information supporting the small numbers determinations is provided in table 1.

TABLE 1—TAKE ANALYSIS

Species	Authorized take	Scaled take ¹	Abundance ²	Percent abundance
Rice's whale	0	n/a	51	n/a
Sperm whale	618	261.5	3,007	8.7
<i>Kogia</i> spp	³ 412	122.9	980	15.6
Beaked whales	870	87.9	803	10.9
Rough-toothed dolphin	1,459	418.6	4,853	8.6
Bottlenose dolphin	603	136.0	165,125	0.1
Clymene dolphin	1,603	460.0	4,619	10.0
Atlantic spotted dolphin	179	51.1	21,506	0.2
Pantropical spotted dolphin	20,572	5,904.2	67,225	8.8
Spinner dolphin	281	80.8	5,548	1.5
Striped dolphin	4,509	1,294.2	5,634	23.0
Fraser's dolphin	639	183.3	1,665	11.0
Risso's dolphin	330	97.4	1,974	4.9
Blackfish ⁴	3,751	1,106.5	6,113	18.1
Short-finned pilot whale	237	69.9	2,741	2.6

¹ Scalar ratios were applied to "Authorized Take" values as described at 86 FR 5322, 5404 (January 19, 2021) to derive scaled take numbers shown here.

² Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Garrison *et al.*, 2023). For Rice's whale, Atlantic spotted dolphin, and Risso's dolphin, the larger estimated SAR abundance estimate is used.

³ Includes 29 takes by Level A harassment and 383 takes by Level B harassment. Scalar ratio is applied to takes by Level B harassment only; small numbers determination made on basis of scaled Level B harassment take plus authorized Level A harassment take.

⁴ The "blackfish" guild includes melon-headed whales, false killer whales, pygmy killer whales, and killer whales.

Based on the analysis contained herein of WesternGeco's proposed survey activity described in its LOA application and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the affected species or stock sizes (*i.e.*, less than one-third of the best available abundance estimate) and therefore the taking is of no more than small numbers.

Authorization

NMFS has determined that the level of taking for this LOA request is consistent with the findings made for the total taking allowable under the incidental take regulations and that the amount of take authorized under the LOA is of no more than small numbers. Accordingly, we have issued an LOA to WesternGeco authorizing the take of marine mammals incidental to its geophysical survey activity, as described above.

Dated: March 10, 2025.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2025-04024 Filed 3-12-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE624

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Interstate Bridge Replacement Project on Interstate 5 Between Portland, Oregon and Vancouver, WA

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

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the Interstate Bridge Replacement Program (IBRP) for authorization to take small numbers of marine mammals incidental to the Interstate Bridge Replacement Project (IBR) on Interstate 5 (I-5) between Portland, Oregon, and Vancouver, Washington over the course of five years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the IBRP's request for the development and implementation of regulations governing the incidental

taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the IBRP's application and request.

DATES: Comments and information must be received no later than April 14, 2025.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to ITP.hotchkin@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities> without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Cara Hotchkin, Office of Protected Resources, NMFS, (301) 427-8401. An electronic copy of the IBRP's application may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term "take" means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On July 18, 2024, NMFS received application from the IBRP requesting authorization for take of marine mammals incidental to construction activities related to the Interstate Bridge Replacement Project on I-5 between Portland, OR and Vancouver, WA. After the IBRP responded to our questions on October 12, 2024 and January 14, 2025, we determined the application was adequate and complete on January 16, 2025. The requested regulations would be valid for five years, from September 15, 2027 through September 14, 2032. The IBRP plans to conduct necessary work, including pile driving (impact and vibratory) and rotary drilling, to construct replacement bridges for the I-5 roadway over the Columbia River and North Portland Harbor. The proposed action may incidentally expose marine mammals occurring in the vicinity to elevated levels of underwater sound, thereby resulting in incidental take, by Level A and Level B harassment. Therefore, the IBRP requests authorization to incidentally take marine mammals.

Specified Activities

The purpose of the proposed IBR project is to improve I-5 corridor mobility by addressing present and future travel demand and mobility needs in the program area. Relative to the replacement bridges portion of the larger transportation project, the proposed action is intended to achieve the following objectives: improve travel safety and traffic operations on the I-5 river crossing and associated interchanges; and improve the I-5 river crossing's structural integrity (seismic stability). The entire IBR project, including demolition and removal of the existing bridges, is anticipated to take approximately nine years to construct. The IBRP's ITR request is for the first five years. Within the first five years, construction work is expected to take approximately 1,725 non-consecutive days over the course of five years, and involve the installation and/or removal of 1,560 steel pipe piles (24-inch [in] or 48-in diameter) and 1,500 linear feet (ft) of steel sheet piles.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the IBRP's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the IBRP, if appropriate.

Dated: March 7, 2025.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2025-03982 Filed 3-12-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE668

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Hilcorp Alaska, LLC Oil and Gas Activities in Cook Inlet, Alaska

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

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the Hilcorp Alaska, LLC (Hilcorp) for authorization to take small numbers of marine mammals incidental to oil and gas activities in Cook Inlet, Alaska, over the course of five years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of Hilcorp's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on Hilcorp's application and request.

DATES: Comments and information must be received no later than April 14, 2025.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be submitted via email to itp.tyson.moore@noaa.gov. An electronic copy of the application may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas>. In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Reny Tyson Moore, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by

U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. The MMPA states that the term "take" means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On October 30, 2024, NMFS received an application from Hilcorp requesting authorization for take of marine mammals incidental to oil and gas exploration, development, production, and decommissioning activities in Cook Inlet, Alaska. NMFS determined that the application was adequate and complete on February 10, 2024. The requested regulations would be valid for five years, from the date of issuance through December 31, 2029. Hilcorp plans to conduct necessary work, including tugs towing, holding, or positioning a jack-up rig, pile driving, and pipeline replacement/installation activities. The exposure of marine mammals occurring in the vicinity to underwater noise generated by the activities could result in incidental take, by Level A and Level B harassment. Therefore, Hilcorp requests authorization to incidentally take marine mammals.

Specified Activities

Hilcorp plans to continue oil and gas exploration, development, production, and decommissioning activities in Cook Inlet, Alaska, for the reasonably foreseeable future. The work expected to span five years includes up to 54 days of tugs towing, holding, or positioning a jack-up rig in support of production drilling at existing platforms in middle Cook Inlet and Trading Bay; up to 70 days of pile driving in support of production well development at the Tyonek platform in middle Cook Inlet; up to 6 days of tugs towing, holding, or positioning a jack-up rig and up to 18 days of pile driving in support of exploration drilling at two locations in the Middle Ground Shoal Unit in middle Cook Inlet and one location between the Anna and Bruce platforms on the northern border of Trading Bay; and up to 22 days of pipeline replacement/installation, involving either pipe pulling or anchor handling or a combination of both, at up to two locations in middle Cook Inlet and/or Trading Bay. Hilcorp requests take of marine mammals by Level B harassment for twelve marine mammal species (including Cook Inlet beluga whales (*Delphinapterus leucas*)), and take by Level A harassment of nine marine mammal species.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Hilcorp's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by Hilcorp, if appropriate.

Dated: March 7, 2025.

Kimberly Damon-Randall

Director, Office of Protected Resources,
National Marine Fisheries Service.

[FR Doc. 2025-03981 Filed 3-12-25; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE472]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Eareckson Air Station Fuel Pier Repair in Alcan Harbor on Shemya Island, Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed issuance of an incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from the U.S. Army Corps of Engineers (USACE) on behalf of the United States Air Force Pacific Air Forces Regional Support Center (USAF) for an incidental harassment authorization (IHA) that is nearly identical to an IHA previously issued to USAF authorizing the take of marine mammals, by Level A and Level B harassment, incidental to the Eareckson Air Station (EAS) Fuel Pier Repair project in Alcan Harbor on Shemya Island, Alaska. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to incidentally take marine mammals during the Eareckson Fuel Pier Repair project. NMFS is also requesting comments on a possible 1-year renewal IHA that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision. The IHA would be valid for one year from the effective date.

DATES: Comments and information must be received no later than April 14, 2025.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to ITP.Fleming@noaa.gov. Electronic copies of the original application and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record

and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Kate Fleming, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms used above are included in the relevant sections below and can be found in section 3 of the MMPA (16 U.S.C. 1362) and NMFS regulations at 50 CFR 216.103.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an

IHA) with respect to potential impacts on the human environment.

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

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

History of Request

On May 15, 2023, NMFS received an application from USACE on behalf of USAF for an IHA to take marine mammals incidental to construction associated with the EAS Fuel Pier repair in Alcan Harbor on Shemya Island, Alaska. NMFS published a notice of a proposed IHA and request for comments in the **Federal Register** on October 10, 2023 (88 FR 74451). On March 5, 2024, NMFS issued an IHA that was effective from April 1, 2024 through March 31, 2025 (89 FR 17423, March 11, 2024). In-water work associated with the project was expected to be completed between April and October 2024.

On September 23, 2024, USAF informed NMFS that work on the project had experienced significant delays due to piling production delays and weather and would not be completed during the 2024 IHA time period. USAF completed a portion of the construction work that was covered by the 2024 IHA and submitted a monitoring report demonstrating that the required mitigation and monitoring requirements were satisfied, no impacts of a scale or nature not previously analyzed or authorized occurred as a result of the activities conducted, and the IHA holder did not exceed the authorized levels of take under that IHA.

On September 23, 2024, NMFS received a letter from USAF requesting renewal of the 2024 IHA (2024 request) to conduct nearly identical construction activities that were previously analyzed under the 2024 IHA. On May 3, 2024, NMFS published (89 FR 36762) and solicited public comment on its draft updated Technical Guidance for Assessing the Effects of Anthropogenic

Sound on Marine Mammal Hearing Underwater and In-Air Criteria for Onset of Auditory Injury and Temporary Threshold Shifts (Version 3.0) (2024 Technical Guidance), which includes updated thresholds and weighting functions to inform auditory injury (AUD INJ) estimates. The public comment period ended on June 17th, 2024, and the 2024 Technical Guidance was finalized on October 24, 2024. While USAF's planned activity would ordinarily qualify for a renewal of the IHA, NMFS determined that a renewal of the 2024 IHA is not appropriate in this case because application of the updated Guidance indicates that substantial modification of the prescribed shutdown zones and updates to authorized take numbers for certain species is appropriate.

On December 16, 2024, USAF revised their request to indicate that all work completed during the 2024 season would need to be redone, due to shifting sediments and improperly functioning piles. As such, the same work analyzed under the 2024 IHA is planned for the current IHA, across the same number of construction days. This includes the (1) installation of 208 42-inch round steel interlocking pipe piles (2) the installation of 60 30-inch steel template piles and, (3) the removal of 64 30-inch steel template piles, which includes the removal of 4 additional piles that were installed under the 2024 IHA.

Additionally, USAF also requested to reduce the size of the shutdown zones established for low-frequency cetaceans due to practicability concerns associated with excessive fog. Under this proposed IHA, USAF would conduct pile driving activities between the in water work window dates of April 2025 through October 2025. The proposed activities are nearly identical to those analyzed under the 2024 IHA, but the mitigation zones and number of authorized takes have been adjusted to account for the isopleths calculated using the 2024 Technical Guidance and the request to adjust the shutdown zone for low frequency cetaceans. The USAF request was deemed adequate and complete on January 23, 2024. In evaluating the request, and where applicable, NMFS relies on the information previously presented in notices associated with issuance of the 2024 IHA (88 FR 74451, October 31, 2023; 89 FR 17423, March 11, 2024).

Description of the Proposed Activity and Anticipated Impacts

USAF is conducting long-term repairs on the only existing fuel pier at EAS on Shemya Island, Alaska. The 2024 IHA was based on the installation and

removal of sixty 30-inch piles and the installation of 208 42-inch round steel interlocking pipe piles over an estimated 160 days of pile driving and removal (table 1), between April and October, 2024. USAF did not complete most of the work in 2024, and work that was attempted will need to be redone. Between August 23, 2024 and September 19, 2024: (1) six out of sixty 30-inch temporary steel pipe piles were installed, (2) two out of sixty 30-inch temporary steel piles were removed, (3) five out of 208 42-inch round steel interlocking pipe piles were installed, and (4) unplanned, all five 42-inch round steel interlocking pipe piles were removed because they were interlocking improperly. As such, USAF requests that this proposed IHA cover take incidental to the same activity analyzed under the 2024 IHA: (1) installation of 208 42" round steel interlocking pipe piles (2) installation of 60 30-inch steel template pipe piles and (3) removal of 64 30" template pipe piles, which includes the removal of 4 additional piles that were installed under the 2024 IHA, (table 1) across the same number of construction days (n = 160) between April and October 2025.

To support public review and comment on the IHA that NMFS is proposing to issue here, we refer to the documents related to the previously issued IHA and discuss any new or changed information here. These previous documents include the **Federal Register** notice of the issuance of the 2024 IHA for USAF's Fuel Pier Repair project (89 FR 17423, March 11, 2024), and the **Federal Register** notice of the proposed IHA (88 FR 74451, October 31, 2023) and all associated references and documents. The descriptions and analyses contained in those documents remain accurate with the exception of the minor modifications described herein. A detailed description of the proposed vibratory removal and vibratory and impact pile driving and down-the-hole (DTH) activities at the fuel pier repair project is found in these documents. We also refer the reader to USAF's previous application and final monitoring report for the 2024 construction activities, which can be found at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>.

Detailed Description of the Action

A detailed description of the proposed construction activities is found in these previous documents. Excepting the piles that have already been driven, the location, timing, and nature of the activities, including the

types of equipment planned for use, are identical to those described in the previous notices (table 1). Remaining

piles will be installed (and removed, as needed) over the course of 160

construction days between April and October, 2025.

TABLE 1—EAS FUEL PIER PILE INSTALLATION AND REMOVAL SUMMARY

Installation or removal	Number of piles planned under 2024 IHA	Number of piles installed or removed under 2024 IHA	Number of piles remaining	Construction days ³
Installation of 42-inch Interlocking Steel Pipe Piles	208	5	208	122
Removal of 42-inch Interlocking Steel Pipe Piles	0	¹ 5	0	
Installation of 30-inch Steel Pipe Piles—Template	60	6	60	17
Removal of 30-inch Steel Pipe Piles—Template	60	2	² 64	

¹ 42-inch interlocking steel pipe piles were not intended for removal. USAF removed five of these piles to address an issue with their function (i.e., they were not interlocking properly).

²⁴ 30-inch template piles emplaced in 2024 that have not yet been removed are planned for removal in 2025 due to expected shifting. They were left in place to provide reinforcement to the current degraded/unstable structure.

³ USAF estimates 160 construction days in 2025 to account for weather delays and mechanical issues.

Description of Marine Mammals

A detailed description of the species likely to be affected by USAF's Fuel Pier Repair project, including brief introductions to the species and relevant stocks, available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (88 FR 74451, October 21, 2023):

since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. NMFS reviewed the most recent SARs (found on NMFS' website at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>), up-to-date information on relevant Unusual Mortality Events (UMEs; <https://www.fisheries.noaa.gov/national/>

marine-mammal-protection/marine-mammal-unusual-mortality-events), and recent scientific literature and determined that the new information does not change our original analysis of impacts under the 2024 IHA. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (<https://www.fisheries.noaa.gov/find-species>) for generalized species accounts.

TABLE 2—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Order Artiodactyla—Infraorder Cetacea—Mysticeti (baleen whales)						
<i>Family Balaenopteridae:</i>						
Fin whale	<i>Balaenoptera physalus</i>	Northeast Pacific	E, D, Y	UND (UND, UND, 2013) ⁴	UND	0.6
Humpback whale	<i>Megaptera novaeangliae</i>	Western North Pacific	E, D, Y	1,084, (0.088, 1,007, 2006) ..	3.4	5.82
		Mexico-North Pacific	T, D, Y	N/A (N/A, N/A, 2006) ⁵	UND	0.56
		Hawai'i	- , - , N	11,278 (0.56, 7,265, 2020)	127	19.6
Minke whale	<i>Balaenoptera acutorostrata</i>	Alaska	- , - , -	N/A (N/A, N/A, N/A) ⁶	UND	0
Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Physeteridae:</i>						
Sperm whale	<i>Physeter macrocephalus</i>	North Pacific	E, D, Y	UND (UND, UND, 2015) ⁷	UND	3.5
<i>Family Ziphiidae (beaked whales):</i>						
Baird's beaked whale	<i>Berardius bairdii</i>	Alaska	- , - , N	N/A (N/A, N/A, N/A) ⁸	N/A	0
Stejneger's beaked whale	<i>Mesoplodon stejnegeri</i>	Alaska	- , - , N	N/A (N/A, N/A, N/A) ⁸	N/A	0
<i>Family Delphinidae:</i>						
Killer whale	<i>Orcinus orca</i>	ENP Alaska Resident Stock ..	- , - , N	1,920 (N/A, 1,920, 2019)	19	1.3
		ENP Gulf of Alaska, Aleutian Islands, and Bering Sea.	- , - , N	587 (N/A, 587, 2012)	5.9	0.8
<i>Family Phocoenidae (porpoises):</i>						
Dall's porpoise	<i>Phocoenoides dalli</i>	Alaska	- , - , N	UND (UND, UND, 2015) ⁹	UND	37
Harbor porpoise	<i>Phocoena phocoena</i>	Bering Sea	- , - , Y	UNK (UNK, N/A, 2008) ¹⁰	UND	0.4
Order Carnivora—Pinnipedia						
<i>Family Otariidae (eared seals and sea lions):</i>						
Northern fur seal	<i>Callorhinus ursinus</i>	Eastern Pacific	- , D, Y	626,618 (0.2, 530,376, 2019)	11,403	373
Steller sea lion ¹¹	<i>Eumetopias jubatus</i>	Western, U.S.	E, D, Y	49,837 (N/A, 49,837, 2022) ...	299	267
<i>Family Phocidae (earless seals):</i>						

TABLE 2—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Harbor seal	<i>Phoca vitulina</i>	Aleutian Islands	- , - , N	5,588 (N/A, 5,366, 2018)	97	90

¹ Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

² NMFS marine mammal stock assessment reports online at: <https://www.nmfs.noaa.gov/pr/sars>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable (explain if this is the case).

³ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, vessel strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

⁴ The best available abundance estimate for this stock is not considered representative of the entire stock as surveys were limited to a small portion of the stock's range. Based upon this estimate and the N_{min}, the PBR value is likely negatively biased for the entire stock.

⁵ Abundance estimates are based upon data collected more than 8 years ago and therefore current estimates are considered unknown.

⁶ Reliable population estimates are not available for this stock. Please see Friday *et al.* (2013) and Zerbini *et al.* (2006) for additional information on numbers of minke whales in Alaska.

⁷ The most recent abundance estimate is likely unreliable as it covered a small area that may not have included females and juveniles, and did not account for animals missed on the trackline. The calculated PBR is not a reliable index for the stock as it is based upon negatively biased minimum abundance estimate.

⁸ Reliable abundance estimates for this stock are currently unavailable.

⁹ The best available abundance estimate is likely an underestimate for the entire stock because it is based upon a survey that covered only a small portion of the stock's range.

¹⁰ The best available abundance estimate and N_{min} are likely an underestimate for the entire stock because it is based upon a survey that covered only a small portion of the stock's range. PBR for this stock is undetermined due to this estimate being older than 8 years.

¹¹ Nest is best estimate of counts, which have not been corrected for animals at sea during abundance surveys. Estimates provided are for the U.S. only. The overall N_{min} is 73,211 and overall PBR is 439.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine

mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Subsequently, NMFS (2018, 2024) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65-decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the

lower bound from Southall *et al.* (2007) retained. Note that since the issuance of the 2024 IHA, NMFS' 2024 Technical Guidance was finalized and has been incorporated into this analysis. The re-named marine mammal hearing groups that have been incorporated into this proposed 2025 IHA are presented in table 3. The references, analysis, and methodology used in the development of the thresholds are described in the 2024 Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

TABLE 3—MARINE MAMMAL HEARING GROUPS
[NMFS 2024]

Hearing group	Generalized hearing range*
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 36 kHz.
High-frequency (HF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
Very High-frequency (VHF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>)	200 Hz to 165 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	40 Hz to 90 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 68 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges may not be as broad. Generalized hearing range chosen based on ~65 dB threshold from composite audiogram, previous analysis in NMFS 2018, and/or data from Southall *et al.* 2007; Southall *et al.* 2019. Additionally, animals are able to detect very loud sounds above and below that "generalized" hearing range.

For more detail concerning these groups and associated frequency ranges, please see NMFS (2024) for a review of available information.

Potential Effects on Marine Mammals and Their Habitat

The effects of underwater noise from USAF's construction activities have the

potential to result in the harassment of marine mammals in the vicinity of the project area. The notice of proposed 2024 IHA (88 FR 74451, October 31, 2024) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from USAF's construction on marine mammals and

their habitat. That information and analysis is not repeated here; please refer to the notice of proposed 2024 IHA (88 FR 74451, October 31, 2024).

Estimated Take

A detailed description of the methods and inputs used to estimate authorized take is found in these previous

documents. The methods of estimating take by Level B harassment for the proposed 2025 IHA are identical to those used in the 2024 IHA. The source levels and days of operation remain unchanged from the previously issued IHA. Data reported in the marine mammal monitoring report suggest a greater occurrence of harbor seal than estimated for the 2024 IHA. To account for the revised isopleths, mitigation zones, and marine mammal occurrence information, take by Level A and Level B harassment has been revised for six species.

Level A Harassment—NMFS' 2024 Technical Guidance (NMFS, 2024) identifies dual criteria to assess auditory

injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Between the issuance of the 2024 IHA and this proposed 2025 IHA, NMFS' 2024 Technical Guidance was updated and has been incorporated into this analysis. USAF's activity includes the use of impulsive (impact pile driving and DTH) and non-impulsive (continuous pile driving and DTH) sources. The updated thresholds, which identify the Onset of AUD INJ based on the 2024 Technical Guidance, have been incorporated in this proposed IHA are presented in table 4. The references,

analysis, and methodology used in the development of the thresholds are described in the 2024 Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>. NMFS defines AUD INJ as "damage to the inner ear that can result in destruction of tissue . . . which may or may not result in PTS" (NMFS 2024). NMFS defined PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2024).

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF AUDITORY INJURY BASED ON 2024 TECHNICAL GUIDANCE

Hearing group	AUD INJ onset thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{p,0-pk,flat}$: 222 dB; $L_{E,p,LF,24h}$: 183 dB	Cell 2: $L_{E,p,LF,24h}$: 197 dB.
High-Frequency (HF) Cetaceans	Cell 3: $L_{p,0-pk,flat}$: 230 dB; $L_{E,p,LF,24h}$: 193 dB	Cell 4: $L_{E,p,HF,24h}$: 201 dB.
Very High-Frequency (VHF) Cetaceans	Cell 5: $L_{p,0-pk,flat}$: 202 dB; $L_{E,p,VHF,24h}$: 159 dB	Cell 6: $L_{E,p,VHF,24h}$: 181 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{p,0-pk,flat}$: 223 dB; $L_{E,p,PW,24h}$: 183 dB	Cell 8: $L_{E,p,PW,24h}$: 195 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{p,0-pk,flat}$: 230 dB; $L_{E,p,OW,24h}$: 185 dB	Cell 10: $L_{E,p,OW,24h}$: 199 dB.

*Dual metric thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating AUD INJ onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds are recommended for consideration.

Note: Peak sound pressure level ($L_{p,0-pk}$) has a reference value of 1 micropascal (μPa), and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of $1 \mu Pa^2s$. In this table, thresholds are abbreviated to be more reflective of International Organization for Standardization standards (ISO 2017). The subscript "flat" is being included to indicate peak sound pressure are flat weighted or unweighted within the generalized hearing range of marine mammals [*i.e.*, 7 Hertz (Hz) to 165 kHz]. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, HF, and VHF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these thresholds will be exceeded.

Ensonified Area

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

The sound field in the project area is the existing background noise plus

additional construction noise from the planned project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.*, pile driving and removal).

The project includes vibratory pile installation and removal, impact pile driving, and DTH. Source levels for

these activities are based on reviews of measurements of the same or similar types and dimensions of piles available in the literature. Source levels for each pile size and activity each year are presented in table 5. Source levels for vibratory installation and removal of piles of the same diameter are assumed to be the same.

TABLE 5—ESTIMATES OF MEAN UNDERWATER SOUND LEVELS * GENERATED DURING VIBRATORY, IMPACT, AND DTH PILE INSTALLATION AND VIBRATORY PILE REMOVAL AT 10 m

Pile driving method	Pile type	Pile size	dB RMS	dB peak	dB SEL	Reference
Vibratory Installation and Removal.	Temporary steel pipe pile	30	166	N/A	N/A	NMFS 2023 Analysis.
	Round interlocking steel pipe pile.	42	168.2	N/A	N/A	Port of Anchorage Test Pile Program (Table 16 in Austen <i>et al.</i> , 2016).
Impact Installation	Temporary steel pipe pile	30	191	212	171	Caltrans, 2020.
	Round interlocking steel pipe pile.	42	192	213	179	Caltrans, 2020.
Down-the-Hole Installation	Temporary steel pipe pile	30	174	164	194	Reyff & Heyvaert 2019, Reyff, 2020, Denes <i>et al.</i> , 2019.
	Round interlocking steel pipe pile.	42	174	164	194	Reyff & Heyvaert 2019, Reyff, 2020, Denes <i>et al.</i> , 2019.

Note: dB peak = peak sound level; rms = root mean square; SEL = sound exposure level.

* All sound levels are referenced at 10 m.

TL is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is: $TL = B \times \text{Log}_{10} (R_1/R_2)$,

Where:

TL = transmission loss in dB

B = transmission loss coefficient

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement

Absent site-specific acoustical monitoring with differing measured TL , a practical spreading value of 15 is used as the TL coefficient in the above formula. Site-specific TL data for Alcan Harbor are not available; therefore, the default coefficient of 15 is used to determine the distances to the Level A harassment and Level B harassment thresholds.

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need

to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the 2024 Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as pile driving, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur AUD INJ, which includes, but is not limited to, PTS. Inputs used in the optional User Spreadsheet tool are identical to those analyzed under the 2024 IHA. Table 6

provides the calculated Level A harassment isopleths that are based the 2024 Technical Guidance that are incorporated into this analysis compared with the calculated Level A harassment isopleths that were based on the 2018 Technical Guidance and presented in the proposed FRN for the 2024 IHA (88 FR 74451, October 31, 2023)

There were no substantive changes to Level A harassment isopleths for low frequency cetaceans (they increased slightly during vibratory activities and decreased slightly during impact pile driving). However, for high-frequency cetaceans (categorized as mid-frequency cetaceans prior to application of the 2024 Technical Guidance), phocids, and otariids, Level A harassment isopleths increased substantially during all pile driving activities. Additionally, for very high frequency cetaceans (categorized as high frequency cetaceans prior to application of the 2024 Technical Guidance), Level A harassment isopleths decreased slightly during vibratory activities and substantially during impact pile driving.

TABLE 6—LEVEL A HARASSMENT AND LEVEL B HARASSMENT ISOPLETHS AND ASSOCIATED AREAS FROM VIBRATORY AND IMPACT PILE DRIVING, VIBRATORY REMOVAL, AND DTH DRILLING USING THE 2024 TECHNICAL GUIDANCE
[Level A harassment isopleths based on 2018 guidance, used in the 2024 IHA analysis, are presented in parentheses]

Pile size/type	Level A harassment isopleths (m)					Level B harassment isopleth (m)
	LF	HF ¹	VHF ²	PW	OW	
Vibratory						
42-inch Interlocking Steel	44.2 (32.7)	17.0 (2.9)	36.1 (48.4)	56.9 (19.9)	19.2 (1.4)	16,343
30-inch Steel Pipe	19.9 (14.7)	7.6 (1.3)	16.2 (21.8)	25.6 (8.9)	8.6 (0.6)	11,659
DTH						
42-inch Interlocking Steel	2,540 (2,549.4)	324.1 (90.7)	3,930.8 (3,036.7)	2,256.5 (1,364.3)	841.1 (99.3)	39,811
30-inch Steel Pipe	2,249.4 (2,257.6)	287.0 (80.3)	3,480.9 (2,689.2)	1,998.2 (1,208.2)	744.9 (88)	39,811
Impact						
42-inch Interlocking Steel	2,007.8 (2,015.1)	256.2 (71.7)	3,107.0 (2,400.3)	1,783.6 (1,078.4)	664.9 (78.5)	1,359
30-inch Steel Pipe	930.4 (933.8)	118.7 (33.2)	1,439.9 (1,112.3)	826.6 (499.7)	308.1 (36.4)	1,166

¹ Species that were considered Mid-Frequency cetaceans under the NMFS 2018 Technical Guidance are now considered High Frequency cetaceans.

² Species that were considered High-Frequency cetaceans under the NMFS 2018 Technical Guidance are now considered Very High Frequency cetaceans.

Except for harbor seal, the same occurrence assumptions that were used to estimate take for the 2024 IHA and described in the associated proposed FRN (88 FR 74451, October 31, 2024) are applied here, as is the same duration information. In cases where site specific marine mammal monitoring data are available, marine mammal occurrence assumptions and pile driving durations are based on hourly estimates. In cases where no marine mammal observations were reported, marine mammal occurrence assumptions and pile

driving durations are based on daily estimates.

During monitoring completed in 2024, 29 harbor seal and six Steller sea lion were observed in the project area (at a rate of 0.45 and 0.09 groups of one of each species per hour, respectively). A total of 6 harbor seal and 2 Steller sea lion were reported within the Level B harassment zone while construction activities were underway. This suggests a revision to harbor seal occurrence estimates is appropriate; 0.45 harbor seals per hour were reported during 2024 activities rather than the

previously estimated 0.14 harbor seal per hour used in the analysis for the 2024 IHA.

The equation used to estimate take by Level B harassment for all species is:

Exposure Estimate = marine mammal occurrence × duration of pile driving

During all vibratory pile driving activities for all hearing groups, and during all other activities for high frequency cetaceans (categorized as mid-frequency cetaceans in the 2024 IHA and prior to the application of the

2024 Technical Guidance) USAF proposes to implement shutdown zones equivalent to the estimated Level A harassment isopleths. For all other hearing groups, during DTH and impact pile driving, shutdown zones are established at the distance that these species are assumed to be able to be reliably observed under typical conditions at the location (1,000 m for LF, 500 m for VHF, previously categorized as HF in the 2024 IHA and prior to the application of the 2024 Technical Guidance; and 400 m for pinnipeds).

To calculate estimated take by Level A harassment in cases where the Level A harassment isopleth is larger than the Level B harassment isopleth, the same equation to estimate take by Level B harassment is applied. Exposure estimates for those activities are attributed to take by Level A harassment.

To calculate estimated take by Level A harassment in cases where the Level A harassment isopleth is larger than the planned shutdown zone, but smaller than the Level B harassment isopleth, we proportionally compared, by hearing group, the portion of the largest Level A harassment area (km^2) that exceeds the planned shutdown zone area (km^2) to the area (km^2) (referred to as the Level A harassment impact area) of the largest Level B harassment isopleth across that pile type (typically from vibratory pile driving). This ratio was then multiplied by the total estimated marine mammal exposures:

Take by Level A harassment = Level A harassment impact area (km^2)/Level B harassment area (km^2) $\times$ total marine mammal exposures.

Monitoring data collected during work at the project site indicate that all Steller sea lion were observed within 200 m of the project site, and harbor seal were observed between 50 m and 500 m in 2021 and 85 and 600 m in 2024. As such, for harbor seal and Steller sea lion, NMFS determined that the methods above could underestimate potential take by Level A harassment. NMFS accordingly estimated additional takes by Level A harassment by determining the ratio of each species that were observed beyond the proposed shutdown zone compared to the number of individuals that were observed closer to construction activities during the EAS fuel pier emergency repair completed in 2021 and 2024, and multiplying this ratio by the total exposures.

Note that in the 2024 IHA, an additional approach to estimate take by Level A harassment was employed to account for cases in which a shutdown

zone was established at the Level A harassment isopleth, but a portion of the shutdown zone was not expected to be reliably observable. Since the proposed shutdown zones for low frequency cetaceans have been reduced to address practicability concerns, this scenario is no longer applicable and as such, that approach is not summarized here or applied to take estimates for any hearing group.

Fin Whale

One group of eight fin whale is predicted every 2 construction months (60 days). The duration of the construction is 160 days (2.65 is the basic 60 day period that corresponds to 2 construction months). This results in 21 takes by Level B harassment of fin whale ($8 \text{ fin whale} \times 2.65 \text{ 2-month periods}$).

During DTH activities, the Level A harassment isopleth is larger than the shutdown zone, but smaller than the Level B harassment isopleth. Estimated take by Level A harassment for these activities results in 0.084 based on ($5.8 \text{ km}^2/1,285.9 \text{ km}^2$) $\times$ 21 fin whale exposures = 0.084 takes by Level A harassment. During impact pile driving of 42-inch piles, the Level A harassment isopleth is larger than the Level B harassment isopleth. Estimated take by Level A harassment for these activities results in 6.88 based on $8 \text{ fin whale} \times 0.86 \text{ months of 42-inch impact pile driving}$.

Takes by Level B harassment were modified to deduct the proposed amount of take by Level A harassment (*i.e.*, $21 - 6.88 - 0.084 = 14$). Therefore, NMFS proposes to authorize 7 takes by Level A harassment and 14 takes by Level B harassment for fin whale, for a total of 21 takes.

Humpback Whale

A total of 0.07 groups of two humpback whale are predicted every construction hour. The duration of the construction hours is 1,101. This results in 154 takes by Level B harassment of humpback whale ($0.07 \text{ groups} \times 2 \text{ humpback whale} \times 1,101 \text{ hours}$).

During DTH activities, the Level A harassment isopleth is larger than the shutdown zone, but smaller than the Level B harassment isopleth. Estimated take by Level A harassment for these activities results in 0.616 based on ($5.8 \text{ km}^2/1,285.9 \text{ km}^2$) $\times$ 154 exposures = 0.616 takes by Level A harassment. During impact pile driving of 42-inch piles, the Level A harassment isopleth is larger than the Level B harassment isopleth. Estimated take by Level A harassment for these activities results in

21.84 based on $0.07 \text{ humpback whales} \times 2 \text{ groups} \times 156 \text{ hours}$.

Takes by Level B harassment were modified to deduct the proposed amount of take by Level A harassment (*i.e.*, $154 - 21.84 - 0.616 = 131$). Therefore, NMFS proposes to authorize 23 takes by Level A harassment for humpback whale and 131 takes by Level B harassment for humpback whale, for a total of 22 takes.

Minke Whale

One group of three minke whale is predicted every 2 construction months (60 days). The duration of the construction is 160 days (2.65 is the basic 60 day period that corresponds to 2 construction months). This results in eight takes by Level B harassment of minke whale ($3 \text{ minke whale} \times 2.65 \text{ 2-month periods}$).

During DTH activities, the Level A harassment isopleth is larger than the shutdown zone, but smaller than the Level B harassment isopleth. Estimated take by Level A harassment for these activities results in 0.032 based on ($5.8 \text{ km}^2/1,285.9 \text{ km}^2$) $\times$ 8 minke whale exposures = 0.032 takes by Level A harassment. During impact pile driving of 42-inch piles, the Level A harassment zone is larger than the Level B harassment zone. Estimated take by Level A harassment for these activities results in 2.58 minke whale based on $3 \text{ minke whale} \times 0.86 \text{ months of 42-inch impact pile driving}$. Takes by Level B harassment were modified to deduct the proposed amount of take by Level A harassment (*i.e.*, $8 - 2.58 - 0.032 = 5$). Therefore, NMFS proposes to authorize three takes by Level A harassment and five takes by Level B harassment for minke whale, for a total of eight takes.

Sperm Whale

Two groups of four sperm whale is predicted every 1 construction month. The duration of the construction is 5 months. This results in 40 takes by Level B harassment of sperm whale ($2 \text{ groups} \times 4 \text{ sperm whale} \times 5 \text{ construction months}$).

Takes by Level A harassment for sperm whales are not anticipated nor are they proposed for authorization.

Baird's Beaked Whale

One group of 10 Baird's beaked whales is predicted across the project, which is based on this species being shy and preferring deep waters and as such the applicant predicted they would be very rare in the project area. Therefore, NMFS proposes to authorize 10 takes of Baird's beaked whale by Level B harassment.

Takes by Level A harassment for Baird's beaked whale were not anticipated nor are they proposed for authorization.

Stejneger's Beaked Whale

One group of eight Stejneger's beaked whales is predicted across the project, which is based on this species being shy and preferring deep waters and as such the applicant predicted they would be very rare in the project area. Therefore, NMFS proposes to authorize eight takes of Stejneger's beaked whale by Level B harassment.

Takes by Level A harassment for Stejneger's beaked whale were not anticipated nor are they proposed for authorization.

Killer Whale

A total of 0.02 groups of 8 killer whale is predicted every construction hour. The duration of the construction hours is 1,101. This results in 176 takes by Level B harassment of killer whale ($0.02 \text{ groups} \times 8 \text{ killer whale} \times 1,101 \text{ hours}$).

Takes by Level A harassment for killer whale were not anticipated nor are they proposed for authorization.

Dall's Porpoise

One group of 15 Dall's porpoise is predicted every 2 construction months (60 days). The duration of the construction is 160 days ($2.65 \times \text{the basic 60 day period that corresponds to 2 construction months}$). This results in 15 takes by Level B harassment of Dall's porpoise ($15 \text{ Dall's porpoise} \times 2.65 \text{ 2-month periods} = 39 \text{ takes by Level B harassment}$).

During DTH activities, the Level A harassment isopleth is larger than the shutdown zone, but smaller than the Level B harassment isopleth. Estimated take by Level A harassment for these activities results in 0.48 takes based on ($15.62 \text{ km}^2 / 1,285.9 \text{ km}^2$) $\times 40 \text{ exposures} = 0.48$. During all impact pile driving, the Level A harassment isopleth is larger than the Level B harassment isopleth. Estimated take by Level A harassment for these activities result in 18.4 based on $1 \text{ group} \times 15 \text{ Dall's porpoise} \times 0.86 \text{ months of 42-inch impact pile driving and } 1 \text{ group} \times 15 \text{ Dall's porpoise} \times 0.37 \text{ months of 30-inch impact pile driving}$ ($12.9 + 5.5 = 18.4 \text{ takes by Level A harassment}$).

Takes by Level B harassment were modified to deduct the proposed amount of take by Level A harassment (*i.e.*, $39 - 18.4 - 0.48 = 20$). Therefore, NMFS proposes to authorize 19 takes by Level A harassment and 20 takes by Level B harassment for Dall's porpoise, for a total of 39 takes.

Harbor Porpoise

One group of three harbor porpoise is predicted every 1 construction month. The duration of the construction is 5 months. This results in 15 takes by Level B harassment of harbor porpoise ($1 \text{ group} \times 3 \text{ harbor porpoise} \times 5 \text{ months}$).

During DTH activities, the Level A harassment isopleth is larger than the shutdown zone, but smaller than the Level B harassment isopleth. Estimated take by level A harassment during these activities results in 0.18 based on ($15.6 \text{ km}^2 / 1,285.9 \text{ km}^2$) $\times 15 \text{ harbor porpoise exposures}$. During all impact pile driving activities, the Level A harassment isopleth is larger than the Level B harassment isopleth. This results in 8.8 takes by Level A harassment based on $1 \text{ group} \times 3 \text{ harbor porpoise} \times 0.17 \text{ months of 42-inch impact pile driving and } 1 \text{ group} \times 3 \text{ harbor porpoise} \times 0.73 \text{ months of 30-inch impact pile driving}$ (*i.e.*, $5.1 + 3.73 = 8.83$).

Takes by Level B harassment were modified to deduct the proposed amount of take by Level A harassment (*i.e.*, $15 - 8.83 - 0.18 = 6$). Therefore, NMFS proposes to authorize 6 takes by Level A harassment and 9 takes by Level B harassment for harbor porpoise, for a total of 15 takes.

Northern Fur Seal

To account for the unlikely but small possibility that northern fur seals could occur in the project area NMFS estimates that one group of one northern fur seal could occur in the project area each construction month either in the Level B or Level A harassment isopleth. As such, NMFS proposes to authorize a maximum total of five takes of northern fur seal by either Level B or Level A harassment.

Steller Sea Lion

A total of 0.09 groups of one Steller sea lion is predicted every construction hour. The duration of the construction hours is 1,101. This results in 99 takes by Level B harassment of Steller sea lion ($0.09 \text{ Steller sea lion} \times 1 \text{ group} \times 1,101 \text{ hours} = 99 \text{ takes by Level B harassment}$).

During DTH activities, the Level A harassment isopleth is larger than the shutdown zone, but smaller than the Level B harassment isopleth. Estimated take by Level A harassment for these activities results in 0.0007 based on ($0.91 \text{ km}^2 / 1,285.9 \text{ km}^2$) $\times 154 \text{ exposures}$.

Monitoring data collected during work completed at the project site in 2021 and 2024 indicate that Steller sea lion occasionally occur within the

project area, within 200 m from shore; on 6 days in 2021, 7 Steller sea lion were observed between 25 m and 175 m from the project site. On 3 days in 2024, 6 Steller sea lion were observed between 100 and 200 m of the project site. Because Steller sea lion typically inhabit areas closer to shore rather than distances represented by the largest level B harassment isopleth (39,811 m), NMFS determined that the method above could underestimate potential take by Level A harassment. NMFS accordingly estimated additional takes by Level A harassment by determining the ratio of Steller sea lion that were observed beyond the proposed shutdown zone isopleth compared to the Steller sea lion that were observed closer to construction activities during the EAS fuel pier emergency repair that was completed in 2021 and EAS fuel pier repair activities completed in 2024. However, all Steller sea lion reported by PSOs during that project were reported within the established shutdown zone ($n = 13$). To be conservative, NMFS assumes that a small proportion (10 percent) of Steller sea lion predicted to occur within the project area during construction could occur outside of the shutdown zone. As such, NMFS predicts that 10 Steller sea lion ($99 \text{ total exposures} \times 0.1 = 9.9 \text{ takes by Level A harassment}$).

Takes by Level B harassment were modified to deduct the proposed amount of take by Level A harassment (*i.e.*, $99 - 10 = 89 \text{ takes by Level B harassment}$). Therefore, NMFS proposes to authorize 10 takes by Level A harassment and 89 takes by Level B harassment for Steller sea lion, for a total of 154 takes.

Harbor Seal

A total of 0.45 groups of one harbor seal is predicted every construction hour. This is increased from the predicted 0.14 groups of one harbor seal every construction hour used in the 2024 IHA due to application of the most recent monitoring data. The duration of the construction hours is 1,101. This results in 495 takes by Level B harassment of harbor seal based on $0.45 \text{ harbor seal} \times 1 \text{ group} \times 1,101 \text{ hours}$.

During DTH activities, the Level A harassment isopleth is larger than the shutdown zone, but smaller than the Level B harassment isopleth. Estimated take by Level A harassment for these activities results in 2.0 based on ($4.8 \text{ km}^2 / 1,285.9 \text{ km}^2$) $\times 495 \text{ exposures}$.

Because harbor seals typically inhabit areas closer to shore rather than distances represented by the largest Level B harassment zone (39,811 m), NMFS determined that the method

above could underestimate potential take by Level A harassment. NMFS accordingly estimated additional takes by Level A harassment by determining the ratio of harbor seals that were observed beyond the proposed shutdown zone isopleth compared to the harbor seals that were observed closer to construction activities during the EAS fuel pier emergency repair that was completed in 2021 and EAS fuel pier repair activities completed in 2024 (*i.e.*, $14/67 = 0.21$ harbor seals). We then

multiplied this ratio by the total number of estimated harbor seal exposures to determine take by Level A harassment (*i.e.*, $0.21 \times 495 \text{ exposures} = 104$) for a total of 146 takes by Level A harassment ($2.0 + 104 = 106$).

Additionally, during impact pile driving of 42-inch piles, the Level A harassment isopleth is larger than the Level B harassment isopleth. Estimated take by Level A harassment during these activities results in 70.2 based on $0.45 \text{ harbor seal} \times 1 \text{ group} \times 156 \text{ hours}$.

Takes by Level B harassment were modified to deduct the proposed amount of take by Level A harassment (*i.e.*, $495 - 106 - 70 = 319$ takes by Level B harassment). Therefore, NMFS proposes to authorize 176 takes by Level A harassment and 319 takes by Level B harassment for harbor seal, for a total of 495 takes. See table 7 for all proposed take numbers, by species, and the respective amount of the population that take represents.

TABLE 7—PROPOSED TAKE BY STOCK AND HARASSMENT TYPE AND AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock	Proposed authorized take		Proposed take as a percentage of stock abundance
		Level B harassment	Level A harassment	
Fin whale	Northeast Pacific	14	7	<1
Humpback whale	Western North Pacific	3	1	<1
	Mexico—North Pacific	10	2	1.3
	Hawai'i	118	20	<1
Minke whale	Alaska	5	3	<1
Sperm whale	North Pacific	40	0	16.2
Baird's beaked whale	Alaska	10	0	(*)
Stejneger's beaked whale	Alaska	8	0	(*)
Killer whale	ENP Alaska Resident	176	0	9.1
	ENP Gulf of Alaska, Aleutian Islands, and Bering Sea			30
Dall's porpoise	Alaska	21	19	<1
Harbor porpoise	Bering Sea	9	6	<1
Northern fur seal	Eastern Pacific	5		<1
Steller sea lion	Western, U.S.	89	10	<1
Harbor seal	Aleutian Islands	319	176	9.0

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring, and reporting measures are nearly identical to those included in the **Federal Register** notice announcing the final 2024 IHA (89 FR 17423, May 15, 2024), and the discussion of the least practicable adverse impact included in that document remains accurate. The only change is to the size of the shutdown zones, which have been revised in accordance with the updated Level A harassment isopleths calculated using the 2024 Technical Guidance. Additionally, shutdown zones for low-frequency cetaceans are decreased to 1,000 m from 2,100–2,600 m during impact and DTH activities to address issues with observability. During 2024 activities, USAF reported that PSO's were unable to reliably observe for LF cetaceans at the Level A harassment isopleth due to excessively foggy conditions. The measures proposed for inclusion in this authorization are found below.

Establishment of Shutdown Zone—

For all pile driving/removal and DTH activities, USAF would implement shutdowns within designated zones. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones vary based on the activity type and marine mammal hearing group (table 8). In most cases, the shutdown zones are based on the estimated Level A harassment isopleth distances for each hearing group. However, in cases where it would be challenging to detect marine mammals at the Level A harassment isopleth, smaller shutdown zones have been proposed (table 8). Additionally, per the 2024 IHA, the USAF would implement a minimum shutdown zone of 25 m during all pile driving and removal activities and DTH.

Construction supervisors and crews, PSOs, and relevant USAF staff must avoid direct physical interaction with marine mammals during construction

activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction. If an activity is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone indicated in table 8 or 15 minutes have passed for delphinids or pinnipeds or 30 minutes for all other species without re-detection of the animal.

Construction activities must be halted upon observation of a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met entering or within the harassment zone.

TABLE 8—PROPOSED SHUTDOWN ZONES

Activity	Pile diameter	Shutdown zones				
		LF	HF	VHF	PW	OW
Vibratory Installation and Removal	42-in	50	50	50	60	50
	30-in	25	25	25	30	25
DTH	42-in	1,000	350	500	400	400
	30-in		290			
Impact	42-in		260			
	30-in		120			

Protected Species Observers—The number and placement of PSOs during all construction activities (described in the Visual Marine Mammal Observation section) would ensure that the entire shutdown zone is visible. USAF would employ at least two PSOs for all pile driving and DTH activities.

Monitoring for Level B Harassment—PSOs would monitor the shutdown zones and beyond to the extent that PSOs can see. Monitoring beyond the shutdown zones enables observers to be aware of and communicate the presence of marine mammals in the project areas outside the shutdown zones and thus prepare for a potential cessation of activity should the animal enter the shutdown zone. If a marine mammal enters the Level B harassment zone, PSOs will document the marine mammal's presence and behavior.

Pre and Post-Activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs will observe the shutdown, Level A harassment, and Level B harassment for a period of 30 minutes. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones are clear of marine mammals. If the shutdown zone is obscured by fog or poor lighting conditions, in-water construction activity will not be initiated until the entire shutdown zone is visible. Pile driving may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals. If a marine mammal is observed entering or within shutdown zones, pile driving activity must be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed for delphinids or pinnipeds or 30 minutes have passed for all other species without re-detection of the

animal. If a marine mammal for which Level B harassment take is authorized is present in the Level B harassment zone, activities would begin and Level B harassment take would be recorded.

Soft Start—The use of soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors would be required to provide an initial set of three strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period. This procedure would be conducted a total of three times before impact pile driving begins. Soft start would be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving and removal activities.

Visual Marine Mammal Observation—Monitoring must be conducted by qualified marine mammal observers (MMOs), who are trained biologists, with minimum qualifications described in the **Federal Register** notice of the issuance of the 2024 IHA (89 FR 17423, March 11, 2024). In order to effectively monitor the pile driving monitoring zones, two trained PSOs must be positioned at the best practical vantage point(s) as described in the **Federal Register** notice of the issuance of the 2024 IHA. PSOs shall record specific information on the sighting forms as described in the **Federal Register** notice of the issuance of the 2024 IHA. At the conclusion of the in-water construction work, USAF will provide NMFS with a monitoring report that includes information described in the 2024 IHA **Federal Register** Notice.

Preliminary Determinations

USAF proposes to conduct activities nearly identical to those covered in the previous 2024 IHA. We have revised the Level A harassment and mitigation zones to incorporate and address the

2024 Technical Guidance, which results in different Level A harassment isopleths.

When issuing the 2024 IHA, NMFS found the EAS Fuel Pier repair project, in its entirety, would have a negligible impact to species or stocks' rates of recruitment and survival and the amount of taking would be small relative to the population size of such species or stock (less than 3 percent for all stocks except sperm whale, killer whale, and harbor seal, which are less than 30 percent). As described above, the total number of takes proposed for authorization for each stock are the same as the takes authorized in the 2024. In cases where take by Level A harassment has increased, it has only increased a small amount (proposed take by Level A harassment has increased by 4 for fin whale, by 6 for Dall's porpoise, by 1 for harbor porpoise, and by 21 by harbor seal. While no take by Level A harassment was authorized under the 2024 IHA for Steller sea lion and northern fur seal, only a small amount is proposed for authorization through this IHA. The anticipated impacts from the project are similar to those previously analyzed. The proposed IHA includes the same monitoring, and reporting measures as the 2024 IHA and the shutdown zones have been revised to address the new Level A harassment isopleths calculated from the 2024 technical guidance. In conclusion, there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has preliminarily determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the proposed authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the proposed authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) USAF's activities will not have an unmitigable adverse impact

on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and (5) appropriate monitoring and reporting requirements are included.

Endangered Species Act (ESA)

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

On March 1, 2024, NMFS Alaska Regional Office completed consultation with NMFS Office of Protected Resources (OPR) for the 2024 EAS Fuel Pier Repair project and issued a Biological Opinion, which concluded that the take NMFS proposed to authorize through IHAs would not jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify any designated critical habitat.

NMFS is proposing to authorize take of western Distinct Population Segment (DPS) Steller sea lion, fin whale (northeast Pacific), humpback whale (Mexico-North Pacific and western North Pacific), and sperm whale (North Pacific) which are listed under the ESA. The In the March 1, 2024 Biological Opinion, reinitiation clause (3), states that formal consultation should be reinitiated if “the agency action is subsequently modified in a manner that causes an effect on the listed species or critical habitat not considered in this biological opinion.” Given the additional take by Level B harassment of humpback whale (Western N Pacific DPS) and Level A harassment of Western DPS Steller sea lion and fin whale that NMFS OPR proposes to authorize, as described herein, NMFS has reinitiated consultation internally on the issuance of this proposed IHA under section 101(a)(5)(D) of the MMPA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to USAF for conducting the EAS Fuel Pier Repair in Alcan Harbor on Shemya Island, Alaska between April

through October 2024, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>.

Request for Public Comments

We request comment on our analyses (included in both this document and the referenced documents supporting the 2024 IHA), the proposed authorization, and any other aspect of this notice of proposed IHA for the Eareckson Air Station Fuel Pier Repair project. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Description of the Proposed Activity and Anticipated Impacts section of this notice is planned or (2) the activities as described in the Description of the Proposed Activity and Anticipated Impacts section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the Description of the Proposed Activity and Anticipated Impacts section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA);
- The request for renewal must include the following: (1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take); and (2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature

not previously analyzed or authorized; and

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: March 7, 2025.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2025–03953 Filed 3–12–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE597]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the U.S. Army Corps of Engineers Unalaska (Dutch Harbor) Channel Deepening Project

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has received a request from the United States Army Corps of Engineers (USACE) for the re-issuance of a previously issued incidental harassment authorization (IHA) with the only change being effective dates. The initial IHA authorized take of four species of marine mammals, by Level A and Level B harassment, incidental to construction associated with the Unalaska Channels Deepening Project in Iliuliuk Bay, Alaska. The project has been delayed and none of the work covered in the initial IHA has been conducted. The scope of the activities and anticipated effects remain the same, authorized take numbers are not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. NMFS is, therefore, issuing a second identical IHA to cover the incidental take analyzed and authorized in the initial IHA.

DATES: This IHA is effective from March 15, 2025 through March 14, 2026.

ADDRESSES: An electronic copy of the final 2024 IHA previously issued to USACE, USACE's application, and the

Federal Register notices proposing and issuing the initial IHA may be obtained by visiting <https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-army-corps-engineers-unalaska-dutch-harbor-channel>. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Cara Hotchkin, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On November 24, 2023, NMFS published final notification of our issuance of an IHA authorizing take of marine mammals incidental to the USACE Unalaska (Dutch Harbor) Channel Deepening Project (88 FR 82326). The effective dates of that IHA were January 1, 2024 through December 31, 2024. On December 20, 2024, USACE submitted a request that we reissue an identical IHA that would be effective from January 1, 2025 through December 31, 2025, in order to conduct the construction work that was analyzed and authorized through the previously issued IHA. In the request they described that the project had been delayed. None of the work identified in the initial IHA (*e.g.*, dredging and confined underwater blasting) has occurred. Therefore, re-issuance of the IHA is appropriate.

Summary of Specified Activity and Anticipated Impacts

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed and authorized through the previously issued IHA.

The USACE plans to deepen the entrance channel of Iliuliuk Bay by means of dredging and (if necessary) confined blasting of a 42-foot (ft) (12.8 meter (m)) deep “bar” which currently restricts access to the port of Dutch Harbor, Alaska. Dutch Harbor is the only deep draft, year-round ice-free port along the 1,200-mile (1,931 km) Aleutian Island chain, providing vital services to vessels operating in both the North Pacific and the Bering Sea, and the depth of the bar currently restricts access for large vessels that may need to enter the port, particularly during extreme weather. The purpose of the project is to increase navigational safety and improve economic efficiencies into and out of Dutch Harbor via Iliuliuk Bay. The location, timing, and nature of the activities, including the types of equipment planned for use, are within scope of those described in the initial IHA. The mitigation and monitoring are also as prescribed in the initial IHA.

Species that are expected to be taken by the planned activity include humpback whale (*Megaptera novaeangliae*), harbor porpoise (*Phocoena phocoena*), Steller sea lion (*Eumetopias jubatus*), and harbor seal (*Phoca vitulina*). A description of the methods and inputs used to estimate take anticipated to occur and, ultimately, the take that was authorized

is found in the previous documents referenced above. The data inputs and methods of estimating take are identical to those used in the initial IHA. NMFS has reviewed recent stock assessment reports, information on relevant unusual mortality events, and recent scientific literature, and determined that our original analysis of impacts and take estimate under the initial IHA remain valid.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial 2024 IHA for USACE’s construction work (88 FR 82326), USACE’s application, the **Federal Register** notice of the proposed IHA (88 FR 21630), and all associated references and documents.

Determinations

USACE will conduct activities as analyzed in the initial 2024 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet the negligible impact and small numbers standards and authorized under the initial IHA and no new information has emerged that would change those findings. The re-issued 2025 IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) USACE’s activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

National Environmental Policy Act

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified

any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS determined that the issuance of the initial IHA qualified to be categorically excluded from further National Environmental Policy Act review. NMFS has determined that the application of this categorical exclusion remains appropriate for this reissued IHA.

Endangered Species Act (ESA)

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

NMFS is authorizing take of the Mexico-North Pacific stock of humpback whale, and Western DPS of Steller sea lion, which are listed as threatened or endangered under the ESA. The NMFS AKRO issued a Biological Opinion under section 7 of the ESA on the issuance of an IHA to USACE under section 101(a)(5)(D) of the MMPA by NMFS OPR. The biological opinion concluded that the action is not likely to jeopardize the continued existence of the listed species.

Authorization

NMFS has issued an IHA to USACE for in-water construction activities associated with the specified activity from March 15, 2025 through March 14, 2026. All previously described mitigation, monitoring, and reporting requirements from the initial 2024 IHA are incorporated.

Dated: March 7, 2025.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2025-03978 Filed 3-12-25; 8:45 am]

BILLING CODE 3510-22-P

COMMISSION OF FINE ARTS

Notice of Meeting

Per 45 CFR 2102.3, the next meeting of the U.S. Commission of Fine Arts is scheduled for March 20, 2025, at 9 a.m. and will be held via online videoconference. Items of discussion

may include buildings, infrastructure, parks, memorials, and public art.

Draft agendas, the link to register for the online public meeting, and additional information regarding the Commission are available on our website: www.cfa.gov. Inquiries regarding the agenda, as well as any public testimony, should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing cfastaff@cfa.gov; or by calling 202-504-2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated March 5, 2025 in Washington, DC.

Zakiya N. Walters,

Administrative Officer.

[FR Doc. 2025-03960 Filed 3-12-25; 8:45 am]

BILLING CODE 6330-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01-5-000]

Notice Regarding Inclusion of OLE Objects in Tariff Records and Use of ALJ Settlement Codes; Electronic Tariff Filings

I. Embedded OLE Objects

A number of eTariff filings recently contained tariff records with OLE objects (an object created in one application that can be embedded in another application). For example, some filings have included what were intended to be pictures or line drawings but were in fact embedded program files, .PDF files and PowerPoint (.pptx) files. Since the inception of eTariff, the Commission has not permitted the use of embedded objects in tariff records (when those tariff records were filed as .rtf files).¹ Commission staff is working to create a check that will similarly reject tariff record files in other applications that contain OLE objects.

In the meantime, if filings are made with OLE embedded objects, the filing may be rejected, or the filer may be contacted to remake the filing if the embedded object does not render. Filers

¹ Validation Code 170 results in rejections of .RTF filings with embedded objects. Commission eTariff website, Validation Error Codes (updated 11/25/2024) ("If a record binary data is provided then the rtf file should not have any embedded OLE objects"), https://www.ferc.gov/sites/default/files/2024-11/validation_error_code.csv; Electronic Tariff Filings, Notice of Proposed Rulemaking, 108 FERC § 61,021, at P 36 (2004) ("The electronic tariff may not include embedded objects.").

and third-party software providers also should check their tariff records to make sure they do not contain an OLE object.² Filers should be careful not to click on the Insert/Object tab to import pictures into the document. Pictures still can be included in the tariff record if the picture is pasted into the document or inserted using the Insert tab.

II. ALJ Settlement Codes

The ALJ Settlement filing type codes³ should be used only when filing settlements in matters set for hearing and settlement judge procedures as these filings are directed to the Office of Administrative Law Judges. When parties reach a settlement outside of the hearing and settlement process (*e.g.*, settlements of proceedings with paper hearing procedures), the settlement must be filed using the standard compliance codes applicable to the filer to ensure the filing is properly assigned. Filing of *pro forma* tariff records are preferred to avoid overlapping tariff records in future filings.

For more information, contact Michael.Goldenberg@ferc.gov, James.Sarikas@ferc.gov, or the eTariff Advisory Staff at 202-502-6501 or at etariffresponse@ferc.gov.

Dated: March 7, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025-03986 Filed 3-12-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP25-694-000.

Applicants: Kern River Gas Transmission Company.

Description: § 4(d) Rate Filing; 2025 Form of Service Modifications to be effective 4/7/2025.

Filed Date: 3/6/25.

Accession Number: 20250306-5253.

Comment Date: 5 p.m. ET 3/18/25.

Docket Numbers: RP25-695-000.

Applicants: RH energytrans, LLC.

² Clicking Control G in Word or Excel permits a search for embedded objects. Also running the Document Inspector will reveal whether the document contains OLE objects.

³ Filing type codes 1380, 1385, 1390, 1395, 1400, 1405, 1410, 1415, 1420, and 1425.

Description: Request for Waiver of Requirement to File FL&U Percentage Adjustment of RH energytrans, LLC.

Filed Date: 3/7/25.

Accession Number: 20250307–5080.

Comment Date: 5 p.m. ET 3/19/25.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP25–394–001.

Applicants: Enable Gas Transmission, LLC.

Description: Compliance filing: NAESB Version 4.0 Compliance Filing—Corrected to be effective 8/1/2025.

Filed Date: 3/7/25.

Accession Number: 20250307–5034.

Comment Date: 5 p.m. ET 3/19/25.

Docket Numbers: RP25–621–001.

Applicants: Viking Gas Transmission Company.

Description: Tariff Amendment: Amendment to Electric Power Cost Recovery Adjustment—2025 Rate to be effective 4/1/2025.

Filed Date: 3/7/25.

Accession Number: 20250307–5112.

Comment Date: 5 p.m. ET 3/19/25.

Docket Numbers: RP25–677–001.

Applicants: Adelphia Gateway, LLC.
Description: Compliance filing: Adelphia Gateway Amended SBA Filing to be effective N/A.

Filed Date: 3/7/25.

Accession Number: 20250307–5090.

Comment Date: 5 p.m. ET 3/19/25.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <https://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, community organizations, 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: March 7, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–03985 Filed 3–12–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–1156–003.

Applicants: Florida Power & Light Company.

Description: Compliance filing: Errata Amendment to Order Nos. 2023 and 2023–A Further Compliance Filing to be effective 12/31/9998.

Filed Date: 3/7/25.

Accession Number: 20250307–5197.

Comment Date: 5 p.m. ET 3/28/25.

Docket Numbers: ER24–2566–005.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: Tariff Amendment: 2025–03–07 CapX Brookings CMA–757—Errata to be effective 6/21/2024.

Filed Date: 3/7/25.

Accession Number: 20250307–5186.

Comment Date: 5 p.m. ET 3/28/25.

Docket Numbers: ER25–1527–000.

Applicants: Knox County Wind Farm LLC.

Description: § 205(d) Rate Filing: Application for Market-Based Rate Authorization—Knox County Wind Farm LLC to be effective 5/6/2025.

Filed Date: 3/6/25.

Accession Number: 20250306–5229.

Comment Date: 5 p.m. ET 3/27/25.

Docket Numbers: ER25–1528–000.

Applicants: Avangrid Power, LLC.

Description: § 205(d) Rate Filing: Notice of Succession to be effective 3/7/2025.

Filed Date: 3/6/25.

Accession Number: 20250306–5241.

Comment Date: 5 p.m. ET 3/27/25.

Docket Numbers: ER25–1529–000.

Applicants: Avangrid Power, LLC.

Description: § 205(d) Rate Filing: Notice of Succession to be effective 3/7/2025.

Filed Date: 3/6/25.

Accession Number: 20250306–5249.

Comment Date: 5 p.m. ET 3/27/25.

Docket Numbers: ER25–1530–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6024; AB2–135 to be effective 5/6/2025.

Filed Date: 3/6/25.

Accession Number: 20250306–5258.

Comment Date: 5 p.m. ET 3/27/25.

Docket Numbers: ER25–1531–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 7117; Queue No. AF2–122 to be effective 5/7/2025.

Filed Date: 3/7/25.

Accession Number: 20250307–5057.

Comment Date: 5 p.m. ET 3/28/25.

Docket Numbers: ER25–1532–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original GIA Service Agreement No. 7576; Project Identifier No. AG1–047 to be effective 2/5/2025.

Filed Date: 3/7/25.

Accession Number: 20250307–5058.

Comment Date: 5 p.m. ET 3/28/25.

Docket Numbers: ER25–1533–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original CSA Service Agreement No. 7584; Project Identifier No. AG1–047 to be effective 2/11/2025.

Filed Date: 3/7/25.

Accession Number: 20250307–5068.

Comment Date: 5 p.m. ET 3/28/25.

Docket Numbers: ER25–1534–000.

Applicants: New York Independent System Operator, Inc., Power Authority of the State of New York.

Description: § 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): NYISO–NYPA 205: Amended LGIA Cider Solar SA2773 (CEII) to be effective 2/21/2025.

Filed Date: 3/7/25.

Accession Number: 20250307–5071.

Comment Date: 5 p.m. ET 3/28/25.

Docket Numbers: ER25–1535–000.

Applicants: NorthWestern Energy Public Service Corporation.

Description: § 205(d) Rate Filing: RS37 3rd Rev—Emergency Tie Agreement with East River Elec to be effective 5/7/2025.

Filed Date: 3/7/25.

Accession Number: 20250307–5129.

Comment Date: 5 p.m. ET 3/28/25.

Docket Numbers: ER25–1536–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original GIA, Service Agreement No. 7566; AG1–311 to be effective 2/5/2025.

Filed Date: 3/7/25.

Accession Number: 20250307–5167.

Comment Date: 5 p.m. ET 3/28/25.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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Dated: March 7, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–03984 Filed 3–12–25; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2018–0504; FRL–12481–03–OCSP]

Dicyclohexyl Phthalate (DCHP); Draft Risk Evaluation Under the Toxic Substances Control Act (TSCA); Notice of Availability and Request for Comment; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; reopening of comment period.

SUMMARY: In the *Federal Register* of January 7, 2025, EPA announced the availability of and solicited public comment on a draft risk evaluation under the Toxic Substances Control Act (TSCA) for Dicyclohexyl phthalate (DCHP) (1,2-benzenedicarboxylic acid, 1,2-dicyclohexyl ester) (CASRN 84–61–7). This document reopens the comment period, which is scheduled to end on March 10, 2025, for 60 days.

DATES: The comment period for the document published on January 7, 2025, at 90 FR 1125 (FRL–12481–01–OCSP) is reopened. Comments must be received on or before May 9, 2025.

ADDRESSES: Submit your comments, identified by ID number EPA–HQ–OPPT–2018–0504, online 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:

Chemical specific information: Claire Brisse, Existing Chemical Risk Management Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9004; email address: brisse.claire@epa.gov.

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: To give stakeholders additional time to review materials and prepare comments, EPA is hereby reopening the comment period established in the *Federal Register* document of January 7, 2025, at 90 FR

1125 (FRL–12481–01–OCSP) for 60 days. More information on the action can be found in the *Federal Register* of January 7, 2025.

To submit comments or access the docket, please follow the detailed instructions provided under **ADDRESSES**. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: March 10, 2025.

Nancy Beck,

Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2025–03977 Filed 3–12–25; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 12663–01–OMS]

Order Denying Petition To Set Aside Consent Agreement and Proposed Final Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of order denying petition to set aside consent agreement and proposed final order.

SUMMARY: Pursuant to the Clean Water Act, the U.S. Environmental Protection Agency (EPA) hereby provides notice to the public of the denial of the Petition to Set Aside Consent Agreement and Proposed Final Order filed in the matter styled as *In the Matter of Frederick-Winchester Service Authority, and Frederick County Sanitation Authority, d/b/a Frederick Water*, Docket No. CWA–03–2024–0036, along with the reasons for such denial.

ADDRESSES: To access and review documents filed in the matter that is the subject of this notice, please visit http://yosemite.epa.gov/oarm/alj/alj_web_docket.nsf/Dockets/CWA-03-2024-0036.

FOR FURTHER INFORMATION CONTACT:

Matthew Hall, Attorney-Advisor, Office of Administrative Law Judges (1900R), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20004; telephone number: (202) 564–6255 (main) or (202) 564–2199 (direct); fax number: (202) 565–0044; email address: oaalfiling@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

Section 309(g)(1)(A) of the Clean Water Act (CWA or Act) empowers the EPA to assess an administrative civil penalty whenever, on the basis of any information available, the EPA finds

that a person has violated certain sections of the Act or any permit condition or limitation implementing any such section in a permit issued under section 402 or 404 of the Act. 33 U.S.C. 1319(g)(1)(A). However, before issuing an order assessing an administrative civil penalty under section 309(g), the EPA is required by the CWA and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Rules of Practice) to provide public notice of and reasonable opportunity to comment on the proposed issuance of such order. 33 U.S.C. 1319(g)(4); 40 CFR 22.45(b)(1).

Any person who comments on the proposed assessment of a penalty is then entitled to receive notice of any hearing held under section 309(g) of the CWA and at such hearing is entitled to a reasonable opportunity to be heard and to present evidence. 33 U.S.C. 1319(g)(4)(B); 40 CFR 22.45(c)(1). If no hearing is held before issuance of an order assessing a penalty under section 309(g) of the CWA, such as where the administrative penalty action in question is settled pursuant to a consent agreement and final order, any person who commented on the proposed assessment may petition to set aside the order on the basis that material evidence was not considered and to hold a hearing on the penalty. 33 U.S.C. 1319(g)(4)(C); 40 CFR 22.45(c)(4)(ii).

The CWA requires that if the evidence presented in support of the petition is material and was not considered in the issuance of the order, the Administrator shall immediately set aside such order and provide a hearing in accordance with section 309(g). 33 U.S.C. 1319(g)(4)(C). Conversely, if the Administrator denies a hearing, the Administrator shall provide to the petitioner, and publish in the **Federal Register**, notice of and reasons for such denial. *Id.*

The authority to decide petitions by commenters to set aside final orders entered without a hearing and provide copies and/or notice of the decision has been delegated to Regional Administrators in administrative penalty actions brought by regional offices of the EPA. Memorandum from the EPA Administrator to Regional Administrators Regarding Delegation of Authority 2–52A (January 18, 2017) (available at: <https://intranet.epa.gov/ohr/rmpolicy/ads/dm/2-52A.pdf>). The Rules of Practice require that where a commenter petitions to set aside a consent agreement and final order in an administrative penalty action brought by a regional office of the EPA, the

Regional Administrator shall assign a Petition Officer to consider and rule on the petition. 40 CFR 22.45(c)(4)(iii). Upon review of the petition and any response filed by the complainant, the Petition Officer shall then make written findings as to: (A) the extent to which the petition states an issue relevant and material to the issuance of the consent agreement and proposed final order; (B) whether the complainant adequately considered and responded to the petition; and (C) whether the resolution of the proceeding by the parties is appropriate without a hearing. 40 CFR 22.45(c)(4)(v).

If the Petition Officer finds that a hearing is appropriate, the Presiding Officer shall order that the consent agreement and proposed final order be set aside and establish a schedule for a hearing. 40 CFR 22.45(c)(4)(vi). Conversely, if the Petition Officer finds that resolution of the proceeding without a hearing is appropriate, the Petition Officer shall issue an order denying the petition and stating reasons for the denial. 40 CFR 22.45(c)(4)(vii). The Petition Officer shall then file the order with the Regional Hearing Clerk, serve copies of the order on the parties and the commenter, and provide public notice of the order. *Id.*

II. Procedural Background

In March 2024, the Director of the Enforcement and Compliance Assurance Division of EPA Region 3 (Complainant) and the Frederick-Winchester Service Authority and the Frederick County Sanitation Authority (Respondents) agreed to enter into a Consent Agreement and Final Order (Proposed CAFO) in the matter styled as *In the Matter of Frederick-Winchester Service Authority and Frederick County Sanitation Authority*, Docket No. CWA–03–2024–0036. The Proposed CAFO sought to simultaneously commence and conclude an administrative penalty action under section 309(g) of the CWA against the Respondents for alleged violations of effluent limitations found in a permit issued to the Respondents under section 402 of the CWA that occurred between June 30, 2019, and January 31, 2024, at the Respondents' Crooked Run Wastewater Treatment Plant. Pursuant to the agreement, the Respondents agreed to pay a civil penalty of \$12,000 to settle the alleged violations and waived their right to otherwise contest the allegations or appeal the Final Order. Pursuant to section 309(a)(3) of the CWA, the parties separately entered into an Administrative Order of Consent, which required the Respondents to provide the EPA with an Injunctive Relief

Framework detailing plans to implement infrastructure upgrades needed to come into compliance with their permit's effluent limitations.

The Complainant posted a public notice expressing an intent to file the Proposed CAFO and advising that anyone wishing to comment on the Proposed CAFO could do so. Alan Randolph Holland, Jr. (Petitioner) was among a number of people that filed a timely comment on the Proposed CAFO. The Complainant then sent a letter to each commenter declaring an intent to finalize the Proposed CAFO as originally planned, attaching a copy of the Proposed CAFO and advising commenters that they had 30 days from its receipt to petition the Regional Administrator to set aside the Proposed CAFO. On July 16, 2024, the Petitioner timely submitted a petition seeking to set aside the Proposed CAFO and have a public hearing held thereon (Petition).

On September 17, 2024, having decided not to withdraw the Proposed CAFO after considering the arguments in the Petition, the Regional Administrator for Region 3 requested that the Office of Administrative Law Judges assign an Administrative Law Judge to consider the Petition in accordance with 40 CFR 22.45(c)(4)(iii). On October 25, 2024, an order issued in which the undersigned was assigned to consider and rule on the Petition, and the Complainant was directed to present a written response to the Petition. The Complainant timely filed a response, along with exhibits in support, on November 25, 2024.

III. Denial of Petition

On February 14, 2025, the undersigned issued an Order Denying Petition to Set Aside Consent Agreement and Proposed Final Order (Order), holding that resolution of the proceeding without a hearing is appropriate. The Order concluded that none of the three issues raised in the Petition presented relevant and material evidence that had not been adequately considered and responded to by the Complainant.

First, the Petitioner argued that the civil penalty was incorrectly calculated based on the Respondents' false statement that they received no economic benefit. According to the Petitioner, the Respondents' assertion to the Complainant that revenue generated by the community served by the Crooked Run Wastewater Treatment Plant covered the cost of operating the facility was contradicted by previous statements that operating costs outstripped revenue. The undersigned, however, found that the purportedly

false statement was not material because it would not change the economic benefit analysis.

Second, the Petitioner argued that the Respondents falsely claimed to have acted in good faith by telling the Complainant that their policies included stringent pollution control requirements at the time of the violations when, according to the Petitioner, the Respondents adopted the measures only after the violations were discovered. The undersigned concluded that the Respondents' alleged statement was not materially false because the evidence provided by the Petitioner directly supported the Respondents' claim.

Third, the Petitioner argued that, based on the two allegedly false statements that he identified, the Respondents falsely certified to the Complainant that all of their statements were complete and accurate. The undersigned concluded that this argument was merely a repackaging of the Petitioner's first two arguments and that any allegedly false certification will not itself be material and relevant if the allegedly false statements underlying the certification were not themselves material and relevant.

Because the Petitioner did not identify any material and relevant issues not considered by the Complainant when setting the civil penalty, the undersigned therefore issued the Order denying the Petition. The Order may be viewed online at http://yosemite.epa.gov/oarm/alj/alj_web_docket.nsf/Dockets/CWA-03-2024-0036.

Authority: 33 U.S.C. 1319(g); 40 CFR part 22.

Dated: February 28, 2025.

Susan L. Biro,

Chief Administrative Law Judge, Office of Administrative Law Judges.

[FR Doc. 2025-04040 Filed 3-12-25; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-12554-01-R3]

Clean Air Act Operating Permit Program; Order on Petition for Objection to State Operating Permit for AdvanSix Resins and Chemicals LLC, Hopewell Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an order dated December 16, 2024 granting

in part and denying in part a petition dated July 19, 2024 from the Chesapeake Bay Foundation, Mothers Out Front, Sierra Club, Falls of the James Group, and Virginia Interfaith Power & Light. The petition requested that the EPA object to a Clean Air Act (CAA) title V operating permit issued by the Virginia Department of Environmental Quality (VADEQ) to AdvanSix Resins and Chemicals LLC, Hopewell Plant, located in the City of Hopewell, Prince George County, Virginia.

FOR FURTHER INFORMATION CONTACT:

Yongtian He, Permits Branch, Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2339. Mr. He can also be reached via electronic mail at he.yongtian@epa.gov. The final order and petition are available electronically at: www.epa.gov/title-v-operating-permits/title-v-petition-database.

SUPPLEMENTARY INFORMATION: The EPA received a petition from the Chesapeake Bay Foundation, Mothers Out Front, Sierra Club, Falls of the James Group, and Virginia Interfaith Power & Light dated July 19, 2024, requesting that the EPA object to the issuance of operating permit no. PRO 50232, issued by VADEQ to AdvanSix Resins and Chemicals LLC, Hopewell Plant in the City of Hopewell, Prince George County, Virginia.

On December 16, 2024, the EPA Administrator issued an order granting in part and denying in part the petition. The order itself explains the bases for the EPA's decision.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request judicial review of those portions of an order that deny issues in a petition. Any petition for review shall be filed in the United States Court of Appeals for the appropriate circuit no later than May 12, 2025.

Cristina Fernández,

Air & Radiation Division Director, Region III.

[FR Doc. 2025-04038 Filed 3-12-25; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0474; FR ID 284333]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before May 12, 2025. If you anticipate that you will be submitting comments but find it difficult to do so within the time period allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0474.

Title: Section 74.1263, Time of Operation.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for profit entities; not-for-profit institutions.

Number of Respondents and Responses: 110 respondents; 110 responses.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Statutory authority for this collection of information collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 55 hours.

Total Annual Costs: None.

Needs and Uses: The information collection requirements contained in 47 CFR 74.1263(c) require a licensee of an FM translator or booster station to notify the Commission of its intent to discontinue operations for 30 or more consecutive days. In addition, a licensee must notify the Commission within 48 hours of the station's return to operation. The information collection requirements contained in 47 CFR 74.1263(d) require an FM translator or booster station licensee to notify the Commission of its intent to discontinue operations permanently and to forward the station license to the FCC for cancellation.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2025-04014 Filed 3-12-25; 8:45 am]

BILLING CODE 6712-01-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 March 28, 2025.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166-2034. Comments can also be sent electronically to

Comments.applications@stls.frb.org;

1. *Tony Steele, Tyler Steele, Carolyn Grimsley, Jill Grimsley, Paul Grimsley and Guy Cable, each of Bentonville, Arkansas; Philip Fletcher, Hiwasse, Arkansas; Kirby Lane, Anderson, Missouri; Tommy Coughlin, Centerton, Arkansas; John Kallenbach and Jim Hacker, each of Bolivar, Missouri; Roland Julian, Rogers, Arkansas; Beverly Jones, Jay, Oklahoma; and Pam Lawson, Grove, Oklahoma;* to acquire voting shares of Stark Bancshares, Inc., and thereby indirectly acquire voting shares of LimeBank, both of Bolivar, Missouri.

B. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001. Comments can also be sent electronically to KCApplicationComments@kc.frb.org;

1. *The Henry Kosman Irrevocable Trust, dtd 10/8/2021, Torrington, Wyoming, Willa Z. Kosman and Henry Hunter Kosman, both of Scottsbluff, Nebraska, and Jennifer R. Bostic, Phoenix, Arizona, as co-trustees; the Willa Kosman Irrevocable Trust, dtd 10/10/2021, Torrington, Wyoming, Henry Howell Kosman, Scottsbluff, Nebraska, Jennifer R. Bostic, and Henry Hunter Kosman, as co-trustees; the Rudy Rothseiden Irrevocable Trust, Rudy Rothseiden, as trustee, both of Alachua, Florida; Anne Burkholder, Megan A. Burkholder, Ashley G. Burkholder, and Karyn A. Burkholder, each of Cozad, Nebraska; and a minor child of Henry Hunter Kosman, Jennifer Bostic, as custodian;* to join the Kosman Family Group, a group acting in concert, to retain voting shares of Platte Valley Financial Service Companies Inc., (PVFSC), and indirectly retain voting shares of Platte Valley Bank (PVBS), both of Scottsbluff, Nebraska; Platte

Valley Bank (PVBT), Torrington, Wyoming; and Mountain Valley Bank (MVB), Walden, Colorado.

In addition, *Meredith Hertweck, Durham, North Carolina;* to join the Kosman Family Group to acquire voting shares of PVFSC, and indirectly retain voting shares of PVBS, PVBT, and MVB. Willa Kosman, Jennifer Bostic, Henry Hunter Kosman, Henry Howell Kosman, and Rudy Rothseiden have previously been permitted in their individual capacities by the Federal Reserve System to acquire shares of PVFS and are members of the Kosman Family Group.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2025-04022 Filed 3-12-25; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0067; Docket No. 2024-0053; Sequence No. 18]

Submission for OMB Review; Certain Federal Acquisition Regulation Part 16 Contract Pricing Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding certain Federal Acquisition Regulation (FAR) part 16 contract pricing requirements.

DATES: Submit comments on or before April 14, 2025.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov, or call 202-969-4075.

SUPPLEMENTARY INFORMATION:**A. OMB Control Number, Title, and Any Associated Form(s)**

9000–0067, Certain Federal Acquisition Regulation Part 16 Contract Pricing Requirements.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following FAR requirements:

- *FAR 52.216–2, Economic Price Adjustment—Standard Supplies; FAR 52.216–3, Economic Price Adjustment—Semistandard Supplies; and FAR 52.216–4, Economic Price Adjustment—Labor and Material.* These clauses require contractors on contracts that provide for economic price adjustments to promptly notify the contracting officer of any increases or decreases to established prices or labor rates (including fringe) because of certain contingencies, such as increases or decreases to established catalog or market prices or changes to cost indexes for labor or materials.

The contracting officer uses the information provided by the contractor to negotiate price adjustments under the contract due to the contingency specified in the contract.

- *FAR 52.216–5, Price Redetermination—Prospective.*

Paragraph (c) of this clause requires a contractor on a fixed-price contract with prospective price redetermination to submit to the Government (within an agreed upon timeframe) a statement of costs incurred for the most recent period of performance, the proposed prices for the upcoming contract period, and any supporting or relevant documentation. Per paragraph (h) of this clause, during periods where firm prices have not been established, the contractor must also submit quarterly statements that includes a breakdown of total contract prices, costs, and profit incurred and all invoices accepted for delivered items or services for which final prices have not been established.

The contracting officer uses the information to negotiate/redetermine fair and reasonable prices for supplies and services that may be delivered or performed under the contract in the period following the effective date of price redetermination.

- *FAR 52.216–6, Price Redetermination—Retroactive.*

Paragraph (c) of this clause requires a contractor on a fixed-ceiling-price contract with retroactive price redetermination to submit to the Government (within an agreed upon timeframe after completion of the contract) the proposed prices, all costs

incurred in performing the contract, and any supporting or relevant documentation. Per paragraph (g) of this clause, until final price redetermination has been completed, the contractor must also submit a quarterly statement that includes a breakdown of total contract prices, costs, and interim profit incurred and all invoices accepted for delivered items.

The contracting officer uses the information provided by the contractor to negotiate/redetermine fair and reasonable prices for supplies and services that have already been delivered or performed under the contract.

- *FAR 52.216–16, Incentive Price Revision—Firm Target; and FAR 52.216–17, Incentive Price Revision—Successive Targets.* These clauses require contractors on fixed price incentive (firm or successive target) contracts to submit to the Government on a quarterly basis a statement regarding total contract prices, costs, portions of interim profit, and amounts of invoices or vouchers for completed work that is cumulative from the beginning of the contract (see 52.216–16(g) and 52.216–17(i)). Upon final delivery of supplies or completion of services for covered line items, the contractor is required to submit a detailed statement of all costs incurred up to the end of that month in performing all work under the items; an estimate of costs of further performance, if any, that may be necessary to complete performance of all work under the items; a list of all residual inventory and an estimate of its value; and any other relevant data that the Contracting Officer may reasonably require (see 52.216–16(c) and 52.216–17(e)). Paragraph (c) of 52.216–17 also requires submission of data for establishing the firm fixed price or a final profit adjustment formula.

The contracting officer uses the information provided by the contractor to evaluate the contractor's performance in meeting the incentive target and to negotiate the final prices of incentive-related items and services.

C. Annual Burden

Respondents: 2,710.

Total Annual Responses: 45,260.

Total Burden Hours: 71,192.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 89 FR 94730, on November 29, 2024. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA

Regulatory Secretariat Division by calling 202–501–4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000–0067, Certain Federal Acquisition Regulation Part 16 Contract Pricing Requirements.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2025–03999 Filed 3–12–25; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[OMB Control No. 9000–0075; Docket No. 2025–0053; Sequence No. 3]

Information Collection; Government Property

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning Government property. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through June 30, 2025. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by May 12, 2025.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit

comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000–0075, Government Property. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0075, Government Property, Standard Forms 1428, and 1429.

B. Need and Uses

This clearance covers the information that offerors and contractors must submit to comply with the following FAR requirements:

1. FAR clause 52.245–1, Government Property.

a. Paragraph (f)(1)(ii) requires contractors to document the receipt of Government property.

b. Paragraph (f)(1)(ii)(A) requires contractors to submit a written statement to the Property Administrator containing all relevant facts, such as cause or condition and a recommended course(s) of action, if overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

c. Paragraph (f)(1)(iii) requires contractors to create and maintain records of all Government property accountable to the contract, including Government-furnished and Contractor-acquired property. Property records shall, unless otherwise approved by the Property Administrator, contain the following:

i. The name, part number and description, National Stock Number (if needed for additional item identification tracking and/or disposition), and other data elements as necessary and required in accordance with the terms and conditions of the contract.

ii. Quantity received (or fabricated), issued, and balance-on-hand.

iii. Unit acquisition cost.

iv. Unique-item identifier or equivalent (if available and necessary for individual item tracking).

v. Unit of measure.

vi. Accountable contract number or equivalent code designation.

vii. Location.

viii. Disposition.

ix. Posting reference and date of transaction.

x. Date placed in service (if required in accordance with the terms and conditions of the contract).

When approved by the Property Administrator, contractors may maintain, in lieu of formal property records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption.

d. Paragraph (f)(1)(iv) requires contractors to periodically perform, record, and disclose physical inventory results during contract performance, including upon completion or termination of the contract.

e. Paragraph (f)(1)(vii)(B) requires contractors, unless otherwise directed by the Property Administrator, to investigate and report all incidents of Government property loss as soon as the facts become known. Such reports shall, at a minimum, contain the following information:

i. Date of incident (if known).

ii. The data elements required under paragraph (f)(1)(iii)(A) of FAR 52.245–1.

iii. Quantity.

iv. Accountable contract number.

v. A statement indicating current or future need.

vi. Unit acquisition cost, or if applicable, estimated sales proceeds, estimated repair or replacement costs.

vii. All known interests in commingled material of which includes Government material.

viii. Cause and corrective action taken or to be taken to prevent recurrence.

ix. A statement that the Government will receive compensation covering the loss of Government property, in the event the Contractor was or will be reimbursed or compensated.

x. Copies of all supporting documentation.

xi. Last known location.

xii. A statement that the property did or did not contain sensitive, export controlled, hazardous, or toxic material, and that the appropriate agencies and authorities were notified.

f. Paragraph (f)(1)(viii) requires contractors to promptly disclose and report Government property in its possession that is excess to contract performance.

g. Paragraph (f)(1)(ix) requires contractors to disclose and report to the Property Administrator the need for replacement and/or capital rehabilitation.

h. Paragraph (f)(1)(x) requires contractors to perform and report to the Property Administrator contract property closeout.

i. Paragraph (f)(2) requires contractors to establish and maintain Government accounting source data, particularly in the areas of recognition of acquisitions, loss of Government property, and disposition of material and equipment.

j. Paragraphs (j)(2) and (3) require contractors to submit inventory disposal schedules to the Plant Clearance Officer using the Standard Form (SF) 1428, Inventory Disposal Schedule and if needed the SF 1429, Inventory Disposal Schedule-Continuation Sheet. Paragraph (j)(2)(iv) requires contractors to provide the following information:

i. Any additional information that may facilitate understanding of the property's intended use.

ii. For work-in-progress, the estimated percentage of completion.

iii. For precious metals in raw or bulk form, the type of metal and estimated weight.

iv. For hazardous material or property contaminated with hazardous material, the type of hazardous material.

v. For metals in mill product form, the form, shape, treatment, hardness, temper, specification (commercial or Government) and dimensions (thickness, width, and length).

2. FAR 52.245–9, Use and Charges. Paragraph (d)(1) of this clause requires contractors submitting a government property rental request to: identify the property for which rental is requested, propose a rental period, and compute an estimated rental charge by using the Contractor's best estimate of rental time in the formulae described in paragraph (e) of FAR clause 52.245–9.

This information is used to facilitate the management of Government property in the possession of the contractor.

C. Annual Burden

Respondents/Recordkeepers: 4,702.

Total Annual Responses: 9,433,560.

Total Burden Hours: 4,662,001 (2,405,041 reporting hours + 2,256,960 recordkeeping hours).

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing GSARegSec@gsa.gov. Please cite OMB

Control No. 9000–0075, Government Property.

Janet Fry,

Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.

[FR Doc. 2025–04000 Filed 3–12–25; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0007; Docket No.
2024–0053; Sequence No. 19]

Submission for OMB Review; Subcontracting Plans

AGENCY: Department of Defense (DOD),
General Services Administration (GSA),
and National Aeronautics and Space
Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the
Paperwork Reduction Act, the
Regulatory Secretariat Division has
submitted to the Office of Management
and Budget (OMB) a request to review
and approve an extension of a
previously approved information
collection requirement regarding
subcontracting plans.

DATES: Submit comments on or before
April 14, 2025.

ADDRESSES: Written comments and
recommendations for this information
collection should be sent within 30 days
of publication of this notice to
www.reginfo.gov/public/do/PRAMain.
Find this particular information
collection by selecting “Currently under
Review—Open for Public Comments” or
by using the search function.

FOR FURTHER INFORMATION CONTACT:
FARPolicy@gsa.gov or call 202–969–
4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0007, Subcontracting Plans.

B. Need and Uses

This clearance covers the information
that offerors and contractors must
submit to comply with the requirements

in Federal Acquisition Regulation (FAR)
52.219–9, Small Business
Subcontracting Plans, regarding
subcontracting plans as follows:

1. Subcontracting plan. In accordance
with section 8(d) of the Small Business
Act (15 U.S.C. 637(d)), contractors
receiving a contract that is expected to
exceed, or a contract modification that
causes a contract to exceed, \$750,000
(\$1.5 million for construction of a
public facility) and has subcontracting
possibilities, shall submit an acceptable
subcontracting plan that provides
maximum practicable opportunities for
small business, veteran-owned small
business, service-disabled veteran-
owned small business, HUBZone small
business, small disadvantaged business,
and women-owned small business
concerns. Specific elements required to
be included in the plan are specified in
section 8(d) of the Small Business Act
and implemented in FAR subpart 19.7
and the clause at FAR 52.219–9.

2. Summary Subcontract Report
(SSR). In conjunction with the
subcontracting plan requirements,
contractors with subcontracting plans
must submit an annual summary of
subcontracts awarded as prime and
subcontractors for each specific Federal
Government agency. Contractors submit
the information in an SSR through the
Electronic Subcontracting Reporting
System (eSRS). This is required for all
contractors with subcontracting plans
regardless of the type of plan (*i.e.*,
commercial or individual).

3. Individual Subcontract Report
(ISR). In conjunction with the
subcontracting plan requirements,
contractors with individual
subcontracting plans must submit semi-
annual reports of their small business
subcontracting progress. Contractors
submit the information through eSRS in
an ISR, the electronic equivalent of the
Standard Form (SF) 294, Subcontracting
Report for Individual Contracts.
Contractors with contracts that are not
reported in the Federal Procurement
Data System (FPDS), in accordance with
FAR 4.606(c)(5), do not submit ISRs in
eSRS; instead, they will continue to use
the SF 294 to submit the information to
the agency.

4. Written explanation for not using a
small business subcontractor as
specified in the proposal or
subcontracting plan. Section 1322 of the
Small Business Jobs Act of 2010 (Jobs
Act), Public Law 111–240, amends the
Small Business Act (15 U.S.C. 637(d)(6))

to require, as part of a subcontracting
plan, that a prime contractor make a
good faith effort to utilize a small
business subcontractor during
performance of a contract to the same
degree the prime contractor relied on
the small business in preparing and
submitting its bid or proposal. If a prime
contractor does not utilize a small
business subcontractor as described
above, the prime contractor is required
to explain, in writing, to the contracting
officer the reasons why it is unable to
do so.

C. Annual Burden

Respondents: 30,365.

Total Annual Responses: 49,296.

Total Burden Hours: 112,704.

D. Public Comment

A 60-day notice was published in the
Federal Register at 89 FR 97004, on
December 6, 2024. Comments were
received from a respondent; however,
they did not change the estimate of the
burden.

Comment: The respondent
recommended removing the
requirement for subcontracting plans in
Federal contracting. The respondent
stated that the “process of creating,
maintaining, and reporting
subcontracting plans imposes
significant administrative burdens
without a corresponding benefit that
cannot already be achieved through
existing reporting mechanisms.”

Response: The respondent’s input is
appreciated. Subcontracting plans and
subcontracting plan reporting are
required by section 8(d) of the Small
Business Act (15 U.S.C. 637(d)).
Therefore, changes to the information
collected would require a change to the
underlying statute.

Obtaining Copies: Requesters may
obtain a copy of the information
collection documents from the GSA
Regulatory Secretariat Division by
calling 202–501–4755 or emailing
GSARegSec@gsa.gov. Please cite OMB
Control No. 9000–0007, Subcontracting
Plans.

Janet Fry,

Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.

[FR Doc. 2025–03995 Filed 3–12–25; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

[OMB Control No. 9000–0189; Docket No. 2024–0053; Sequence No. 21]

**Submission for OMB Review; Certain
Federal Acquisition Regulation Part 4
Requirements**

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding certain Federal Acquisition Regulation (FAR) part 4 requirements and a revision to address existing Commercial and Government Entity code requirements.

DATES: Submit comments on or before April 14, 2025.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:**A. OMB Control Number, Title, and
Any Associated Form(s)**

9000–0189, Certain Federal Acquisition Regulation Part 4 Requirements.

B. Need and Uses

This clearance covers the information that offerors and contractors must submit to comply with the following FAR requirements:

1. FAR 52.204–3, and 52.212–3(l)—Taxpayer Identification Number (TIN) Information. When there is not a requirement to be registered in the System for Award Management (SAM), offerors are required to submit their TIN information by the provision at FAR 52.204–3, Taxpayer Identification, for other than commercial acquisitions, and

by paragraph (l) of the provision at FAR 52.212–3, Offeror Representations and Certifications—Commercial Products and Commercial Services, for commercial acquisitions.

The TIN information may be used by the Government to collect and report on any delinquent amounts arising out of the offeror’s relationship with the Government (31 U.S.C. 7701(c)(3)). If a contract is subject to the payment reporting requirements in FAR 4.904, the TIN may be matched with the Internal Revenue Service records to verify the accuracy of the TIN submitted by the offeror.

2. FAR 52.204–6, 52.212–1(j), and 52.204–12—Unique Entity Identifier. When there is not a requirement to be registered in SAM, offerors are required to submit their unique entity identifier by the provision at FAR 52.204–6, Unique Entity Identifier, for other than commercial acquisitions, and by paragraph (j) of the provision at FAR 52.212–1, Instructions to Offerors—Commercial Products and Commercial Services, for commercial acquisitions. The clause at FAR 52.204–12, Unique Entity Identifier Maintenance, requires contractors to maintain their unique entity identifier with the organization designated in SAM to issue such identifiers, for the life of the contract. The clause also requires contractors to notify contracting officers of any changes to the unique entity identifier.

The Government uses the unique entity identifier to identify contractors in reporting to the Federal Procurement Data System (FPDS). FPDS provides a comprehensive mechanism for assembling, organizing, and presenting contract placement data for the Federal Government. Contracting officers use a notification provided under FAR 52.204–12 regarding any change to the unique entity identifier to modify contracts to reflect the updated unique entity identifier.

3. FAR 52.204–7, 52.204–13, and 52.212–3(b)—SAM Registration and Maintenance. The provision at FAR 52.204–7, System for Award Management, requires offerors to be registered in SAM when submitting an offer or quotation and at time of award, except in certain limited cases, and to continue to be registered through final payment of any award that results from such offer. The clause at FAR 52.204–13, System for Award Management Maintenance, requires contractors to make sure their SAM data is kept current, accurate, and complete throughout contract performance and final payment; this maintenance is, at a minimum, to be done through an annual review and update of the contractor’s

SAM registration. Paragraph (b) of the provision at FAR 52.212–3 contains the equivalent of FAR 52.204–7 and 52.204–13, for commercial acquisitions.

The Government use the collected information to establish a common source of vendor data to increase visibility of vendor sources (including their geographical locations) for specific supplies and services.

4. FAR 52.204–14, and 52.204–15—Service Contract Reporting Requirements. The clauses at FAR 52.204–14, Service Contract Reporting Requirements, and FAR 52.204–15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts, require contractors to report the following information in SAM annually:

(a) Contract number and, as applicable, order number.

(b) The total dollar amount invoiced for services performed during the previous Government fiscal year under each contract.

(c) The number of contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(d) Data reported by each first-tier subcontractor providing services under the contract if required to do so.

Section 743 of Division C of the Consolidated Appropriations Act, 2010 (Pub. L. 111–117) requires executive agencies covered by the Federal Activities Inventory Reform Act (Pub. L. 105–270), except DoD, to submit to OMB an annual inventory of activities performed by service contractors. DoD is exempt from this reporting requirement because 10 U.S.C. 4505(c) already require DoD to develop an annual service contract inventory. Civilian agencies use the service contract information provided by FAR clauses 52.204–14 and 52.204–15 to supplement agency annual service contract reporting requirements with the contractor-provided service contract reporting information.

5. FAR 52.204–16 and 52.204–18, Commercial and Government Entity (CAGE) Code Reporting and Maintenance. The provision at FAR 52.204–16, Commercial and Government Entity Code Reporting, require offerors to provide their CAGE code, including name and location address, with their offer. The CAGE code must be for that name and location address. The CAGE code is required prior to award. The clause at FAR 52.204–18, Commercial and Government Entity Code Maintenance, requires contractors to maintain their CAGE code throughout the life of the

contract for each location of contract, including subcontract, performance.

For contractors registered in SAM, the Defense Logistics Agency (DLA) CAGE Branch shall only modify data received from SAM in the CAGE master file if the contractor initiates those changes via update of its SAM registration.

Contractors undergoing a novation or change-of-name agreement shall notify the contracting officer in accordance with FAR subpart 42.12. The contractor shall communicate any change to the CAGE code to the contracting officer within 30 days after the change, so that a modification can be issued to update the CAGE code on the contract.

Contractors located in the U.S. or its outlying areas that are not registered in SAM shall submit written change request to the DLA CAGE Branch. Contractors located outside the U.S. and its outlying areas that are not registered in SAM shall contact the appropriate National Codification Bureau points of contact to request CAGE changes.

6. FAR 52.204–17, Ownership or Control of Offeror. This provision requires offerors to represent whether they are owned or controlled by another entity, and if so, to provide the CAGE code and name of such entity.

The CAGE code system may be used, among other things, to—

(a) Exchange data with another contracting activity, including contract administration activities and contract payment activities;

(b) Exchange data with another system that requires the unique identification of a contractor entity; or

(c) Identify when offerors are owned or controlled by another entity.

7. FAR 52.204–20, Predecessor of Offeror. This provision requires offerors to identify if the offeror is, within the last three years, a successor to another entity that received a Federal Government award and, if so, to provide the CAGE code and legal name of the predecessor.

The information on predecessors is used to identify such entities in the Federal Awardee Performance and Integrity Information System (FAPIS) to allow retrieval of integrity and performance data on the most recent predecessor of an apparent successful offeror to whom award is anticipated. FAR 9.104–6 requires contracting officers to consult FAPIS before awarding a contract that exceeds the simplified acquisition threshold.

8. FAR 52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities. This clause requires contractors to report, in writing, to the contracting officer or, in

the case of DoD, to the website at <https://dibnet.dod.mil>, any instance when the contractor identifies a covered article provided to the Government during contract performance, or if contractors are notified of such an event by subcontractors at any tier or any other source.

Agency personnel will use the collected information to identify and remove prohibited hardware, software, or services from Government use. This information collection is required to comply with section 1634 of Division A of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91).

C. Annual Burden

Respondents: 353,291.

Total Annual Responses: 843,253.

Total Burden Hours: 387,083.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 89 FR 104154, on December 20, 2024. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000–0189, Certain Federal Acquisition Regulation Part 4 Requirements.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025–04003 Filed 3–12–25; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0152; Docket No. 2025–0053; Sequence No. 2]

Information Collection; Service Contracting

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget

(OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning service contracting. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through June 30, 2025. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by May 12, 2025.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000–0152, Service Contracting. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT:
FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0152, Service Contracting.

B. Need and Uses

This clearance covers the information that offerors must submit to comply with the FAR requirements at FAR 52.237–10, Identification of Uncompensated Overtime. This provision requires offerors, when professional or technical services are

acquired on the basis of the number of hours to be provided, to identify uncompensated overtime hours in excess of 40 hours per week, whether at the prime or subcontract level. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

The contracting officer will use the collected information to perform an adequate cost realism analysis of the offerors' proposed labor rates. Proposals which include unrealistically low labor rates, or which do not otherwise demonstrate cost realism, will be considered by the contracting officer in a risk assessment and evaluated appropriately. The primary purpose for obtaining the information and using it during the source selection process is to discourage the use of uncompensated overtime.

C. Annual Burden

Respondents: 20,076.

Total Annual Responses: 20,076.

Total Burden Hours: 10,038.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0152, Service Contracting.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025-04005 Filed 3-12-25; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0027; Docket No. 2025-0053; Sequence No. 1]

Information Collection; Value Engineering Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and

NASA invite the public to comment on an extension concerning value engineering requirements. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through June 30, 2025. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by May 12, 2025.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000-0027, Value Engineering Requirements. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202-969-4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000-0027, Value Engineering Requirements.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

- FAR 52.248-1, *Value Engineering*;
- 52.248-2, *Value Engineering-Architect-*

Engineer; and 52.248-3, Value Engineering-Construction. These clauses require contractors submitting Value Engineering Change Proposals (VECP's) to the Government to provide such details as: a description of the differences between the existing contract requirement and the proposed requirement, and the comparative advantages and disadvantages of each; a list and analysis of contract requirements that must be changed if the VECP is accepted; a detailed cost estimate showing anticipated reductions associated with the VECP; a statement of the time a modification accepting the VECP must be issued to achieve maximum cost reduction, and the effect on contract completion time; and identification of any previous submissions of the VECP; the agencies and contract numbers involved and previous Government actions, if known.

The Government will use the collected information to evaluate the VECP and, if accepted, to arrange for an equitable sharing plan.

C. Annual Burden

Respondents: 90.

Total Annual Responses: 180.

Total Burden Hours: 2,700.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0027, Value Engineering Requirements.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025-03996 Filed 3-12-25; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0059; Docket No. 2024-0053; Sequence No. 16]

Submission for OMB Review; North Carolina Sales Tax Certification

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding North Carolina sales tax certification.

DATES: Submit comments on or before April 14, 2025.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0059, North Carolina Sales Tax Certification.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the requirements of the Federal Acquisition Regulation clause at 52.229–2, North Carolina State and Local Sales and Use Tax. This clause requires contractors for construction or vessel repair to be performed in North Carolina to provide certified statements of the cost of the property purchased from each vendor and the amount of sales or use taxes paid. The North Carolina Sales and Use Tax Act authorizes counties and incorporated cities and towns, to obtain each year from the Commissioner of Revenue of the State of North Carolina, a refund of sales and use taxes indirectly paid on building materials, supplies, fixtures, and equipment that become a part of or are annexed to any building or structure in North Carolina. However, to substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, or equipment by a contractor, the Government must secure from the contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of sales or use taxes paid. Similar certified statements by subcontractors must be obtained by the general contractor and furnished to the Government.

The Government will use the information as evidence to establish exemption from State and local taxes.

C. Annual Burden

Respondents: 182.

Total Annual Responses: 182.

Total Burden Hours: 227.5.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 89 FR 92126, on November 21, 2024. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000–0059, North Carolina Sales Tax Certification.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025–03998 Filed 3–12–25; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

[OMB Control No. 9000–0048; Docket No. 2024–0053; Sequence No. 15]

**Submission for OMB Review; Certain
Federal Acquisition Regulation Part 15
Requirements**

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding certain Federal Acquisition Regulation (FAR) part 15 requirements.

DATES: Submit comments on or before April 14, 2025.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0048, Certain Federal Acquisition Regulation Part 15 Requirements.

B. Need and Uses

This clearance covers the information that offerors and contractors must submit to comply with the following FAR requirements:

1. FAR 15.407–2(e), Make-or-buy programs. When prospective contractors are required to submit proposed make-or-buy program plans for negotiated acquisitions, paragraph (e) requires the following information in their proposal:

(a) A description of each major item or work effort;

(b) Categorization of each major item or work effort as “must make,” “must buy,” or “can either make or buy”;

(c) For each item or work effort categorized as “can either make or buy,” a proposal either to “make” or to “buy”;

(d) Reasons for categorizing items and work efforts as “must make” or “must buy,” and proposing to “make” or to “buy” those categorized as “can either make or buy”;

(e) Designation of the plant or division proposed to make each item or perform each work effort, and a statement as to whether the existing or proposed new facility is in or near a labor surplus area;

(f) Identification of proposed subcontractors, if known, and their location and size status;

(g) Any recommendations to defer make-or-buy decisions when categorization of some items or work efforts is impracticable at the time of submission; and

(h) Any other information the contracting officer requires in order to evaluate the program.

2. FAR 52.215–1(c)(2)(iv)—Authorized Negotiators. This provision requires firms offering supplies or services to the Government under negotiated solicitations to provide the names, titles, and telephone and facsimile numbers (and electronic addresses if available) of authorized negotiators to assure that discussions are held with authorized individuals.

Contracting officers use this information during contract negotiations and it becomes part of the official contract file.

3. FAR 52.215–9, Changes or Additions to Make-or-Buy Program.

This clause requires the contractor to submit, in writing, for the contracting officer's advance approval a notification and justification of any proposed change in the make-or-buy program incorporated in the contract.

Contracting officers use the information collected regarding make-or-buy programs at FAR 15.407-2(e) and 52.215-9 to ensure negotiation of reasonable contract prices, satisfactory performance, or implementation of socioeconomic policies.

4. FAR 52.215-14—Integrity of Unit Prices. This clause requires offerors and contractors under negotiated solicitations and contracts to identify those supplies which they will not manufacture or to which they will not contribute significant value, if requested by the contracting officer or when contracting without adequate price competition.

When a contract action is priced on the basis of a cost estimate, contracting officers use this information to determine whether the intrinsic value of an item has been distorted through allocation of overhead costs and whether such items should be considered for breakout.

5. FAR 52.215-19—Notification of Ownership Changes. This clause requires contractors to notify the administrative contracting officer when the contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records.

The notification of ownership change enables the Government to adequately administer the cost principle at FAR 31.205-52, Asset valuations resulting from business combinations, which addresses the allowability of certain costs resulting from asset valuations following business combinations.

6. FAR 52.215-22, Limitations on Pass-Through Charges—Identification of Subcontract Effort. This provision requires offerors submitting a proposal for a contract, task order, or delivery order to provide the following information with their proposal:

(a) The total cost of the work to be performed by the offeror, and the total cost of the work to be performed by each subcontractor;

(b) If the offeror intends to subcontract more than 70 percent of the total cost of work to be performed, the amount of the offeror's indirect costs and profit/fee applicable to the work to be performed by the subcontractor(s), and a description of the value added by the offeror as related to the work to be performed by the subcontractor(s); and

(c) If any subcontractor proposed intends to subcontract to a lower-tier subcontractor more than 70 percent of the total cost of work to be performed, the amount of the subcontractor's indirect costs and profit/fee applicable to the work to be performed by the lower-tier subcontractor(s) and a description of the added value provided by the subcontractor as related to the work to be performed by the lower-tier subcontractor(s).

7. FAR 52.215-23, Limitations on Pass-Through Charges. This clause requires contractors to provide a description of the value added by the contractor or subcontractor, as applicable, as related to the subcontract effort if the effort changes from the amount identified in the proposal such that it exceeds 70 percent of the total cost of work to be performed.

Contracting officers use the information collected at FAR 52.215-22 and 52.215-23 to assess the value added by a contractor or subcontractor in relation to proposed, billed, or claimed indirect costs or profit/fee on work performed by a subcontractor. This information is required to ensure that pass-through charges under contracts and subcontracts are not excessive.

C. Annual Burden

Respondents: 122,097.

Total Annual Responses: 139,074.

Total Burden Hours: 43,027 (43,022 reporting hours + 5 recordkeeping hours).

D. Public Comment

A 60-day notice was published in the **Federal Register** at 89 FR 92127, on November 21, 2024. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0048, Certain Federal Acquisition Regulation Part 15 Requirements.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025-03997 Filed 3-12-25; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0079; Docket No. 2025-0053; Sequence No. 4]

Information Collection; Travel Costs

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning travel costs. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through June 30, 2025. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by May 12, 2025.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000-0079, Travel Costs. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s),

please check www.regulations.gov, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT:
FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0079, Travel Costs.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following FAR requirements:

1. FAR 31.205–46(a)(3)—In special or unusual situations, costs incurred by a contractor for lodging, meals, and incidental expenses, may exceed the per diem rates in effect as set forth in the Federal Travel Regulation (FTR) for travel in the contiguous 48 United States. The actual costs may be allowed only if the contractor provides the following:

a. FAR 31.205–46(a)(3)(ii)—A written justification for use of the higher amounts approved by an officer of the contractor's organization or designee to ensure that the authority is properly administered and controlled to prevent abuse.

b. FAR 31.205–46(a)(3)(iii)—Advance approval from the contracting officer if it becomes necessary to exercise the authority to use the higher actual expense method repetitively or on a continuing basis in a particular area.

c. FAR 31.205–46(a)(3)(iv)—Documentation to support actual costs incurred including a receipt for each expenditure of \$75.00 or more.

2. FAR 31.205–46(c) requires firms to maintain and make available manifest/logs for all flights on company aircraft. As a minimum, the manifest/log must indicate:

- a. Date, time, and points of departure;
- b. Destination, date, and time of arrival;
- c. Name of each passenger and relationship to the contractor
- d. Authorization for trip; and
- e. Purpose of trip.

The information required by (1) and (2) and the name of each passenger (required by (3)) are recordkeeping requirements already established by Federal Aviation Administration regulations. This information, plus the additional required information, is needed to ensure that costs of owned, chartered, or leased aircraft are properly charged against Government contracts and that directly associated costs of unallowable activities are not charged to Government contracts.

The contracting officer will use the information to ensure that the Government does not reimburse contractors for excessive travel costs. Also, the information is used by Government auditors to identify allowable and unallowable costs under Government contracts.

C. Annual Burden

Respondents/Recordkeepers: 1,854.

Total Annual Responses: 12,680.

Total Burden Hours: 6,686 (3,170 reporting hours + 3,516 recordkeeping hours).

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov*. Please cite OMB Control No. 9000–0079, Travel Costs.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025–04001 Filed 3–12–25; 8:45 am]

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DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

[OMB Control No. 9000–0149; Docket No. 2024–0053; Sequence No. 17]

**Submission for OMB Review;
Subcontract Consent and Contractors'
Purchasing System Review**

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding subcontract consent and contractors' purchasing system review.

DATES: Submit comments on or before April 14, 2025.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain.

Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:
FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0149, Subcontract Consent and Contractors' Purchasing System Review.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the requirements in the Federal Acquisition Regulation (FAR) clause at 52.244–2, Subcontracts, regarding consent to subcontract, advance notification, and contractors' purchasing system review as follows:

1. Consent to subcontract. This is the contracting officer's written consent for the prime contractor to enter into a particular subcontract. In order for the contracting officer responsible for consent to make an informed decision, the prime contractor must submit adequate information to ensure that the proposed subcontract is appropriate for the risks involved and consistent with current policy and sound business judgment. Paragraph (e)(1) of the FAR clause at 52.244–2, requires prime contractors to submit the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of the contract.

(vii) A negotiation memorandum reflecting—

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason certified cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's certified cost or pricing

data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the contracting officer in paragraph (d) of the FAR clause at 52.244-2. The contracting officer may require consent to subcontract if the contracting officer has determined that an individual consent action is required to protect the Government adequately because of the subcontract type, complexity, or value, or because the subcontract needs special surveillance. These can be subcontracts for critical systems, subsystems, components, or services.

If the contractor does not have an approved purchasing system, consent to subcontract is required for cost-reimbursement, time-and-materials, labor-hour, or letter contracts, and also for unpriced actions under fixed-price contracts that exceed the simplified acquisition threshold.

Contracting Officers use the information to ensure contractors' compliance with Government policy when subcontracting.

2. Advance notification. Paragraph (e)(1) of the FAR clause at 52.244-2 requires contractors to notify the contracting officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of the clause.

Contracting Officers use the information to ensure compliance with the statutory requirements in 10 U.S.C. 3322(c) and 41 U.S.C. 3905.

3. Contractors' Purchasing System Review. Paragraph (i) of FAR clause 52.244-2 specifies that the Government reserves the right to review the contractor's purchasing system as set forth in FAR subpart 44.3. This clause is the mechanism through which the

requirements of FAR subpart 44.3 are applied to contractors.

FAR 44.302 requires the administrative contracting officer (ACO) to determine the need for a Contractors' Purchasing System Review (CPSR) based on, but not limited to, the past performance of the contractor, and the volume, complexity and dollar value of subcontracts. If a contractor's sales to the Government (excluding competitively awarded firm-fixed-price and competitively awarded fixed-price with economic price adjustment contracts and sales of commercial products and commercial services pursuant to part 12) are expected to exceed \$25 million during the next 12 months, the ACO will perform a review to determine if a CPSR is needed. Sales include those represented by prime contracts, subcontracts under Government prime contracts, and modifications. Generally, a CPSR is not performed for a specific contract. Rather, CPSRs are conducted on contractors based on the factors identified above. For example, the Defense Contract Management Agency Contractor Purchasing System Review Group is a group dedicated to conducting CPSRs for the Department of Defense. The head of the agency responsible for contract administration may raise or lower the \$25 million review level if it is considered to be in the Government's best interest. Once an initial determination has been made to conduct a review, at least every three years the ACO shall determine whether a purchasing system review is necessary. If necessary, the cognizant contract administration office will conduct a purchasing system review.

The cognizant ACO is responsible for granting, withholding, or withdrawing approval of a contractor's purchasing system and for promptly notifying the contractor of same (FAR 44.305-1). Related administrative requirements are as follows:

- FAR 44.305-2(c) requires that when recommendations are made for improvement of an approved system, the contractor shall be requested to reply within 15 days with a position regarding the recommendations.

- FAR 44.305-3(b) requires when approval of the contractor's purchasing system is withheld or withdrawn, the ACO shall within 10 days after completing the in-plant review (1) inform the contractor in writing, (2) specify the deficiencies that must be corrected to qualify the system for approval, and (3) request the contractor to furnish within 15 days a plan for accomplishing the necessary actions. If the plan is accepted, the ACO shall

make a follow-up review as soon as the contractor notifies the ACO that the deficiencies have been corrected.

Contracting Officers use the information to evaluate the efficiency and effectiveness with which a contractor spends Government funds.

C. Annual Burden

Respondents: 2,515.

Total Annual Responses: 7,065.

Total Burden Hours: 49,635.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 89 FR 93291, on November 26, 2024. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0149, Subcontract Consent and Contractors' Purchasing System Review.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0073; Docket No. 2025-0053; Sequence No. 5]

Information Collection; Certain Federal Acquisition Regulation Part 32 Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning certain Federal Acquisition Regulation part 32 requirements. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government

acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through July 31, 2025. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by May 12, 2025.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000–0073, Certain Federal Acquisition Regulation Part 32 Requirements. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0073, Certain Federal Acquisition Regulation Part 32 Requirements

B. Need and Uses

This justification supports the extension of OMB Control No. 9000–0073. This clearance covers the information that offerors and contractors must submit to comply with the following FAR requirements:

FAR 32.408, Application for advance payments. The authorities behind advance payments are 41 U.S.C. chapter 45; 10 U.S.C. chapter 277; Public Law 85–804 (50 U.S.C. 1431–1435); and

Executive Order 10789, November 14, 1958. In accordance with FAR 32.408(b), contractors requesting advance payments must submit their request in writing to the contracting officer and provide the following information:

- A reference to the contract if the request concerns an existing contract, or a reference to the solicitation if the request concerns a proposed contract.
- A cash flow forecast showing estimated disbursements and receipts for the period of contract performance.
- The proposed total amount of advance payments.
- The name and address of the financial institution at which the contractor expects to establish a special account as depository for the advance payments.
- A description of the contractor's efforts to obtain unguaranteed private financing or a V-loan under eligible contracts.
- Other information appropriate to an understanding of
 - the contractor's financial condition and need,
 - the contractor's ability to perform the contract without loss to the Government, and
 - financial safeguards needed to protect the Government's interest.

The information is used to determine if advance payments should be provided to the contractor. If advance payments are authorized, the information is used to ensure proper procedures are followed to protect the Government's interest.

FAR 52.232–1 through 52.232–4, 52.232–6, 52.232–7, and 52.232–10—Payments. The basic authority for the contract financing that is implemented in these clauses is contained in 41 U.S.C. chapter 45, Contract Financing, 10 U.S.C. chapter 277, and Title III of the Defense Production Act of 1950 (50 U.S.C. App.2091). The following FAR clauses require the contractor to (as appropriate to the payment terms specified in the contract) provide a proper invoice or voucher.

- 52.232–1, Payments.
- 52.232–2, Payments under Fixed-Price Research and Development Contracts.
- 52.232–3, Payments under Personal Services Contracts.
- 52.232–4, Payments under Transportation Contracts and Transportation-Related Services Contracts.
- 52.232–6, Payment under Communication Service Contracts with Common Carriers.
- 52.232–7, Payments under Time-and-Materials and Labor-Hour Contracts.

- 52.232–10, Payments under Fixed-Price Architect-Engineer Contracts.

“Proper invoice” is defined in FAR part 2 as an invoice that meets the minimum standards specified in FAR 32.905(b), which include the following items:

- Name and address of the contractor.
- Invoice date and invoice number.
- Contract number or other authorization for supplies delivered or services performed (including order number and line item number).
- Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.
- Shipping and payment terms.
- Name and address of contractor official to whom payment is to be sent.
- Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.
- Taxpayer Identification Number (TIN) if required by agency procedures.
- Electronic funds transfer (EFT) banking information if required by agency procedures.
- Any other information or documentation required by the contract (e.g., evidence of shipment).

The information is used to determine the proper amount of payments to Federal contractors.

FAR 52.232–5, Payments under Fixed-Price Construction Contracts. This clause requires the contractor's request for progress payments to include the following substantiation:

- An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.
- A listing of the amount included for work performed by each subcontractor under the contract.
- A listing of the total amount of each subcontract under the contract.
- A listing of the amounts previously paid to each such subcontractor under the contract.
- Additional supporting data in a form and detail required by the contracting officer.

Paragraph (c) of FAR clause 52.232–5 requires contractors to provide a certification with each request for progress payment certifying that—

- The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
- All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by the certification;

- The request for progress payment does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and
- The certification is not to be construed as final acceptance of a subcontractor's performance.

Paragraph (d) of FAR clause 52.232–5 requires contractors to notify contracting officers, if the contractor, after making a certified request for progress payments, discovers that a portion or all of the request constitutes a payment for performance by the contractor that fails to conform to the specifications, terms, and conditions of the contract. Contractors must notify the contracting officer that the performance deficiency has been corrected.

The information is used to determine the proper amount of payments to Federal contractors for construction contracts.

FAR 52.232–12, Advance Payments. For authority behind this clause, see the authority for advance payments cited in the narrative above for FAR 32.408. If advance payments are authorized, this clause requires contractors to submit the following:

- Per paragraph (g)—The financial institution agreement, in the form prescribed by the administering office, establishing the special account, and clearly setting forth the special character of the account and the responsibilities of the financial institution under the account.
- Per paragraph (i)(3)—Notification of a lien in favor of the Government to a third person receiving any items or materials on which the Government has a lien, and a receipt from that third person acknowledging the existence of the lien. Contractors are also required to provide a copy of each receipt to the contracting officer.
- Per paragraph (m)—(1) Monthly, signed or certified balance sheets and profit and loss statements together with a report on the operation of the special account in the form prescribed by the administering office; and (2) If requested, other information concerning the operation of the contractor's business. (This same requirement is at paragraph (j) of the clause with its Alternate V.)

If advance payments are authorized, the information is used to ensure proper procedures are followed to protect the Government's interest.

FAR 52.232–20 and 52.232–22—Limitation of Costs or Funds. FAR clause 52.232–20, Limitation of Cost, requires the contractor to notify the

contracting officer in writing whenever it has reason to believe that—

- The costs the contractors expect to incur under the contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost of the contracts; or
- The total cost for the performance of the contract will be greater or substantially less than estimated.

As part of the notification, the contractor must provide a revised estimate of the total cost of performing the contract.

FAR clause 52.232–22, Limitation of Funds, requires the contractor to notify the contracting officer in writing whenever it has reason to believe that the costs it expects to incur under the contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of (1) the total amount so far allotted to the contract by the Government or, (2) if this is a cost-sharing contract, the amount then allotted to the contract by the Government plus the contractor's corresponding share. The notice must state the estimated amount of additional funds required to continue performance for the contract period. Sixty days before the end of the contract period, the contractor must notify the contracting officer in writing of the estimated amount of additional funds, if any, required to continue performance under the contract, and when the funds will be required.

The information is used to avoid cost overruns and to ensure that funding is available to complete work under Federal contracts.

FAR 52.232–27, Prompt Payment for Construction Contracts. The authority for this FAR clause are the OMB prompt payment regulations at 5 CFR part 1315, which in turn implements the Prompt Payment statute. Paragraph (a)(6)(ii) of FAR clause 52.232–27 requires contractors making a written demand to the designated payment office for additional penalty payment to support their demand with the following data:

- Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;
- Attach a copy of the invoice on which the unpaid late payment interest was due; and
- State that payment of the principal has been received, including the date of receipt.

Paragraph (e)(5) of FAR clause 52.232–27 requires contractors to notify contracting officers upon—

- Reduction of the amount of any subsequent certified application for payment; or
- Payment to the subcontractor of any withheld amounts of a progress payment, specifying: the amounts withheld; and the dates that the withholding began and ended.

Paragraph (g) of FAR clause 52.232–27 requires contractors to issue a written notice of any withholding to a subcontractor (with copy to the contracting officer), specifying—

- The amount to be withheld;
- The specific causes for the withholding under the terms of the subcontract; and
- The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

Paragraph (l) of FAR clause 52.232–27 requires contractors to remit overpayments to the payment office cited in the contract along with a description that includes the following:

- Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);
- Affected contract number and delivery order number if applicable;
- Affected line item or subtitle item, if applicable; and
- Contractor point of contact.

Contractors are required to provide a copy of the remittance and supporting documentation to the contracting officer.

The information is used to understand when the contractor withholds amounts from subcontractors and suppliers after the Government has already paid the contractor the amounts withheld.

FAR 52.232–33, Payment by Electronic Funds Transfer—System for Award Management. FAR clause 52.232–33 requires contractors to provide updated EFT information in the System for Award Management (SAM) if their information changes. According to the SAM Entity Registration Checklist, the registration/renewal process asks entities to provide the account type, routing number, and account number for EFT. The burden associated with this clause is reflected under OMB Control Number 9000–0189, Certain Federal Acquisition Regulation Part 4 Requirements. OMB Control Number 9000–0189 accounts for new registrations and renewals in SAM, which includes providing EFT information as part of the registration and renewal process.

FAR 52.232–34, Payment by Electronic Funds Transfer—Other than System for Award Management. This clause requires contractors to provide the following information to enable the

Government to make payments under the contract by EFT:

- The contract number (or other procurement identification number).
- The contractor's name and remittance address.
- The signature, title, and telephone number of the contractor official authorized to provide this information.
- The name, address, and 9-digit Routing Transit Number of the contractor's financial agent.
- The contractor's account number and the type of account.
- If applicable, the Fedwire Transfer System telegraphic abbreviation of the contractor's financial agent.
- If applicable, the contractor must provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the contractor's financial agent is not directly on-line to the Fedwire Transfer System.

31 U.S.C.3332 requires, subject to implementing regulations of the Secretary of the Treasury at 31 CFR part 208, that EFT be used to make all contract payments.

The information is used to enable the Government to make contract payments by EFT.

C. Annual Burden

Respondents: 273,518.

Total Annual Responses: 1,789,889.

Total Burden Hours: 462,859.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0073, Certain Federal Acquisition Regulation Part 32 Requirements.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025-04019 Filed 3-12-25; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0198; Docket No. 2024-0053; Sequence No. 20]

Submission for OMB Review; Certain Federal Acquisition Regulation Part 9 Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding certain Federal Acquisition Regulation (FAR) part 9 requirements.

DATES: Submit comments on or before April 14, 2025.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202-969-4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000-0198, Certain Federal Acquisition Regulation Part 9 Requirements.

B. Need and Uses

This clearance covers the information that offerors and contractors must submit to comply with the following FAR requirements:

1. FAR 52.209-1, Qualification Requirements. This clause requires offerors to provide with their proposal: Their name, the manufacturer's name, source's name, item's name, service identification, and test number (if known) for a proposed product or service that has already been determined to meet the qualification standards. If an offeror, manufacturer, source, product or service has met the

qualification requirement but is not yet on a qualified products list, qualified manufacturers list, or qualified bidders list, this clause requires the offeror to submit evidence of qualification prior to award of a contract.

2. FAR 52.209-2, 52.209-10, and 52.212-3(n), Prohibition on Contracting with Inverted Domestic Corporations. FAR provision 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations-Representation, and its equivalent for commercial acquisitions at FAR 52.212-3(n), requires each offeror to represent whether it is, or is not, an inverted domestic corporation or a subsidiary of an inverted domestic corporation.

FAR clause 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations, requires contractors to promptly notify the contracting officer in the event the contractor becomes an inverted domestic corporation or a subsidiary of an inverted domestic corporation during the period of performance of the contract.

3. FAR 52.209-5, 52.209-6, and 52.212-3(h), Debarment, Suspension, and other Responsibility Matters. FAR provision 52.209-5, Certification Regarding Responsibility Matters, and its equivalent for commercial acquisitions at FAR 52.212-3(h), require the disclosure of the following critical information by an offeror to be considered by the contracting officer in making a responsibility determination:

- Whether the offeror or any of its principals have been—
 - Debarred, suspended, proposed for debarment, declared ineligible for contract award;
 - Within a three-year period preceding their offer:
 - Convicted of or had a civil judgment rendered against them or indicted for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract, violation of Federal or State antitrust statutes relating to the submission of offers, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
 - Notified of any delinquent Federal taxes in an amount that exceeds \$10,000 for which the liability remains unsatisfied;
 - Had one or more contracts terminated for default by any Federal agency; or
 - Are presently indicted for, or otherwise criminally or civilly charged

by a governmental entity with commission of any of the offenses identified above.

If the offeror has responded affirmatively to the certifications in the FAR provisions at 52.209–5 or 52.212–3(h), the offeror shall provide additional information if requested by the contracting officer.

The offeror shall also provide immediate written notice to the contracting officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Paragraph (c) of the FAR clause at 52.209–6, Protecting the Government's Interest When Subcontracting with Contractor's Debarred, Suspended, or Proposed for Debarment, requires the contractor to require each proposed subcontractor whose subcontract will exceed \$35,000, other than a subcontractor providing a commercially available off-the-shelf (COTS) item, to disclose to the contractor in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Government.

Paragraph (d) of the FAR clause at 52.209–6 requires a corporate officer or designee of the contractor to notify the contracting officer, in writing, before entering into a subcontract (for other than COTS items) with a party that is debarred, suspended, or proposed for debarment. The written notice must include: The name of the subcontractor; why the subcontractor is debarred, suspended, or ineligible; the compelling reason(s) for doing business with the subcontractor; and how the contractor will protect the Government's interests when dealing with such subcontractor. For any subcontract subject to Government consent, contracting officers shall not consent to such subcontracts unless the agency head or a designee states in writing the compelling reasons for approving such subcontract.

4. FAR 52.209–7 and 52.209–9, Information Regarding Responsibility Matters and Updates to that Publicly Available Information. FAR provision 52.209–7, Information Regarding Responsibility Matters, requires each offeror to represent whether it has current active Federal contracts and grants with a total value greater than \$10 million. The provision also requires each offeror to post in the Federal Awardee Performance and Integrity Information System (FAPIS), as required by maintaining an active registration in the System for Award

Management (SAM), information on whether the offeror and/or any of its principals has, or has not, within the past five years, in connection with the award to or performance by the offeror of a federal contract or grant, been the subject of a proceeding, at the Federal or State level, that resulted in:

(a) A criminal conviction in the case of a criminal proceeding;

(b) The finding of fault and liability in a civil proceeding resulting in the payment of \$5,000 or more in damages, restitution, reimbursement, fine or penalty;

(c) The finding of fault and liability in an administrative proceeding resulting in the payment of a monetary fine or penalty of \$5,000 or more, or the payment of a reimbursement, restitution, or damages in excess of \$100,000; or

(d) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgement of fault by the contractor if the proceeding could have led to any of the outcomes specified in (4)(a) through (c) above.

Paragraph (a) of the FAR clause 52.209–9, Updates of Publicly Available Information Regarding Responsibility Matters, requires contractors to update the information in FAPIS on a semiannual basis, throughout the life of the contract, by posting the information in SAM. Paragraph (c) of the FAR clause 52.209–9 informs contractors of their ability to provide feedback on information posted by the Government in FAPIS and the procedure to follow in the event information exempt from public disclosure is slated to become publicly available information in FAPIS.

5. FAR 52.209–11, 52.209–12, and 52.212–3(q), Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction. FAR provision 52.209–11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law, and its equivalent for commercial acquisitions at FAR 52.212–3(q), require offerors to represent whether the offeror is a corporation that—

- Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

- Was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

FAR provision 52.209–12, Certification Regarding Tax Matters, require offerors proposing a total contract price that will exceed \$5.5 million (including options) to certify that, to the best of the offeror's knowledge and belief, it—

- Has filed all Federal tax returns required during the three years preceding the certification;

- Has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and

- Has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

6. FAR 52.209–13, Violations of Arms Control Treaties or Agreements with the United States. Unless the offeror is providing evidence of a waiver or determination in accordance with paragraph (b)(2) of the FAR provision at 52.209–13, Violation of Arms Control Treaties or Agreements—Certification, paragraph (b)(1) of the provision requires offerors to certify that—

- The offeror does not engage and has not engaged in any activity that contributed to or is a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a); and

- No entity owned or controlled by the offeror is an entity organized under the laws of such country, that engages or has engaged in any activity that contributed to or is a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state.

Contracting officers use the collected information described above to

determine an offeror's responsibility for contract award.

C. Annual Burden

Respondents: 1,973,803.

Total Annual Responses: 2,177,511.

Total Burden Hours: 1,125,803.

(589,703 reporting hours + 536,100 recordkeeping hours).

D. Public Comment

A 60-day notice was published in the **Federal Register** at 89 FR 102145, on December 17, 2024. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0198, Certain Federal Acquisition Regulation Part 9 Requirements.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025-04004 Filed 3-12-25; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2024-N-3779]

Jonathan Corbett Cosie: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debaring Jonathan Corbett Cosie for a period of 10 years from importing or offering for import any drug into the United States. FDA bases this order on a finding that Mr. Cosie was convicted of two felony counts under Federal law for introducing misbranded drugs into interstate commerce with the intent to defraud and mislead. The factual basis supporting Mr. Cosie's conviction, as described below, is conduct relating to the importation into the United States of a drug or controlled substance. Mr. Cosie was given notice of the proposed debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of January 6, 2025 (30 days after receipt of

the notice), Mr. Cosie had not responded. Mr. Cosie's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable March 13, 2025.

ADDRESSES: Any application by Mr. Cosie for termination of debarment under section 306(d)(1) of the FD&C Act (21 U.S.C. 335a(d)(1)) may be submitted at any time as follows:

Electronic Submissions

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. An application submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your application will be made public, you are solely responsible for ensuring that your application does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your application, that information will be posted on <https://www.regulations.gov>.

- If you want to submit an application with confidential information that you do not wish to be made available to the public, submit the application as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For a written/paper application submitted to the Dockets Management Staff, FDA will post your application, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All applications must include the Docket No. FDA-2024-N-3779. Received applications will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit an application with confidential

information that you do not wish to be made publicly available, submit your application only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of your application. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852 between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500. Publicly available submissions may be seen in the docket.

FOR FURTHER INFORMATION CONTACT:

Jaime Espinosa, Division of Field Enforcement, Office of Field Regulatory Operations, Office of Inspections and Investigations, Food and Drug Administration, 240-402-8743, or debarments@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(C) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On July 30, 2024, Mr. Cosie was convicted as defined in section 306(l)(1) of the FD&C Act in the U.S. District Court for the Middle District of Florida-Jacksonville Division when the court accepted his plea of guilty and entered judgment against him for two counts of introducing misbranded drugs into interstate commerce with the intent to

defraud and mislead in violation of sections 301(a) and 303(a)(2) of the FD&C Act (21 U.S.C. 331(a) and 21 U.S.C. 333(a)(2)). The underlying facts supporting the conviction are as follows: As contained in the Information and Plea Agreement from Mr. Cosie's case, from approximately 2016 through 2020, he owned and operated several businesses including HCGRX LLC a/k/a Health Conscious Group Rx LLC (HCGRX). According to its website, HCGRX advertised itself as a national distributor of competition quality weight loss, body building and sports supplements. The website also advertised products for the treatment of erectile dysfunction, which were described as generic versions of the prescription drugs VIAGRA (sildenafil) and CIALIS (tadalafil). Among other supplements, Mr. Cosie sold a number of products containing Human Chorionic Gonadotropin ("HCG"). HCG is a hormone produced by the placenta during pregnancy. FDA has approved several prescription drugs containing HCG for the treatment of female infertility and for other medical conditions. FDA has not approved any HCG-containing products for weight loss, nor for any purpose without a prescription. Mr. Cosie falsely claimed on his website that his company was cooperating with international pharmacies to ship orders out. In fact, Mr. Cosie obtained unapproved prescription drugs containing HCG from foreign manufacturers and other sources. Then, after importing those drugs, Mr. Cosie would apply to the vials his own counterfeit labels which he created and printed and which contained false and misleading information. Mr. Cosie then knowingly and intentionally sold the drugs to consumers without a prescription or the supervision of a licensed medical practitioner. From October 28, 2017, through December 24, 2020, Mr. Cosie received approximately \$626,202.77 in proceeds from distribution of misbranded prescription drugs, and \$20,000 for the sale of HCGRX.

FDA sent Mr. Cosie, by certified mail, on December 3, 2024, a notice proposing to debar him for a 10-year period from importing or offering for import any drug into the United States. The proposal was based on a finding under section 306(b)(3)(C) of the FD&C Act that Mr. Cosie's felony convictions under Federal law for introducing misbranded drugs into interstate commerce with the intent to defraud and mislead in violation of sections 301(a) and 303(a)(2) of the FD&C Act, was for conduct relating to the

importation of any drug or controlled substance into the United States because Mr. Cosie illegally imported and introduced misbranded prescription drug products into interstate commerce. In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Mr. Cosie's offense and concluded that the offense warranted the imposition of a 10-year period of debarment.

The proposal informed Mr. Cosie of the proposed debarment and offered him an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Cosie received the proposal and notice of opportunity for a hearing on December 7, 2024. Mr. Cosie failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Division of Field Enforcement Director, Office of Inspections and Investigations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Director, Division of Enforcement, finds that Mr. Jonathan Corbett Cosie has been convicted of felonies under Federal law for conduct relating to the importation into the United States of any drug or controlled substance. FDA finds that the offenses should be accorded a debarment period of 10 years as provided by section 306(c)(2)(A)(iii) of the FD&C Act.

As a result of the foregoing finding, Mr. Cosie is debarred for a period of 10 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act, the importing or offering for import into the United States of any drug by, with the assistance of, or at the direction of Mr. Cosie is a prohibited act.

Dated: March 7, 2025.

P. Ritu Nalubola,

Associate Commissioner for Policy.

[FR Doc. 2025-04030 Filed 3-12-25; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2024-D-5601]

E6(R3) Good Clinical Practice: Annex 2; International Council for Harmonisation; Draft Guidance for Industry; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is reopening the comment period for the draft guidance for industry entitled "E6(R3) Good Clinical Practice: Annex 2," announced in the **Federal Register** of December 30, 2024. The Agency is taking this action to allow interested persons additional time to submit comments.

DATES: FDA is reopening the comment period on the draft guidance published December 30, 2024 (89 FR 106519). Submit either electronic or written comments on the draft guidance by March 31, 2025, to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the

manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2024-D-5601 for “E6(R3) Good Clinical Practice: Annex 2.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to [https://](https://www.regulations.gov)

www.regulations.gov and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Amy Chi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6334, Silver Spring, MD 20993-0002, Amy.Chi@fda.hhs.gov; or James Myers, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911.

Regarding the ICH: Jill Adleberg, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6364, Silver Spring, MD 20993-0002, 301-796-5259, Jill.Adleberg@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 30, 2024 (89 FR 106519), FDA published a notice of availability with a 60-day period to provide comments on the draft guidance entitled “E6(R3) Good Clinical Practice: Annex 2.” The draft guidance provides guidance on good clinical practices for trial design and conduct, with a focus on trials with decentralized and pragmatic elements as well as trials that utilize real-world data. Since the original E6 guidance was published in 1996, clinical trials have evolved significantly with new designs and technological innovations. Annex 2 provides additional considerations to the previously published draft guidance entitled “E6(R3) Good Clinical Practice (GCP),” which includes a Principles document and Annex 1. This draft guidance, entitled “E6(R3) Good Clinical Practice: Annex 2,” is intended to be read and implemented with E6(R3) Principles and Annex 1.

Interested persons were originally given until February 28, 2025, to submit comments to the docket. FDA has received requests to extend the comment period to allow sufficient time to develop and submit meaningful comments. FDA has considered the requests and is reopening the comment period until March 31, 2025. The Agency believes that reopening the comment period until March 31, 2025, allows adequate additional time for interested persons to submit comments.

Dated: March 7, 2025.

P. Ritu Nalubola,

Associate Commissioner for Policy.

[FR Doc. 2025-04026 Filed 3-12-25; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2024-N-3359]

Harpreet Singh: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Harpreet Singh for a period of 10 years from importing or offering for import any drug into the United States. FDA bases this order on a finding Mr. Singh was convicted of multiple felony offenses, which serve as the basis for this debarment, that are conspiracy to possess with intent to distribute cathinone, tapentadol, tramadol, and carisoprodol; one felony count under Federal law for fraudulent importation and transportation of goods; one felony count under Federal law for conspiracy to launder money; and one felony count under Federal law for conspiracy to obstruct justice. The factual basis supporting Mr. Singh’s conviction, as described below, is conduct relating to the importation into the United States of a drug or controlled substance. Mr. Singh was given notice of the proposed debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of November 20, 2024 (30 days after receipt of the notice), Mr. Singh had not responded. Mr. Singh’s failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable March 13, 2025.

ADDRESSES: Any application by Mr. Singh for termination of debarment under section 306(d)(1) of the FD&C Act (21 U.S.C. 335a(d)(1)) may be submitted at any time as follows:

Electronic Submissions

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. An application submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your

application will be made public, you are solely responsible for ensuring that your application does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your application, that information will be posted on <https://www.regulations.gov>.

- If you want to submit an application with confidential information that you do not wish to be made available to the public, submit the application as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

- Mail/Hand Delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For a written/paper application submitted to the Dockets Management Staff, FDA will post your application, as well as any attachments, except for information submitted, marked, and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All applications must include the Docket No. FDA-2024-N-3359. Received applications will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- Confidential Submissions—To submit an application with confidential information that you do not wish to be made publicly available, submit your application only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of your application. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20

and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852 between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500. Publicly available submissions may be seen in the docket.

FOR FURTHER INFORMATION CONTACT:

Jaime Espinosa, Division of Field Enforcement, Office of Field Regulatory Operations, Office of Inspections and Investigations, Food and Drug Administration, at 240-402-8743, or debarments@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act (21 U.S.C. 335a(b)(1)(D)) permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(C) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On May 21, 2024, Mr. Singh was convicted as defined in section 306(l)(1) of the FD&C Act in the United States District Court for the Eastern District of New York when the court accepted his plea of guilty and entered judgment against him for multiple felony offenses that are conspiracy to possess with intent to distribute cathinone, tapentadol, tramadol, and carisoprodol, in violation of 21 U.S.C. 846 and 841(b)(1)(C); one felony count under Federal law for fraudulent importation and transportation of goods in violation of 18 U.S.C. 545; one felony count under Federal law for conspiracy to launder money in violation of 18 U.S.C. 1956(a) and 1956(h); and one felony count under Federal law for conspiracy to obstruct justice in violation of 18 U.S.C. 1512(c) and 1512(k). The underlying facts supporting the conviction are as follows: as contained in the Information from his case, between January 2017 and September 2019, Mr. Singh knowingly, intentionally and with intent to defraud the United States, smuggled, and clandestinely introduced and attempted to smuggle and

clandestinely introduced into the United States misbranded drugs, which should have been invoiced, and made out and passed, and attempted to pass, through the customhouse one or more false, forged and fraudulent invoices, and other documents and papers; and knowingly, intentionally and fraudulently imported and brought into the United States merchandise contrary to law, and receive, conceal, buy, sell and facilitate the transportation, concealment and sale of the misbranded drugs, knowing that the drugs to have been imported and brought into the United States contrary to law. In addition, Mr. Singh together with others, did knowingly and intentionally conspire to distribute and possess with intent to distribute one or more controlled substances that are cathinone, a schedule I controlled substance; tapentadol, a schedule II controlled substance; and tramadol and carisoprodol, schedule IV controlled substances. Also, together with others, Mr. Singh knowingly and intentionally conspired: (a) to conduct one or more financial transactions affecting interstate and foreign commerce, to wit: interstate and foreign transfers of funds and payments of Federal Express bills, which transactions in fact involved the proceeds of specified unlawful activity, to wit: the crimes charged in counts one and two of the Information, knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, with the intent to promote the carrying on of specified unlawful activity, in violation of 18 U.S.C. 1956(a)(1)(A)(i); and (b) to conduct one or more financial transactions affecting interstate and foreign commerce, to wit: interstate and foreign transfers of funds and payments of Federal Express bills, which transactions in fact involved the proceeds of the crimes charged in counts one and two of the Information, knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, and knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership and control of the proceeds of specified unlawful activity, in violation of 18 U.S.C. 1956(a)(1)(B)(i).

As further contained in the Information from Mr. Singh's case, between approximately August 2019 and September 2019, Mr. Singh, together with others, knowingly and intentionally conspired to corruptly alter, destroy, mutilate and conceal records, documents and other objects

with the intent to impair the objects' integrity and availability for use in an official proceeding, to wit: a grand jury investigation in the Eastern District of New York, in violation of 18 U.S.C. 1512(c)(1) and 1512(k).

FDA sent Mr. Singh, by certified mail, on October 3, 2024, a notice proposing to debar him for a 10-year period from importing or offering for import any drug into the United States. The proposal was based on a finding under section 306(b)(3)(C) of the FD&C Act that Mr. Singh's felony convictions under Federal law for conspiracy to possess with intent to distribute cathinone, tapentadol, tramadol, and carisoprodol, fraudulent importation and transportation of goods, conspiracy to launder money, and conspiracy to obstruct justice, was for conduct relating to the importation of any drug or controlled substance into the United States because Mr. Singh illegally imported and then introduced misbranded drug products into interstate commerce. He then laundered money gained from that illegal activity and conspired to obstruct justice by destroying documents and other objects to prevent their use in a criminal investigation.

In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Mr. Singh's offense and concluded that the offense warranted the imposition of a 10-year period of debarment.

The proposal informed Mr. Singh of the proposed debarment and offered him an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Singh received the proposal and notice of opportunity for a hearing on October 21, 2024. Mr. Singh failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Division of Field Enforcement Director, Office of Inspections and Investigations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Division of Field Enforcement Director, finds that Mr. Harpreet Singh has been convicted of multiple felonies under Federal law for conduct relating to the importation into the United States of any drug or controlled substance. FDA

finds that the offenses should be accorded a debarment period of 10 years as provided by section 306(c)(2)(A)(iii) of the FD&C Act.

As a result of the foregoing finding, Mr. Singh is debarred for a period of 10 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of any drug by, with the assistance of, or at the direction of Mr. Singh is a prohibited act.

Dated: March 7, 2025.

P. Ritu Nalubola,

Associate Commissioner for Policy.

[FR Doc. 2025-04028 Filed 3-12-25; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2024-N-4887]

John Warrington Kosolcharoen: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) permanently debarring John Warrington Kosolcharoen from providing services in any capacity to a person that has an approved or pending drug product application including, but not limited to, a biologics license application (BLA). FDA bases this order on a finding that Mr. Kosolcharoen was convicted of a felony under Federal law for conduct that relates to the regulation of a drug product under the FD&C Act. Mr. Kosolcharoen was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of December 26, 2024 (30 days after receipt of the notice), Mr. Kosolcharoen has not responded. Mr. Kosolcharoen's failure to respond and request a hearing constitutes a waiver of Mr. Kosolcharoen's right to a hearing concerning this matter.

DATES: This order is applicable March 13, 2025.

ADDRESSES: Any application by Mr. Kosolcharoen for special termination of debarment under section 306(d)(4) of the FD&C Act (21 U.S.C. 335a(d)(4)) may be submitted at any time as follows:

Electronic Submissions

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. An application submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your application will be made public, you are solely responsible for ensuring that your application does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your application, that information will be posted on <https://www.regulations.gov>.

- If you want to submit an application with confidential information that you do not wish to be made available to the public, submit the application as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For a written/paper application submitted to the Dockets Management Staff, FDA will post your application, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All applications must include the Docket No. FDA-2024-N-4887. Received applications will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit an application with confidential information that you do not wish to be made publicly available, submit your application only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of your application.

The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852 between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500. Publicly available submissions may be seen in the docket.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Field Enforcement, Office of Field Regulatory Operations, Office of Inspections and Investigations, Food and Drug Administration, at 240–402–8743, or debarments@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(a)(2)(B) of the FD&C Act (21 U.S.C. 335a(a)(2)(B)) requires debarment of an individual from providing services in any capacity to a person that has an approved or pending drug product application including, but not limited to, a BLA if FDA finds that the individual has been convicted of a felony under Federal law for conduct relating to the regulation of any drug product under the FD&C Act. On September 30, 2024, Mr. Kosolcharoen was convicted as defined in section 306(l)(1) of the FD&C Act in the United States District Court for the Central District of California when the court accepted his plea of guilty and entered judgment against him for the offense of introducing an unapproved new drug into interstate commerce with intent to defraud in violation of 21 U.S.C. 331(d), 333(a)(2), and 355(a). The underlying facts supporting the conviction are as follows:

As described in the plea agreement from his case, Mr. Kosolcharoen was the chief executive officer and sole owner of Liveyon, LLC (Liveyon). Genetech, Inc. (Genetech) was a company incorporated by another individual who described it as a “research lab” in the public filing.

Mr. Kosolcharoen directed that other person to operate Genetech for the purpose of manufacturing ReGen, an injectable stem cell product made from human umbilical cord blood, for exclusive distribution by Liveyon to physicians to administer to patients to purportedly treat a variety of human diseases and illnesses. Mr. Kosolcharoen knew that Genetech and Liveyon were essentially formed and operated in concert solely to manufacture and distribute ReGen.

Beginning around May 2016, and continuing through April 2019, Mr. Kosolcharoen, together with others, fraudulently introduced ReGen and other stem cell derived Liveyon products into interstate commerce. Around July 2016, Mr. Kosolcharoen retained legal counsel and was advised that ReGen could not be manufactured or distributed without FDA’s premarket approval. Nonetheless, Mr. Kosolcharoen sold ReGen and other stem cell derived Liveyon products without premarket approval. In November 2016, an FDA regulatory expert advised Mr. Kosolcharoen that ReGen could only be distributed for research use or for specific therapeutic applications that FDA had approved. Mr. Kosolcharoen then directed Liveyon’s purchase orders to falsely state that the stem cell products were being sold “for research purposes only for investigational use.”

Mr. Kosolcharoen began selling ReGen around November 2016. From November 2016 until October 2017, Mr. Kosolcharoen manufactured and distributed more than \$5,000,000 worth of ReGen. However, Liveyon did not file its required annual registration with FDA until on or about October 9, 2017. In that registration submission Mr. Kosolcharoen caused a Liveyon employee to include numerous false statements to mislead FDA. These false statements included that Liveyon was not a labeling product, that Liveyon products were not human cells, tissues, or cellular or tissue-based products (HCT/Ps) “regulated as drugs or biological drugs,” that Liveyon was distributing HCT/Ps that met certain criteria that exempted them from FDA pre-market approval requirements, and that Liveyon was engaged in “satellite distribution only” of human umbilical cord blood products for allogenic use. In fact, Liveyon was the sole distributor of ReGen, which Genetech manufactured exclusively for Liveyon to be distributed to Liveyon’s clinician-customers for treatment of their patients. Around September 12, 2018, Mr. Kosolcharoen introduced and delivered for introduction into interstate commerce,

ReGen, an unapproved new drug, for non-research, clinical use for commercial profit, with a purchase order that falsely stated “Liveyon cells are sold for research purposes only.” This conduct was undertaken knowingly and with intent to defraud as to material matters.

Mr. Kosolcharoen and others misrepresented in marketing materials that ReGen was suitable for the treatment of a variety of conditions, such as lung and heart diseases, autoimmune disorders, Alzheimer’s disease, Parkinson’s disease and other conditions. Liveyon marketed the products throughout the United States until about April 2019, using advertising materials that contained multiple false and misleading statements about their purported safety and effectiveness. Mr. Kosolcharoen and others fraudulently induced Liveyon customers into purchasing other stem cell derived Liveyon products that were ReGen’s successors, by falsely reporting and concealing material facts regarding the outcome of an FDA inspection of Liveyon and nationwide recall of ReGen, by misleading the public about the severity and cause of adverse events suffered by Liveyon patients who were administered ReGen, and by hosting seminars to promote ReGen’s successor products that were functionally identical to ReGen and that also were not FDA approved.

ReGen was administered to well more than 10 patients to whom Mr. Kosolcharoen and others mass marketed via internet and social media advertisements that falsely claimed ReGen was a safe and effective, cheaper, and less invasive treatment alternative to surgery or other procedures for severe, serious, and chronic diseases and disorders that had left patients feeling they had no options.

As a result of this conviction, FDA sent Mr. Kosolcharoen, by certified mail, on November 20, 2024, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application including, but not limited to, a BLA. The proposal was based on a finding, under section 306(a)(2)(B), that Mr. Kosolcharoen was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the FD&C Act. The proposal informed Mr. Kosolcharoen of the proposed debarment and offered him an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of

the opportunity for a hearing and of any contentions concerning this action. Mr. Kosolcharoen received the proposal and notice of opportunity for a hearing on November 26, 2024. Mr. Kosolcharoen failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Division of Field Enforcement Director, Office of Inspections and Investigations, under section 306(a)(2)(B) of the FD&C Act, under authority delegated to the Director, Division of Enforcement finds that Mr. John Warrington Kosolcharoen has been convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the FD&C Act.

As a result of the foregoing finding, Mr. Kosolcharoen is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application including, but not limited to, a BLA, effective (see **DATES**) (see sections 306(a)(2)(B) and 306(c)(2)(A)(ii) of the FD&C Act, (21 U.S.C. 335a(a)(2)(B) and 335a(c)(2)(A)(ii))). Any person with an approved or pending drug product application including, but not limited to, a BLA, who knowingly employs or retains as a consultant or contractor, or otherwise uses in any capacity the services of Mr. Kosolcharoen during his debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Mr. Kosolcharoen provides services in any capacity to a person with an approved or pending drug product application including, but not limited to, a BLA during his period of debarment he will be subject to civil money penalties (section 307(a)(7) of the FD&C Act (21 U.S.C. 335b(a)(7))). In addition, FDA will not accept or review any abbreviated new drug application from Mr. Kosolcharoen during his period of debarment, other than in connection with an audit under section 306 of the FD&C Act (section 306(c)(1)(B) of the FD&C Act (21 U.S.C. 335a(c)(1)(B))). Note that, for purposes of sections 306 and 307 of the FD&C Act (21 U.S.C.

335a and 335b), a “drug product” is defined as a “drug subject to regulation under section 505, 512, or 802 of this FD&C Act [(21 U.S.C. 355, 360b, 382)] or under section 351 of the Public Health Service Act [(42 U.S.C. 262)]” (section 201(dd) of the FD&C Act (21 U.S.C. 321(dd))).

Dated: March 7, 2025.

P. Ritu Nalubola,

Associate Commissioner for Policy.

[FR Doc. 2025–04031 Filed 3–12–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–3314]

Alnashir Alibhai Punjani: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Alnashir Alibhai Punjani for a period of 5 years from importing or offering for import any drug into the United States. FDA bases this order on a finding that Mr. Punjani was convicted of one felony count under Federal law for conspiracy to deliver and introduce unapproved drugs. The factual basis supporting Mr. Punjani’s conviction, as described below, is conduct relating to the importation into the United States of a drug or controlled substance. Mr. Punjani was given notice of the proposed debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of November 10, 2024 (30 days after receipt of the notice), Mr. Punjani had not responded. Mr. Punjani’s failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable March 13, 2025.

ADDRESSES: Any application by Mr. Punjani for termination of debarment

under section 306(d)(1) of the FD&C Act (21 U.S.C. 335a(d)(1)) may be submitted at any time as follows:

Electronic Submissions

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. An application submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your application will be made public, you are solely responsible for ensuring that your application does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your application, that information will be posted on <https://www.regulations.gov>.

- If you want to submit an application with confidential information that you do not wish to be made available to the public, submit the application as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For a written/paper application submitted to the Dockets Management Staff, FDA will post your application, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All applications must include the Docket No. FDA–2024–N–3314. Received applications will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit an application with confidential information that you do not wish to be made publicly available, submit your application only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of your application. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852 between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500. Publicly available submissions may be seen in the docket.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Compliance and Enforcement, Office of Policy, Compliance, and Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 240–402–8743, or debarments@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(C) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On June 18, 2024, Mr. Punjani was convicted, as defined in section 306(l)(1) of the FD&C Act, in the U.S. District Court for Northern District of Georgia-Atlanta Division, when the court accepted his plea of guilty and entered judgment against him for the

offense of conspiracy to deliver and introduce unapproved drugs in violation of 18 U.S.C. 371 and 21 U.S.C. 331(c) and 333(a)(2) (sections 301(c) and 303(a)(2) of the FD&C Act). The underlying facts supporting the conviction are as follows:

As contained in the information, filed on January 18, 2024, in or about March 2019, and continuing until in or about September 2022, Mr. Punjani imported thousands of AUROGRA 100 mg tablets, VIGORE 100 mg tablets, and CENFORCE 100 mg tablets, which were male enhancement pills manufactured in India, but not authorized for sale in the United States by FDA. These pills contained the active pharmaceutical ingredient (API) sildenafil. Sildenafil is the same API used in the prescription drug VIAGRA. The FDA approved drugs containing the active ingredient sildenafil are only available by prescription and may cause serious side effects for those suffering from cardiovascular disease, hypertension, bleeding disorders, and other related health conditions. The drugs Mr. Punjani imported and resold had not been approved by FDA meaning that they did not have the same assurance of safety or efficacy as FDA approved drugs. Per the information, Mr. Punjani used commercial shippers to ship the tablets from India to multiple locations in Georgia where he, with the intent to defraud and mislead, organized them for resell in the state of Georgia. The labeling on the drugs Mr. Punjani resold did not contain adequate directions for use.

FDA sent Mr. Punjani, by certified mail, on September 26, 2024, a notice proposing to debar him for a 5-year period from importing or offering for import any drug into the United States. The proposal was based on a finding under section 306(b)(3)(C) of the FD&C Act that Mr. Punjani’s felony conviction under Federal law for conspiracy to deliver and introduce unapproved drugs in violation of 18 U.S.C. 371 and sections 301(c) and 303(a)(2) of the FD&C Act, was for conduct relating to the importation into the United States of any drug or controlled substance into the United States because Mr. Punjani illegally imported and introduced unapproved and misbranded prescription drug products into interstate commerce in the United States. In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Mr. Punjani’s offense and concluded that the offense warranted the imposition of a 5-year period of debarment.

The proposal informed Mr. Punjani of the proposed debarment and offered him an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Punjani received the proposal and notice of opportunity for a hearing on October 11, 2024. Mr. Punjani failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Division of Field Enforcement Director, Office of Inspections and Investigations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Director, Division of Enforcement, finds that Mr. Alnashir Alibhai Punjani has been convicted of a felony under Federal law for conduct relating to the importation into the United States of any drug or controlled substance. FDA finds that the offense should be accorded a debarment period of 5 years as provided by section 306(c)(2)(A)(iii) of the FD&C Act.

As a result of the foregoing finding, Mr. Punjani is debarred for a period of 5 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act, the importing or offering for import into the United States of any drug by, with the assistance of, or at the direction of Mr. Punjani is a prohibited act.

Dated: March 7, 2025.

P. Ritu Nalubola,

Associate Commissioner for Policy.

[FR Doc. 2025–04029 Filed 3–12–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2023–P–0884 and FDA–2023–P–5687]

Determination That RIOMET (Metformin Hydrochloride) Oral Solution, 500 Milligrams/5 Milliliters Has Not Been Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that RIOMET (metformin hydrochloride) Oral Solution, 500 milligrams (mg)/5 milliliters (mL) has not been withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT:

Tereza Hess, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6286, Silver Spring, MD 20993-0002, 301-796-1546, tereza.hess@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is known generally as the "Orange Book." Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)).

FDA may not approve an ANDA that does not refer to a listed drug.

RIOMET (metformin hydrochloride) Oral Solution, 500 mg/5 mL, is the subject of NDA 021591, held by Ranbaxy Signature LLC, and initially approved on September 11, 2003. RIOMET is a biguanide indicated as an adjunct to diet and exercise to improve glycemic control in adults and pediatric patients 10 years of age and older with type 2 diabetes mellitus.

In a letter dated November 14, 2022, Ranbaxy Signature LLC notified FDA that RIOMET (metformin hydrochloride) Oral Solution, 500 mg/5 mL had been withdrawn from sale as of November 2019. RIOMET (metformin hydrochloride) Oral Solution, 500 mg/5 mL is currently listed in the "Discontinued Drug Product List" section of the Orange Book.

Oryza Pharmaceuticals, Inc. submitted a citizen petition dated March 9, 2023 (Docket No. FDA-2023-P-0884), under 21 CFR 10.30, requesting that the Agency determine whether RIOMET (metformin hydrochloride) Oral Solution, 500 mg/5 mL, was withdrawn from sale for reasons of safety or effectiveness. Bionpharma, Inc. submitted a citizen petition dated December 22, 2023 (Docket No. FDA-2023-P-5687) under 21 CFR 10.30, also requesting that the Agency determine whether RIOMET (metformin hydrochloride) Oral Solution, 500 mg/5 mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that RIOMET (metformin hydrochloride) Oral Solution, 500 mg/5 mL, has not been withdrawn from sale for reasons of safety or effectiveness. The petitioners have identified no data or other information suggesting that RIOMET (metformin hydrochloride) Oral Solution, 500 mg/5 mL, was withdrawn from sale for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of RIOMET (metformin hydrochloride) Oral Solution, 500 mg/5 mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list RIOMET (metformin hydrochloride) Oral Solution, 500 mg/5 mL, in the "Discontinued Drug Product

List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: March 7, 2025.

P. Ritu Nalubola,

Associate Commissioner for Policy.

[FR Doc. 2025-04020 Filed 3-12-25; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2020-N-0026]

Issuance of Priority Review Voucher; Rare Pediatric Disease Product; Gomekli (mirdametinib)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (FD&C Act) authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the award of the priority review voucher. FDA has determined that GOMEKLI (mirdametinib), approved on February 11, 2025, manufactured by SpringWorks Therapeutics, Inc., meets the criteria for a priority review voucher.

FOR FURTHER INFORMATION CONTACT:

Cathryn Lee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993-0002, 301-796-1394.

SUPPLEMENTARY INFORMATION: FDA is announcing the issuance of a priority review voucher to the sponsor of an approved rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), FDA will

award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA has determined that GOMEKLI (mirdametinib), manufactured by SpringWorks Therapeutics, Inc., meets the criteria for a priority review voucher. GOMEKLI (mirdametinib) tablet is indicated for adults and pediatric patients 2 years of age and older with neurofibromatosis type 1 who have symptomatic plexiform neurofibromas.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to <https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm>. For further information about GOMEKLI (mirdametinib), go to the "Drugs@FDA" website at <https://www.accessdata.fda.gov/scripts/cder/daf/>.

Dated: March 7, 2025.

P. Ritu Nalubola,

Associate Commissioner for Policy.

[FR Doc. 2025-04021 Filed 3-12-25; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial-Host Interactions.

Date: April 2, 2025.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Anna Babakhanyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435-3634, anna.babakhanyan@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Vascular and Hematological Systems, Surgical Sciences, Biomedical Imaging, and Bioengineering.

Date: April 7-8, 2025.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Courtney Elaine Watkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496-3093, courtney.watkins2@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Maximizing Investigators' Research Award (R35).

Date: April 7-8, 2025.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Mufeng Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 507-9155, mufeng.li@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurotechnology and Vision.

Date: April 29, 2025.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Aurea D De Sousa, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, Bethesda, MD 20892, (301) 827-6829, aurea.desousa@nih.gov.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Drug and Biologic Disposition and Toxicity Study Section.

Date: May 1-2, 2025.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Frederique Yiannikouris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD

20892, 301-594-3313, frederique.yiannikouris@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: March 7, 2025.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025-03974 Filed 3-12-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Epidemiology and Population Health.

Date: April 1, 2025.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Steven M. Frenk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, (301) 480-8665, frenksm@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncology.

Date: April 3-4, 2025.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Nywana Sizemore, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6189, MSC 7804, Bethesda, MD 20892, 301-408-9916, sizemoren@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: NIH Director's Early Independence Award Review.

Date: April 7–8, 2025.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Brittany L. Mason-Mah, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000A, Bethesda, MD 20892, (301) 594-3163, masonmahbl@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Clinical Data Management, Analysis, Informatics and Digital Health A.

Date: April 17–18, 2025.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Rhoda Keese Moise, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (304) 594-0702, rhoda.moise@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Clinical Data Management, Analysis, Informatics and Digital Health B.

Date: April 23–24, 2025.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301-451-0132, bloommm2@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Health Services Research: Maternal, Reproductive, and Child Health, and Substance Use.

Date: April 29–30, 2025.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: June Lee Gin, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480-2589, june.gin@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: March 7, 2025.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–03975 Filed 3–12–25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–NS–22–025: Helping to End Addiction Long-Term (HEAL) K99.

Date: April 2, 2025.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Devaiah Nanjappa Ballachanda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 801F, Bethesda, MD 20892, (301) 480-0576, ballachandad@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cancer Immunology and Immunotherapy II.

Date: April 8, 2025.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Ola Mae Zack Howard, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, 301-451-4467, howardz@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–OD–25–002: Investigation of Co-occurring conditions across the Lifespan to Understand Down syndrome (INCLUDE).

Date: April 8, 2025.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Devaiah Nanjappa Ballachanda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 801F, Bethesda, MD 20892, (301) 480-0576, ballachandad@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cancer Immunology and Immunotherapy I.

Date: April 23–24, 2025.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Ola Mae Zack Howard, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, 301-451-4467, howardz@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular Differentiation and Development.

Date: April 29, 2025.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 301-435-0904, sara.ahlgren@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: March 7, 2025.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–03973 Filed 3–12–25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2025–0011]

Notice of Termination of Discretionary Federal Advisory Committees.**AGENCY:** Department of Homeland Security (DHS)**ACTION:** Notice of Termination of Discretionary Federal Advisory Committees.

SUMMARY: In accordance with Executive Order 14217, *Commencing the Reduction of the Federal Bureaucracy*, the Secretary of Homeland Security has determined that the termination of the Homeland Security Academic Partnership Council, Tribal Homeland Security Advisory Council, Artificial Intelligence Safety and Security Board, Public-Private Analytic Exchange Program, Homeland Security Science and Technology Advisory Committee, Cyber Investigations Advisory Board, Critical Infrastructure Partnership Advisory Council, and Data Privacy and Integrity Advisory Committee is in the best interest of the Department of Homeland Security. This determination follows consultation with the DHS Committee Management Officer, and the Committee Management Secretariat, General Services Administration, as required.

FOR FURTHER INFORMATION CONTACT: Michael J. Miron, telephone (202) 447–3151, email dhsfaca@hq.dhs.gov.

SUPPLEMENTARY INFORMATION: On February 19, 2025, the President issued Executive Order (E.O.) 14217, *Commencing the Reduction of the Federal Bureaucracy*, the order states within 30 days of the date of the order, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, and the Assistant to the President for Domestic Policy shall identify and submit to the President additional unnecessary governmental entities and Federal Advisory Committees that should be terminated on grounds that they are unnecessary.

The Secretary of Homeland Security terminates these committees under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Ch.10), as well as 6 U.S.C. 451 effective March 7, 2025.

Dated: March 10, 2025.

Michael J. Miron,
Committee Management Officer.

[FR Doc. 2025–04011 Filed 3–12–25; 8:45 am]

BILLING CODE 9112–FN–P**INTERNATIONAL TRADE COMMISSION**

[Investigation Nos. 701–TA–609 and 731–TA–1421 (Review)]

Steel Trailer Wheels From China**Determinations**

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping and countervailing duty orders on steel trailer wheels from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on August 1, 2024 (89 FR 62783) and determined on November 4, 2024 that it would conduct expedited reviews (89 FR 95814, December 3, 2024).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on March 7, 2025. The views of the Commission are contained in USITC Publication 5596 (March 2025), entitled *Steel Trailer Wheels from China: Investigation Nos. 701–TA–609 and 731–TA–1421 (Review)*.

By order of the Commission.

Issued: March 7, 2025.

Susan Orndoff,

Supervisory Attorney.

[FR Doc. 2025–03961 Filed 3–12–25; 8:45 am]

BILLING CODE 7020–02–P**INTERNATIONAL TRADE COMMISSION**

[Investigation No. 731–TA–919 (Fourth Review)]

Certain Welded Large Diameter Line Pipe From Japan; Scheduling of a Full Five-Year Review**AGENCY:** United States International Trade Commission.**ACTION:** Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to the Tariff Act of 1930 (“the Act”) to determine whether revocation

¹ The record is defined in § 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

of the antidumping duty order on certain welded large diameter line pipe from Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days.

DATES: March 10, 2025.

FOR FURTHER INFORMATION CONTACT: Camille Bryan ((202) 205–2811), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this review may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On December 9, 2024, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review should proceed (90 FR 6010, January 17, 2025); accordingly, a full review is being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners’ votes, the Commission’s statement on adequacy, and any individual Commissioner’s statements are available from the Office of the Secretary and at the Commission’s website.

Participation in the review and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission’s rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission’s notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

For further information concerning the conduct of this review and rules of general application, consult the

Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the review will be placed in the nonpublic record on August 21, 2025, and a public version will be issued thereafter, pursuant to § 207.64 of the Commission's rules.

Hearing.—The Commission will hold an in-person hearing in connection with the review beginning at 9:30 a.m. on September 11, 2025. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before 5:15 p.m. on September 4, 2025. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the review, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID-19 test result may be submitted by 3:00 p.m. the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at <https://www.usitc.gov/calendardpad/calendar.html>.

A nonparty who has testimony that may aid the Commission's deliberations

may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference, if deemed necessary, to be held at 9:30 a.m. on September 10, 2025. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than noon on September 10, 2025. Oral testimony and written materials to be submitted at the public hearing are governed by § 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.65 of the Commission's rules; the deadline for filing is 5:15 p.m. on September 3, 2025. Parties shall also file written testimony in connection with their presentation at the hearing, and posthearing briefs, which must conform with the provisions of § 207.67 of the Commission's rules. The deadline for filing posthearing briefs is 5:15 p.m. on September 19, 2025. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before 5:15 p.m. on September 19, 2025. On October 10, 2025, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before 5:15 p.m. on October 15, 2025, but such final comments must not contain new factual information and must otherwise comply with § 207.68 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for

accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

The Commission has determined that this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 10, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–04012 Filed 3–12–25; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1500]

Importer of Controlled Substances Application: Meridian Medical Technologies, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Meridian Medical Technologies, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before April 14, 2025. Such persons may also file a written request for a hearing on the application on or before April 14, 2025.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal,

which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on January 17, 2025, Meridian Medical Technologies, LLC, 2555 Hermelin Drive, Saint Louis, Missouri 63144, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Morphine	9300	II

The company plans to import the listed controlled substance for analytical purposes only. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2025-04043 Filed 3-12-25; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1508]

Bulk Manufacturer of Controlled Substances Application: Patheon Pharmaceuticals Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Patheon Pharmaceuticals Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to

SUPPLEMENTARY INFORMATION listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before May 12, 2025. Such persons may also file a written request for a hearing on the application on or before May 12, 2025.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on February 4, 2025, Patheon Pharmaceuticals Inc., 2110 East Galbraith Road, Cincinnati, Ohio 45237-1625 applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I

The company plans to manufacture the above listed controlled substance as Active Pharmaceutical Ingredient that will be further synthesized into Food and Drug Administration-approved dosage forms. No other activity for this drug code is authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2025-04045 Filed 3-12-25; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1509]

Importer of Controlled Substances Application: Fisher Clinical Services, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Fisher Clinical Services, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and

applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before April 14, 2025. Such persons may also file a written request for a hearing on the application on or before April 14, 2025.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not

instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia

22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on January 29, 2025, Fisher Clinical Services, Inc., 700A–C Nestle Way, Breinigsville, Pennsylvania 18031–1522, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
5-Methoxy-N,N-dimethyltryptamine	7431	I

The company plans to import the listed controlled substances for use in clinical trials only. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2025–04046 Filed 3–12–25; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 1507]

Bulk Manufacturer of Controlled Substances Application: Sigma Aldrich Research Biochemicals Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Sigma Aldrich Research Biochemicals Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before May 12, 2025. Such persons may also file a written request for a hearing on the application on or before May 12, 2025.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on December 23, 2024, Sigma Aldrich Research Biochemicals Inc., 400–600 Summit Drive, Burlington, Massachusetts 01803, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
Methaqualone	2565	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
Lysergic acid diethylamide	7315	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
2,5-Dimethoxyamphetamine	7396	I
3,4-Methylenedioxymethamphetamine	7405	I
Alpha-methyltryptamine	7432	I
Dimethyltryptamine	7435	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
N-Benzylpiperazine	7493	I
2C–H 2-(2,5-Dimethoxyphenyl) ethanamine)	7517	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
Methylone (3,4-Methylenedioxymethylcathinone)	7540	I
Heroin	9200	I
Normorphine	9313	I
Norlevorphanol	9634	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II

Controlled substance	Drug code	Schedule
Nabilone	7379	II
Phencyclidine	7471	II
Cocaine	9041	II
Codeine	9050	II
Ecgonine	9180	II
Levorphanol	9220	II
Meperidine	9230	II
Methadone	9250	II
Morphine	9300	II
Thebaine	9333	II
Levo-alphaacetyl/methadol	9648	II
Noroxymorphone	9668	II
Remifentanyl	9739	II
Sufentanyl	9740	II
Carfentanyl	9743	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to manufacture the listed controlled substances as reference standards. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2025-04044 Filed 3-12-25; 8:45 am]

BILLING CODE 4410-09-P

OFFICE OF THE FEDERAL REGISTER

Publication Procedures for Federal Register Documents During a Funding Hiatus

AGENCY: Office of the Federal Register.

ACTION: Notice of special procedures.

SUMMARY: During an appropriations lapse, the Office of the Federal Register (OFR) publishes documents directly related to the performance of governmental functions necessary to address imminent threats to the safety of human life or protection of property and may publish documents related to funded programs if delaying publication until the end of the appropriations lapse would prevent or significantly damage the execution of funded functions at the agency. The OFR is prohibited by law from publishing any other agency documents. The OFR does not make case-by-case determinations as to whether certain documents are directly related to activities that qualify for an exemption under the Antideficiency Act. It is the responsibility of the agency submitting a document for publication to provide justification and certify that the document is authorized under the Antideficiency Act.

FOR FURTHER INFORMATION CONTACT: Liza Davis, Director of Legal Affairs and Policy, or Miriam Vincent, Senior Staff Attorney, Office of the Federal Register, National Archives and Records

Administration, (202) 741-6030 or Fedreg.legal@nara.gov.

SUPPLEMENTARY INFORMATION: Due to the possibility of a lapse in appropriations and in accordance with the provisions of the Antideficiency Act, Public Law 97-258, as amended (31 U.S.C. 1341), the OFR announces special procedures for agencies transmitting documents for publication in the **Federal Register**.

During an appropriations lapse, the OFR publishes documents directly related to the performance of governmental functions necessary to address imminent threats to the safety of human life or protection of property and may publish documents related to funded programs if delaying publication until the end of the appropriations lapse would prevent or significantly damage the execution of funded functions at the agency. The OFR is prohibited by law from publishing any other agency documents. The OFR does not make case-by-case determinations as to whether certain documents are directly related to activities that qualify for an exemption under the Antideficiency Act. It is the responsibility of the agency submitting a document for publication to provide justification and certify that the document is authorized under the Antideficiency Act.

During an appropriations lapse affecting one or more Federal agencies, the OFR remains open to accept and process documents authorized to be published in the daily **Federal Register** in the absence of continuing appropriations. An agency wishing to transmit a document to the OFR during an appropriations lapse must attach an exception letter to the document which provides justification and certifies that publication in the **Federal Register** is necessary for one of the following reasons:

Unfunded Agencies or Programs

- To safeguard human life, protect property, or

- To provide other emergency services consistent with the performance of functions and services exempted under the Antideficiency Act.

Funded Agencies or Programs

- Because delaying publication until the end of the appropriations lapse would prevent or significantly damage the execution of funded functions at the agency.

The OFR may be able to accept documents transmitted for publication if delaying publication would significantly damage the execution of funded functions at the agency.

Under the August 16, 1995 opinion of the Office of Legal Counsel of the Department of Justice (OLC), *Government Operations in the Event of a Lapse in Appropriations*, exempt functions and services would include activities such as those related to the constitutional duties of the President, food and drug inspection, air traffic control, responses to natural or manmade disasters, law enforcement, and supervision of financial markets. Documents related to normal or routine activities of Federal agencies, even if funded under prior year appropriations, will not be published.

In another opinion, issued on December 13, 1995, *Effect of Appropriations for Other Agencies and Branches on the Authority to Continue Department of Justice Functions During the Lapse in the Department's Appropriations*, the OLC found that the necessary-implication exception allowed unfunded agencies to provide support to funded agencies or programs under certain conditions. Based on OLC interpretation of the December 13, 1995 opinion, as this applies to the OFR, if an agency with current appropriations submits a document for publication and certifies that delaying publication until the end of the appropriations lapse would prevent or significantly damage the execution of funded functions at the

agency, then publication in the **Federal Register** would be a function or service excepted under the Antideficiency Act.

At the onset of an appropriations lapse, the OFR may suspend the regular 3-day publication schedule to permit a limited number of exempt personnel to process excepted documents. Agency officials will be informed as to the schedule for filing and publishing individual documents.

OFR has posted frequently asked questions and excepted letter templates on the following website, which will be updated as necessary:

www.archives.gov/federal-register/agencies/shutdown-faqs.

Authority: The authority for this action is 44 U.S.C. 1502 and 1 CFR 2.4 and 5.1.

Oliver A. Potts,

Director of the Federal Register.

[FR Doc. 2025-04015 Filed 3-12-25; 8:45 am]

BILLING CODE 0099-10-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

60-Day Notice for the “ArtsHERE Grant Program Forms” Proposed Collection; Comment Request

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed revision of collections of subgrantee information and technical assistance provider information for the ArtsHERE grant program. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

ADDRESSES: Send comments to Sunil Iyengar, National Endowment for the Arts, via email (research@arts.gov).

SUPPLEMENTARY INFORMATION: The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Dated: March 10, 2025.

RaShaunda Thomas,

Deputy Director, Office of Administrative Services & Contracts, National Endowment for the Arts.

[FR Doc. 2025-04017 Filed 3-12-25; 8:45 am]

BILLING CODE 7537-01-P

OFFICE OF PERSONNEL MANAGEMENT

January 2025 Pay Schedules

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The rates of basic pay and locality payments for certain Federal civilian employees are adjusted effective in January 2025. The Executive order authorizes a 1.7 percent across-the-board increase for statutory pay systems and locality pay increases costing approximately 0.3 percent of basic payroll, reflecting an overall average pay increase of 2.0 percent. This notice serves as documentation for the public record.

FOR FURTHER INFORMATION CONTACT: Lisa Dismond; Pay, Leave, and Workforce Flexibilities; Workforce Policy and Innovation; Office of Personnel

Management; (202) 606-2858 or paypolicy@opm.gov.

SUPPLEMENTARY INFORMATION: Executive Order (E.O.) 14132 (89 FR 106963, December 23, 2024) implemented pay adjustments for certain Federal civilian employees in January 2025. E.O. 14132 provides an overall average pay increase of 2.0 percent for the statutory pay systems. This is consistent with the President’s alternative pay plan issued under 5 U.S.C. 5303(b) and 5304a on August 30, 2024. The pay rates in E.O. 14113 have been superseded.

The publication of this notice satisfies the requirement in Section 5(b) of E.O. 14132 that the Office of Personnel Management (OPM) publish appropriate notice of the 2025 locality payments in the **Federal Register**.

Schedule 1 of E.O. 14132 provides the rates for the 2025 General Schedule (GS) and reflects a 1.7 percent increase from 2024. Executive Order 14132 also includes the percentage amounts of the 2025 locality payments. (See Section 5 and Schedule 9 of Executive Order 14132.)

General Schedule employees receive locality payments under 5 U.S.C. 5304. Locality payments apply in the United States (as defined in 5 U.S.C. 5921(4)) and its territories and possessions. In 2025, locality payments ranging from 17.06 percent to 46.34 percent apply to GS employees in the 58 locality pay areas. The 2025 locality pay area definitions¹ can be found on OPM’s website.

The 2025 locality pay percentages became effective the first day of the first pay period beginning on or after January 1, 2025 (January 12, 2025). An employee’s locality rate of pay is computed by increasing his or her scheduled annual rate of pay (as defined in 5 CFR 531.602) by the applicable locality pay percentage. (See 5 CFR 531.604 and 531.609.)

Executive Order 14132 establishes the new Executive Schedule (EX), which incorporates a 1.7 percent increase required under 5 U.S.C. 5318 (rounded to the nearest \$100). By law, Executive Schedule officials are not authorized to receive locality payments.

Executive Order 14132 establishes the 2025 range of rates of basic pay for members of the Senior Executive Service (SES) under 5 U.S.C. 5382. The minimum rate of basic pay for the SES is \$150,160 in 2025. The maximum rate of the SES rate range is \$225,700 (level

¹ Office of Personnel Management. “2025 Locality Pay Area Definitions.” Locality Pay Area Definitions.” <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2025/locality-pay-area-definitions>

II of the Executive Schedule) for SES members who are covered by a certified SES performance appraisal system and \$207,500 (level III of the Executive Schedule) for SES members who are not covered by a certified SES performance appraisal system.

The minimum rate of basic pay for the senior-level (SL) and scientific and professional (ST) rate range was increased by 1.7 percent (\$150,160 in 2025), which is the amount of the across-the-board GS increase. The applicable maximum rate of the SL/ST rate range is \$225,700 (level II of the Executive Schedule) for SL or ST employees who are covered by a certified SL/ST performance appraisal system and \$207,500 (level III of the Executive Schedule) for SL or ST employees who are not covered by a certified SL/ST performance appraisal system. Agencies with certified performance appraisal systems for SES members and employees in SL and ST positions must also apply a higher aggregate limitation on pay—up to the Vice President's salary (\$289,400 in 2025.)

The American Relief Act, 2025 (Pub. L. 118–158, December 21, 2024), contains a provision that continues the freeze on the payable pay rates for the Vice President and certain senior political appointees at the rates of pay and applicable limitations on payable rates of pay through March 14, 2025. Future Congressional action will determine whether the pay freeze continues beyond that date. OPM guidance on the continued pay freeze for certain senior political officials can be found in CPM 2024–26.²

Executive Order 14132 provides that the rates of basic pay for administrative law judges (ALJs) under 5 U.S.C. 5372 are increased by 1.7 percent (rounded to the nearest \$100) in 2025. The rate of basic pay for AL–1 is \$195,200 (equivalent to the rate for level IV of the Executive Schedule). The rate of basic pay for AL–2 is \$190,500. The rates of basic pay for AL–3/A through 3/F range from \$130,400 to \$180,600.

The rates of basic pay for members of Contract Appeals Boards are calculated as a percentage of the rate for level IV of the Executive Schedule. (See 5 U.S.C. 5372a.) Therefore, these rates of basic pay are increased by 1.7 percent in 2025.

On November 6, 2024, OPM issued a memorandum³ on behalf of the

President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and OPM) that continues GS locality payments for ALJs and certain other non-GS employee categories in 2025. By law, EX officials, SES members, employees in SL/ST positions, and employees in certain other equivalent pay systems are not authorized to receive locality payments. (Note: An exception applies to certain grandfathered SES, SL, and ST employees stationed in a nonforeign area on January 2, 2010. See CPM 2009–27.⁴)

On December 23, 2024, OPM issued a memorandum (CPM 2024–23)⁵ on the 2025 pay adjustments. The memorandum transmitted Executive Order 14132 and provided the 2025 salary tables, locality pay areas and percentages, and information on general pay administration matters and other related guidance. The 2025 “Salaries & Wages” posted on OPM's website⁶ are the official rates of pay for affected employees and are hereby incorporated as part of this notice.

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

[FR Doc. 2025–04016 Filed 3–12–25; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. K2024–47; MC2025–1207 and K2025–1206; MC2025–1208 and K2025–1207; MC2025–1209 and K2025–1208]

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:* March 17, 2025.

ADDRESSES: Submit comments electronically via the Commission's

Employees.” <https://www.opm.gov/media/uzelauec/11-6-2024-extension-of-locality-pay-memo-for-non-gs-employees-2025.pdf>

⁴ Office of Personnel Management. “Nonforeign Area Retirement Equity Assurance Act.” <https://www.chcoc.gov/content/nonforeign-area-retirement-equity-assurance-act>.

⁵ Office of Personnel Management. “January 2025 Pay Adjustments.” <https://www.chcoc.gov/content/january-2025-pay-adjustments>.

⁶ Office of Personnel Management. “Salaries & Wages.” <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>

Filing Online system at <https://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:

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- I. Introduction
- II. Public Proceeding(s)
- III. Summary 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 Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

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

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such 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 and 39 CFR 3000.114 (Public Representative). Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. 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 3041. Comment deadline(s) for each such request, if any, appear in Section II.

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).

² Office of Personnel Management. “Continued Pay Freeze for Certain Senior Political Officials.” <https://chcoc.gov/content/continued-pay-freeze-certain-senior-political-officials-13>

³ Office of Personnel Management. “Continuation of Locality Payments for Non-General Schedule

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s)*.: K2024–47; *Filing Title*: USPS Request Concerning Amendment One to Priority Mail & USPS Ground Advantage Contract 364, with Material Filed Under Seal; *Filing Acceptance Date*: March 7, 2025; *Filing Authority*: 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative*: Kenneth Moeller; *Comments Due*: March 17, 2025.

2. *Docket No(s)*.: MC2025–1207 and K2025–1206; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1339 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 7, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Almaroof Agoro; *Comments Due*: March 17, 2025.

3. *Docket No(s)*.: MC2025–1208 and K2025–1207; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 634 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 7, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Elsie Lee-Robbins; *Comments Due*: March 17, 2025.

4. *Docket No(s)*.: MC2025–1209 and K2025–1208; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1340 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 7, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and

39 CFR 3041.310; *Public Representative*: Jennaca Upperman; *Comments Due*: March 17, 2025.

III. Summary Proceeding(s)

None. *See* Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2025–04037 Filed 3–12–25; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2025–1203 and CP2023–155; Order No. 8734]

Competitive Postal Products

AGENCY: Postal Regulatory Commission.
ACTION: Notice.

SUMMARY: The Commission is acknowledging a recently filed Postal Service document with the Commission concerning changes in rates and classifications not of general applicability for Competitive products. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 21, 2025.

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 and Overview
- II. Initial Administrative Actions
- III. Ordering Paragraphs

I. Introduction and Overview

On March 5, 2025, the Postal Service filed notice with the Commission concerning classification changes for the Business Rate Card (BRC), which is a rate and class not of general applicability for Competitive products.¹ The Postal Service represents that, as required by 39 CFR 3035.105(b), the Notice includes an explanation and

justification for the changes, and the effective date, and a schedule of the changed rates. *See* Notice at 1. The Notice also includes a certification of the vote, and a redacted copy of Governors' Decision 19–1. *Id.* The changes are intended to take effect on April 1, 2025, or sooner upon favorable review by the Commission. *Id.* at 1–2.

Attached to the Notice is Attachment A, Governors' Decision No. 19–1, which states the new prices are in accordance with 39 U.S.C. 3632 and 3633 and 39 CFR 3015.5 and 3015.7.² The Governors' Decision provides an analysis of the Competitive products' price and classification changes intended to demonstrate that the changes comply with 39 U.S.C. 3633 and 39 CFR 3015.7(c).³

The Notice includes draft revisions to the *Mail Classification Schedule* reflecting the changes to this class not of general applicability, the updated terms and conditions, and the BRC price floors and supporting financial material filed under seal. Notice at 2.

Planned rate and classification changes. The Postal Service's planned rate and classification changes “will allow for business customers to utilize the Postal Service's Application Programming Interfaces (APIs) to access BRC rates.” *Id.* at 1. The Postal Service states that the BRC “provided the Postal Service with the ability to extend dynamic competitive pricing to merchants who use the Postal Service's own Click-N-Ship (CNS) platform,” however, “more and more customers are using APIs to integrate USPS services directly into their own software.” *Id.* at 2–3. The Postal Service states that with these classification changes, its customers “will be able to access the BRC through the use of APIs as well as through Click-N-Ship (CNS)” and that “[t]he API [t]erms and [c]onditions will provide for the same core restrictions for the BRC as previously provided to the Commission for the original BRC on CNS arrangement.” *Id.* at 3.

The Postal Service asserts that “BRC rates should continue to be sufficiently distinct from rates available to all

² Notice, Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, at 2 (Governors' Decision No. 19–1). The referenced regulations have been reorganized since the issuance of Governor's Decision No. 19–1 and are now found at 39 CFR 3035.105 and .107. *See* Docket No. RM2019–13, Order Reorganizing Commission Regulations and Amending Rules of Practice, January 16, 2020 (Order No. 5407) (effective April 20, 2020).

³ Governors' Decision No. 19–1 at 2. Reorganized to 39 CFR 3035.107(c). *See* Order No. 5407.

¹ USPS Notice of Rate and Classification Changes for Business Rate Card, with Materials Filed Under Seal, March 5, 2025 (Notice).

mailers on the same terms and conditions to be appropriately classified as rates not of general applicability.” *Id.* at 4. Additionally, the Postal Service states that “the updated BRC price floors will likewise improve the competitiveness of the Postal Service while also ensuring that all product costs are fully covered.” *Id.*

II. Initial Administrative Actions

The Commission establishes Docket Nos. MC2025–1203 and CP2023–155 for consideration of matters raised by the Notice. Pursuant to 39 U.S.C. 505, Christopher C. Mohr is appointed to serve as Public Representative to represent the interests of the general public in this docket. The Commission invites comments on whether the Postal Service’s filing is consistent with 39 U.S.C. 3632, 3633, and 39 CFR 3035.105 and .107. Comments are due no later than March 21, 2025. The public portions of the filing can be accessed via the Commission’s website (<http://www.prc.gov>).

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2025–1203 and CP2023–155 for consideration of matters raised by the Postal Service’s Notice.

2. Comments are due no later than March 21, 2025.

3. Pursuant to 39 U.S.C. 505, Christopher C. Mohr will serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these dockets.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Erica A. Barker,
Secretary.

[FR Doc. 2025–03971 Filed 3–12–25; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule’s Competitive Products List.

DATES: *Date of required notice:* March 13, 2025.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 4, 2025, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage® Contract 1337 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2025–1202, K2025–1202.

Sean C. Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2025–03954 Filed 3–12–25; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule’s Competitive Products List.

DATES: *Date of required notice:* March 13, 2025.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 27, 2025, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage® Contract 1336 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2025–1200, K2025–1200.

Sean C. Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2025–03962 Filed 3–12–25; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule’s Competitive Products List.

DATES: *Date of required notice:* March 13, 2025.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 7, 2025, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 634 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2025–1208, K2025–1207.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2025–03959 Filed 3–12–25; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule’s Competitive Products List.

DATES: *Date of required notice:* March 13, 2025.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 6, 2025, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 633 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2025–1206, K2025–1205.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2025–03958 Filed 3–12–25; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE**Product Change—Priority Mail Express, Priority Mail, and USPS Ground Advantage® Negotiated Service Agreement**

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 13, 2025.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 7, 2025, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage® Contract 1339 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2025–1207, K2025–1206.

Sean C. Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2025–03955 Filed 3–12–25; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE**Product Change—Priority Mail Express, Priority Mail, and USPS Ground Advantage® Negotiated Service Agreement**

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 13, 2025.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 7, 2025, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage® Contract*

1340 to Competitive Product List.

Documents are available at www.prc.gov, Docket Nos. MC2025–1209, K2025–1208.

Sean C. Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2025–03956 Filed 3–12–25; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE**Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement**

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 13, 2025.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 5, 2025, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 632 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2025–1204, K2025–1203.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2025–03957 Filed 3–12–25; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–102542; File No. SR–FINRA–2022–032]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Partial Amendment No. 1 to Proposed Rule Change Relating to Alternative Display Facility New Entrant

March 7, 2025.

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 December

3, 2024, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“Commission”) Partial Amendment No. 1 to the proposed rule change as described in Item I below, which Item has been prepared by FINRA and is reproduced below verbatim.

The proposed rule change seeks to add IntelligentCross ATS (“IntelligentCross”) as a new entrant to the Alternative Display Facility. On August 24, 2023, the Division of Trading and Markets (“Division”), for the Commission pursuant to delegated authority,³ approved the proposed rule change.⁴ On August 25, 2023, the Deputy Secretary of the Commission notified FINRA that, pursuant to Commission Rule of Practice 431,⁵ the Commission would review the Division’s action pursuant to delegated authority and that the Division’s action pursuant to delegated authority was stayed until the Commission orders otherwise.⁶ On September 29, 2023, the Commission issued a scheduling order, pursuant to Commission Rule of Practice 431, providing until October 29, 2023 for any party or other person to file a statement in support of, or in opposition to, the action made pursuant to delegated authority.⁷ In statements filed with the Commission, two parties raised concerns relating to, among other things, the operation of the IntelligentCross matching process and its impact on the accessibility of the IntelligentCross displayed liquidity in certain situations.⁸ IntelligentCross states that it has implemented certain modifications to its match priority criteria, as described below, to address these concerns.⁹ FINRA subsequently

³ 17 CFR 200.30–3(a)(12).

⁴ See Securities Exchange Act Release No. 98212, 88 FR 59958 (August 30, 2023). Comments on the proposed rule change are available at: <https://www.sec.gov/comments/sr-finra-2022-032/srfinra2022032.htm>.

⁵ 17 CFR 201.431.

⁶ See Letter from J. Matthew DeLesDernier, Deputy Secretary, Commission, to Faisal Sheikh, Assistant General Counsel, FINRA, dated August 25, 2023, available at <https://www.sec.gov/files/rules/sro/finra/2023/34-98212-letter-deputy-secretary-08252023.pdf>.

⁷ See Securities Exchange Act Release No. 98642.

⁸ See Statement in Opposition to Order Approving Proposed Rule Change, Stephen John Berger, Managing Director, Global Head of Government & Regulatory Policy, Citadel Securities, LLC, dated October 29, 2023, and Letter from Joanna Mallers, Secretary, FIA Principal Traders Group, dated October 31, 2023.

⁹ See Letter from Ari Burstein, General Counsel, Imperative Execution, to Brendan Loonam, Senior Director—Business Services, Transparency Services Department, FINRA, dated November 12, 2024. See also IntelligentCross Form ATS–N Material Amendment, dated September 6, 2024, and Form

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

filed Partial Amendment No. 1 to the proposed rule change to amend the description of the IntelligentCross match priority criteria throughout its matching process to reflect these modifications to the IntelligentCross match priority criteria. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Partial Amendment No. 1 to SR–FINRA–2022–032

On December 16, 2022, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (the “Commission” or “SEC”) proposed rule change SR–FINRA–2022–032, pursuant to which FINRA proposed to add IntelligentCross alternative trading system (“ATS”) (“IntelligentCross”) as a new entrant to the Alternative Display Facility (“ADF”). The proposed rule change would not make any changes to the text of FINRA rules.

The Commission published the proposed rule change for public comment in the **Federal Register** on December 27, 2022.¹⁰ On February 9, 2023, the Commission designated a longer period for action on the proposed rule change.¹¹ The Commission received eight comment letters on the proposed rule change.¹² On March 13,

ATS–N Updating Amendment, dated October 4, 2024 (amendments to change the ADF match priority criteria).

¹⁰ See Securities Exchange Act Release No. 96550 (December 20, 2022), 87 FR 79401 (December 27, 2022) (Notice of Filing of File No. SR–FINRA–2022–032) (“Proposal”). As discussed in the Proposal, IntelligentCross prepared for FINRA a summary of its policies and procedures regarding access to quotations in an NMS stock displayed on the ADF, and a summary of its proposed fees for such access. See Letter from Ari Burstein, General Counsel, Imperative Execution, to Brendan Loonam, Senior Director—Business Services, Transparency Services Department, FINRA, dated December 15, 2022 (“IntelligentCross Summary”). The IntelligentCross Summary is available on FINRA’s website as Exhibit 3 to the proposed rule change, available at <https://www.finra.org/sites/default/files/2022-12/sr-finra-2022-032.pdf>.

¹¹ See Securities Exchange Act Release No. 96864 (February 9, 2023), 88 FR 9945 (February 15, 2023) (Notice of Designation of a Longer Period for Commission Action on File No. SR–FINRA–2022–032).

¹² See Letter from Tyler Gellasch, President and CEO, Healthy Markets Association, to Vanessa A. Countryman, Secretary, SEC, dated January 13, 2023; Letter from Joanna Mallers, Secretary, FIA Principal Traders Group, to Vanessa A. Countryman, Secretary, SEC, dated January 17, 2023; Letter from Brett Kitt, Associate Vice President & Principal Associate General Counsel, Nasdaq, Inc., to Vanessa A. Countryman, Secretary, SEC, dated January 17, 2023; Letter from Nataliya Bershova, MD, Head of Execution Research, Sanford C. Bernstein & Co., LLC, to Vanessa A. Countryman, Secretary, SEC, dated January 17, 2023; Letter from Stephen John Berger, Managing Director, Global Head of Government & Regulatory Policy, Citadel

2023, FINRA submitted a response letter to the comments received.¹³ On March 24, 2023, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.¹⁴ The Commission received four additional comment letters on the proposed rule change.¹⁵ On June 21, 2023, the Commission designated a longer period for action on proceedings to determine whether to approve or disapprove the proposed rule change.¹⁶ The Commission subsequently received three comment letters on the proposed rule change.¹⁷ On August 22, 2023, FINRA submitted a second response letter to the additional comments received.¹⁸ On August 24, 2023, the SEC’s Division of Trading and Markets, acting pursuant to delegated authority, issued an order approving the proposed rule change.¹⁹

Securities, to Vanessa A. Countryman, Secretary, SEC, dated January 23, 2023; Letter from Ellen Greene, Managing Director, Equities & Options Market Structure, Securities Industry and Financial Markets Association, to Vanessa A. Countryman, Secretary, SEC, dated February 8, 2023; Letter from Ari Burstein, General Counsel, Imperative Execution, to Vanessa A. Countryman, Secretary, SEC, dated February 16, 2023; and Letter from Joanna Mallers, Secretary, FIA Principal Traders Group, to Vanessa A. Countryman, Secretary, SEC, dated March 8, 2023.

¹³ See Letter from Faisal Sheikh, Assistant General Counsel, FINRA, to Vanessa A. Countryman, Secretary, SEC, dated March 13, 2023.

¹⁴ See Securities Exchange Act Release No. 97195 (March 24, 2023), 88 FR 19173 (March 30, 2023) (Order Instituting Proceedings to Determine Whether to Approve or Disapprove File No. SR–FINRA–2022–032).

¹⁵ See Letter from Tyler Gellasch, President and CEO, Healthy Markets Association, to Vanessa A. Countryman, Secretary, SEC, dated March 14, 2023; Letter from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC, to Vanessa A. Countryman, Secretary, SEC, dated April 14, 2023; Letter from Stephen John Berger, Managing Director, Global Head of Government & Regulatory Policy, Citadel Securities, to Vanessa A. Countryman, Secretary, SEC, dated May 4, 2023; and Letter from Ari Burstein, General Counsel, Imperative Execution, to Vanessa A. Countryman, Secretary, SEC, dated July 14, 2023.

¹⁶ See Securities Exchange Act Release No. 97784 (June 21, 2023), 88 FR 41710 (June 27, 2023) (Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove File No. SR–FINRA–2022–032).

¹⁷ See Letter from Stephen John Berger, Managing Director, Global Head of Government & Regulatory Policy, Citadel Securities, to Vanessa A. Countryman, Secretary, SEC, dated August 3, 2023; Letter from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC, to Vanessa A. Countryman, Secretary, SEC, dated August 4, 2023; and Letter from Ari Burstein, General Counsel, Imperative Execution, to Vanessa A. Countryman, Secretary, SEC, dated August 18, 2023.

¹⁸ See Letter from Faisal Sheikh, Assistant General Counsel, FINRA, to Vanessa A. Countryman, Secretary, SEC, dated August 22, 2023.

¹⁹ See Securities Exchange Act Release No. 98212 (August 24, 2023), 88 FR 59958 (August 30, 2023) (Order Approving File No. SR–FINRA–2022–032).

On August 25, 2023, the Commission sent a letter notifying FINRA that, pursuant to Rule 431 of the Commission’s Rules of Practice, the Commission will review the delegated action and, pursuant to Rule 431(e), the approval order is stayed until the Commission orders otherwise.²⁰ On September 29, 2023, the Commission issued an order scheduling filing of statements on review of the approval order, with statements due on or before October 29, 2023.²¹ The Commission received eight additional statements on the proposed rule change.²² The proposed rule change is currently pending Commission review.

On November 12, 2024, IntelligentCross submitted to FINRA a letter supplementing the IntelligentCross Summary, specifically discussing the display capabilities of the IntelligentCross ASPEN Fee/Fee matching model (“ASPEN Fee/Fee”) that would be providing quotes to the ADF (the “Supplemental Summary”).²³ As discussed in the Supplemental Summary, IntelligentCross has implemented certain changes to the match priority criteria impacting the ASPEN Fee/Fee matching model to move to a price/display/time priority regime throughout the matching

²⁰ See Letter from J. Matthew DeLesDernier, Deputy Secretary, SEC, to Faisal Sheikh, Assistant General Counsel, FINRA, dated August 25, 2023.

²¹ See Securities Exchange Act Release No. 98642 (September 29, 2023) (In the Matter of Financial Industry Regulatory Authority, Inc., For an Order Granting the Approval of Proposed Rule Change Relating to Alternative Display Facility New Entrant (File No. SR–FINRA–2022–032), Order Scheduling Filing of Statements on Review).

²² See Letter from Edgar T. Snodgrass, to Vanessa A. Countryman, Secretary, SEC, dated September 14, 2023; Letter from Tyler Gellasch, President and CEO, Healthy Markets Association, to Gary Gensler, Chair, SEC, dated October 27, 2023; Citadel Securities, LLC’s Statement in Opposition to Order Approving Proposed Rule Change, dated October 29, 2023; Letter from Ari Burstein, General Counsel, Imperative Execution, to Vanessa A. Countryman, Secretary, SEC, dated October 29, 2023; Letter from Stephen W. Hall, Legal Director and Securities Specialist & Scott Farnin, Legal Counsel, Better Markets, Inc., to Vanessa A. Countryman, Secretary, SEC, dated October 30, 2023; Letter from Joanna Mallers, Secretary, FIA Principal Traders Group, to Vanessa A. Countryman, Secretary, SEC, dated October 31, 2023; Letter from Tyler Gellasch, President and CEO, Healthy Markets Association & Christopher Iacovella, President & CEO, American Securities Association, to Gary Gensler, Chair, SEC, dated January 5, 2024; and Letter from R. T. Leuchtkafer, to Vanessa A. Countryman, Secretary, SEC, dated March 19, 2024.

²³ See Letter from Ari Burstein, General Counsel, Imperative Execution, to Brendan Loonam, Senior Director—Business Services, Transparency Services Department, FINRA, dated November 12, 2024. As discussed in the Proposal, IntelligentCross ASPEN operates three separate limit order books with optional display capability distinguished by different fee structures. The ASPEN Fee/Fee limit order book would be the only order book displaying orders on the ADF.

process. IntelligentCross represents that this change simplifies the matching process, brings it more in line with trading venues with displayed liquidity and protected quotes, responds to issues raised by certain commenters relating to, among other things, the IntelligentCross “price-sliding mechanism” and the accessibility of the IntelligentCross displayed quote, and addresses any uncertainty and lack of clarity over the IntelligentCross matching priority criteria, as described in the IntelligentCross Summary and the Proposal. IntelligentCross has represented in the Supplemental Summary that ASPEN Fee/Fee will continue to operate as described in the IntelligentCross Summary and the Proposal, except for the modifications to the match priority criteria described in the Supplemental Summary.

A copy of the Supplemental Summary is attached as Exhibit 3 to this Partial Amendment No. 1. With this Partial Amendment No. 1, FINRA is amending the description of IntelligentCross’ operations in the Proposal to reflect the changes described in the Supplemental Summary provided by IntelligentCross.²⁴

19b–4 and Exhibit 1 Changes

1. FINRA proposes to add the following new paragraphs to the purpose section of the Proposal immediately prior to the *Regulation NMS Requirements for Protected Quotations* section beginning on page 11 of the 19b–4 and page 31 of the Exhibit 1.

On November 12, 2024, IntelligentCross submitted to FINRA a letter supplementing its original summary of its policies and procedures regarding access to quotations in an NMS stock displayed on the ADF, attached as Exhibit 3, specifically discussing the display capabilities of ASPEN Fee/Fee that would be providing quotes to the ADF (the “Supplemental Summary”).²⁵ As set forth in its

Supplemental Summary, IntelligentCross represented that it has modified the match priority criteria impacting the ASPEN Fee/Fee matching model to implement a price/display/time priority regime throughout the matching process, *i.e.*, before and after the ASPEN Fee/Fee book enters into a matchable state. FINRA understands that these changes were effective for all symbols quoted on ASPEN Fee/Fee as of October 30, 2024. IntelligentCross has represented in the Supplemental Summary that ASPEN Fee/Fee will continue to operate as otherwise described herein, except for the modifications to the match priority criteria described in the Supplemental Summary.

Specifically, IntelligentCross represents that, under the previous match priority criteria for ASPEN Fee/Fee, prior to entering into a matchable state, ASPEN Fee/Fee gathered orders in its system and such orders’ match priority was based on price, display type, and the time at which such orders were received relative to other orders. However, after ASPEN Fee/Fee entered into a matchable state, the match priority for any orders that arrived between that time and before the match event was based on the time of their receipt by ASPEN Fee/Fee, *i.e.*, sequentially in order of arrival, regardless of whether an order that arrived later was priced more aggressively. Under the revised match priority criteria, orders eligible for matching are matched based on price, display type (*i.e.*, with respect to ASPEN Fee/Fee, at each price level, displayed orders will have priority over non-displayed orders), and the time at which such orders are received relative to other orders throughout the matching process, *i.e.*, both before and after ASPEN Fee/Fee enters into a matchable state.

IntelligentCross represents that this change brings the ASPEN Fee/Fee matching process more in line with other price-time trading venues with displayed liquidity and protected quotes. IntelligentCross states that this modification also addresses concerns raised by commenters relating to the IntelligentCross “price-sliding mechanism” and the resulting executions that may occur; specifically, concerns regarding a scenario where an IntelligentCross displayed order would lock displayed contra-side interest on the ATS and be displayed one minimum

three separate limit order books with optional display capability distinguished by different fee structures. The ASPEN Fee/Fee limit order book would be the only order book displaying orders on the ADF.

price variation less aggressive than the price of the displayed contra-side interest on the ATS.²⁶ IntelligentCross states that these commenters claimed that, due to the operation of the previous ASPEN Fee/Fee match priority criteria, the resulting IntelligentCross displayed quote (that was slid) “would be inaccessible to incoming orders.”²⁷ IntelligentCross represents that the change to the matching process eliminates such concerns. Specifically, IntelligentCross represents that under the revised match priority criteria, a more aggressively priced order will now receive an execution against the IntelligentCross displayed quote and will be price improved (whereas prior to the match priority criteria change, that order would not have matched due to its later time of arrival). IntelligentCross further states that the revised ASPEN Fee/Fee match priority criteria also further rewards displayed liquidity (and provides priority to such liquidity) throughout the matching process.

Finally, IntelligentCross states that the change clarifies the matching priority criteria described in its original summary, as summarized above, which did not clearly distinguish between the two steps in the previous match priority process (*i.e.*, what happens before and after the ASPEN Fee/Fee book enters into a matchable state). Specifically, the prior description further above stated that “for each match event time, the ASPEN Fee/Fee book retrieves the NBBO and processes all the orders that have arrived and have not been cancelled in price-time priority.” However, as discussed above, prior to the change, price-time priority was in fact only applied before the IntelligentCross book entered into a matchable state.

The Supplemental Summary includes several examples that illustrate the application of the modified match priority criteria to the ASPEN Fee/Fee matching process. These examples are summarized below.

- In example 1, assume ASPEN Fee/Fee receives a displayable 100 share day order from Subscriber A to sell XYZ

²⁶ See Supplemental Summary at 2; see also Letter from Stephen John Berger, Managing Director, Global Head of Government & Regulatory Policy, Citadel Securities, LLC, to Vanessa A. Countryman, Secretary, SEC, dated October 29, 2023; and Letter from Joanna Mallers, Secretary, FIA Principal Traders Group, to Vanessa A. Countryman, Secretary, SEC, dated October 31, 2023.

²⁷ See Supplemental Summary at 2; see also Letter from Stephen John Berger, Managing Director, Global Head of Government & Regulatory Policy, Citadel Securities, LLC, to Vanessa A. Countryman, Secretary, SEC, dated October 29, 2023.

²⁴ In the Proposal, FINRA addressed the application of Regulation NMS requirements for protected quotations to ASPEN Fee/Fee, as well as the level of cost and access to ASPEN Fee/Fee quotations. See Proposal, 87 FR 79401, 79402–04. As noted above, IntelligentCross has represented that all other aspects of ASPEN Fee/Fee remain the same as described in the Proposal, other than the modified match priority criteria described in the Supplemental Summary. As such, FINRA believes that the modifications to IntelligentCross’ operations described in the Supplemental Summary do not affect FINRA’s analysis of these issues as discussed in the Proposal.

²⁵ See Letter from Ari Burstein, General Counsel, Imperative Execution, to Brendan Loonam, Senior Director—Business Services, Transparency Services Department, FINRA, dated November 12, 2024. As discussed above, IntelligentCross ASPEN operates

stock with a limit price of \$10.00. ASPEN Fee/Fee subsequently receives a displayable 100 share day order from Subscriber B to buy XYZ stock with a limit price of \$10.00. Given that Subscriber B's limit order would lock Subscriber A's displayed buy order in ASPEN Fee/Fee, Subscriber B's order will be displayed at \$9.99 or one minimum price variation less aggressive than the price of the displayed contra-side interest inside ASPEN Fee/Fee.²⁸ Following the receipt of these orders, the ASPEN Fee/Fee book enters into a matchable state, with a match event scheduled to occur in 180 microseconds. While in a matchable state and before the match event, ASPEN Fee/Fee receives a non-displayable 100 share day order from Subscriber C to sell XYZ with a limit price of \$9.99. During the next scheduled match event for Security XYZ, the ASPEN Fee/Fee matching engine determines that the NBBO is \$9.99 by \$10.00.

Prior to the change to the matching criteria described in the Supplemental Summary, in example 1 Subscriber A would have matched 100 shares with Subscriber B at \$10.00, and Subscriber C's order would not have matched with Subscriber B because the match priority criteria provided priority to Subscriber A and Subscriber B due to their earlier time of arrival (even though Subscriber C had a more aggressively priced order, because orders received after entering a matchable state were matched based on only time priority). However, after the change to the matching criteria described in the Supplemental Summary, Subscriber B will instead match 100 shares with Subscriber C at \$10.00, as Subscriber C has the more aggressively priced order, and Subscriber C will be price improved (because under the modified matching criteria, all orders will be matched based on price/display/time priority). Subscriber A's order will be eligible for the next match event.

- In example 2, assume the same facts as example 1, except that instead the order from Subscriber B was to buy 200 shares (rather than 100 shares).

Prior to the change to the matching criteria described in the Supplemental Summary, in example 2 Subscriber A would have first matched 100 shares

with Subscriber B at \$10.00 for 100 shares, and Subscriber C's order would then match with Subscriber B for 100 shares because the match priority criteria provided priority to Subscriber A due to its earlier time of arrival. Under the modified match priority criteria, in the match event, Subscriber C will first match 100 shares with Subscriber B at \$10.00 and Subscriber A will then match 100 shares with Subscriber B at \$10.00.

- In example 3, assume the same facts as example 1, except that Subscriber C cancels its order prior to the match event. Under both the previous and the modified match priority criteria, in the match event, Subscriber A will match 100 shares with Subscriber B at \$10.00 (*i.e.*, the modifications to the match priority criteria would not affect the outcome in this example).

- In example 4, assume the same facts as example 1, except that (i) Subscriber A's order is non-displayed, rather than displayable, and (ii) Subscriber C sell limit order is displayed, rather than non-displayed and has a limit price of \$10.00, rather than \$9.99.

Prior to the change to the matching criteria described in the Supplemental Summary, in example 4 Subscriber A would have matched 100 shares with Subscriber B at \$10.00 for 100 shares, and Subscriber C's order would not have matched with Subscriber B because the previous match priority criteria did not provide priority to displayed orders over non-displayed orders after entering a matchable state and before the match event. Under the modified match priority criteria, in the match event, Subscriber C will match 100 shares with Subscriber B at \$10.00, and Subscriber A will not match (as displayed orders have priority over non-displayed orders throughout the matching process, including while in a matchable state and before the match event).

- In example 5, assume the same facts as example 1, except that (i) Subscriber A's order is non-displayed, rather than displayable, (ii) Subscriber B's displayed limit order for 100 shares at \$10.00 is to sell, rather than buy, and (iii) Subscriber C's non-displayed limit order is to buy with a limit price of \$10.00, rather than to sell at a limit price of \$9.99.

Prior to the change to the matching criteria described in the Supplemental Summary, in example 5 Subscriber C would have matched 100 shares with Subscriber B at \$10.00, as the previous match priority was based on price, display type, and the order arrival time, and Subscriber B's displayed order had priority over Subscriber A's non-

displayed order. Similarly, under the modified match priority criteria, in the match event, Subscriber C will match 100 shares with Subscriber B at \$10.00, and Subscriber A will not match, as displayed orders will have priority over non-displayed orders throughout the matching process (*i.e.*, the modifications to the match priority criteria would not affect the outcome in this example).

II. 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-FINRA-2022-032 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-FINRA-2022-032. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. 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

²⁸ ASPEN Fee/Fee applies a price-sliding mechanism when a displayable order received by ASPEN Fee/Fee would lock displayed contra-side interest inside ASPEN Fee/Fee. ASPEN Fee/Fee will reprice the order and display the order one minimum price variation less aggressive than the price of the displayed contra-side interest inside ASPEN Fee/Fee. This mechanism, as described in the IntelligentCross Summary and herein, has not changed.

subject to copyright protection. All submissions should refer to file number SR–FINRA–2022–032 and should be submitted on or before April 3, 2025.

By the Commission.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2025–03964 Filed 3–12–25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–102540; File No. SR–NASDAQ–2025–018]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the Canary HBAR ETF Under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)

March 7, 2025.

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 February 21, 2025, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to list and trade shares of the Canary HBAR ETF under Nasdaq Rule 5711(d). On March 4, 2025, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the original filing in its entirety. The proposed rule change, as modified by Amendment No. 1, is described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Canary HBAR ETF (the “Trust”) under Nasdaq Rule 5711(d) (“Commodity-Based Trust Shares”). The shares of the Trust are referred to herein as the “Shares.” This Amendment No. 1 supersedes the original filing in its entirety.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, at the principal office of the Exchange, and at

the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares under Nasdaq Rule 5711(d),³ which governs the listing and trading of Commodity-Based Trust Shares on the Exchange. Canary Capital Group LLC is the sponsor of the Trust (the “Sponsor”). The Shares will be registered with the SEC by means of the Trust’s registration statement on Form S–1 (the “Registration Statement”).⁴ Any statements or representations included in this proposal regarding: (a) the description of the reference assets or trust holdings; (b) limitations on the reference assets or trust holdings; (c) dissemination and availability of the reference asset or intraday indicative value; or (d) the applicability of Nasdaq listing rules specified in this proposal shall constitute continued listing standards for the Shares listed on the Exchange.

Description of the Trust

The Shares will be issued by the Trust, a Delaware statutory trust. The Trust will operate pursuant to a trust agreement (the “Trust Agreement”), as amended and/or restated from time to time. CSC Delaware Trust Company, a Delaware corporation, is the trustee of

the Trust (the “Trustee”). The Trust is managed and controlled by the Sponsor. U.S. Bancorp Fund Services, LLC will be the administrator (the “Administrator”), U.S. Bancorp Fund Services, LLC will be the transfer agent (the “Transfer Agent”), and U.S. Bank, N.A. will be responsible for the custody of the Trust’s cash (the “Cash Custodian”). BitGo Trust Company, Inc. and Coinbase Custody Trust Company, LLC, (the “Custodians”) will be responsible for custody of the Trust’s HBAR.⁵

The Trust’s investment objective is to seek to provide exposure to the value of the native asset of the Hedera Network (“HBAR”) held by the Trust, less the expenses of the Trust’s operations and other liabilities. In seeking to achieve its investment objective, the Trust will hold HBAR and establish its net asset value (“NAV”) by referencing the price of HBAR in U.S. Dollars as calculated by the CoinDesk Hedera USD CCIX 30min NY Rate a financial data website integrating spot market prices from various digital asset trading platforms (“Pricing Benchmark”). The Pricing Benchmark is calculated by CoinDesk Indices, Inc. (the “Benchmark Provider”) based on an aggregation of executed trade flow of major HBAR trading platforms (“Constituent Platforms”).

According to the Registration Statement, each Share will represent a fractional undivided beneficial interest in and ownership of the Trust. The Trust’s assets will consist only of HBAR and cash. According to the Registration Statement, the Trust is not a fund registered under the Investment Company Act of 1940, as amended.⁶ Further, the Trust is not a commodity pool for purposes of the Commodity Exchange Act of 1936, as amended (the “CEA”), and the Sponsor is not subject to regulation by the Commodity Futures Trading Commission (the “CFTC”) as a commodity pool operator or a commodity trading advisor in connection with the Shares.

The Trust will not acquire and will disclaim any incidental right (“IR”) or IR asset received, for example as a result of forks or airdrops, and such assets will not be taken into account for purposes of determining the Trust’s net asset value (“NAV”).

When the Trust sells or redeems its Shares, it will do so in blocks of 10,000 Shares (a “Basket”) based on the quantity of HBAR attributable to each

⁵ The Trust may engage additional custodians for its HBAR in the future, each of whom may be referred to as a Custodian.

⁶ 15 U.S.C. 80a–1.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The Commission approved Nasdaq Rule 5711 in Securities Exchange Act Release No. 66648 (March 23, 2012), 77 FR 19428 (March 30, 2012) (SR–NASDAQ–2012–013).

⁴ See Registration Statement on Form S–1, dated February 21, 2025, filed with the Commission by the Sponsor on behalf of the Trust. The descriptions of the Trust, the Shares, the Index (as defined below), and HBAR contained herein are based, in part, on information in the Registration Statement. The Registration Statement is not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

Share of the Trust (net of accrued but unpaid expenses and liabilities). The Trust will allow for both an in-kind creation and redemption process, and a cash creation and redemption process. As such, for a creation of Shares, the creation shall be in either the amount of HBAR represented by the Basket being created or the amount of cash needed to purchase the amount of HBAR represented by the Basket being created, as calculated by the Administrator. For a redemption of Shares, the Sponsor shall arrange for either the HBAR represented by the Basket to be redeemed to distributed or the HBAR represented by the Basket to be redeemed and the cash proceeds distributed. Authorized participants will deliver, or facilitate the delivery of, HBAR or cash to the Trust's account with the Custodians or the Cash Custodian, as applicable, in exchange for Shares when they purchase Shares, and the Trust will deliver HBAR or cash to such Authorized Participants when they redeem Shares with the Trust. Authorized Participants may then offer Shares to the public at prices that depend on various factors, including the supply and demand for Shares, the value of the Trust's assets, and market conditions at the time of a transaction. Owners of the beneficial interests of the Shares who buy or sell Shares during the day from their broker may do so at a premium or discount relative to the per Share NAV of the Trust.

Investment Objective

According to the Registration Statement, the Trust's investment objective is to track the performance of HBAR, as measured by the Pricing Benchmark, adjusted for the Trust's expenses and other liabilities. In seeking to achieve its investment objective, the Trust will hold HBAR and will value its Shares daily as of 4:00 p.m. Eastern Time ("ET") using the same methodology used to calculate the Pricing Benchmark. All of the Trust's HBAR will be held by the Custodians. The Pricing Benchmark is calculated by the Benchmark Provider based on an aggregation of executed trade flow of major HBAR trading platforms ("Constituent Platforms").

HBAR and the Hedera Network

According to the Registration Statement, the Hedera Network enables people to interact and transact online efficiently and securely without the need for third-party companies, which often collect and sell their users' personal information. The purpose of the Hedera Network is to provide a stable, trustworthy network for a wide

variety of decentralized, enterprise-grade applications. Although the primary purpose of the Hedera Network is not to operate a payments system or store of value, like most public distributed ledger technology ("DLT") networks, the Hedera Network requires a cryptocurrency to properly operate and incentivize consensus and behavior on the network. The Hedera Network's native cryptocurrency is HBAR, which serves two purposes. First, it is used as a mechanism to secure the network against cyberattacks through the Hedera Network's distributed consensus process. Additionally, it provides the "fuel" that incentivizes and pays for the computing resources necessary to enable the Hedera Network.

The Hedera Network is built on the hashgraph distributed consensus algorithm, invented by Dr. Leemon Baird and subsequently patented by Swirlds, Inc. in 2016. Swirlds has granted to Hedera an exclusive non-transferable, perpetual right and license to using hashgraph technology for the limited and sole purpose of making the Hedera Network. The hashgraph data structure and consensus algorithm provides a novel platform for distributed consensus.

One central difference between hashgraphs and blockchains is the way that they add transactions to their respective distributed ledgers. Generally on a blockchain, blocks with records of transactions are added to the data-chain one after the other to create a history of the network's data. If two miners create blocks simultaneously, the blockchain will momentarily fork and the network's nodes will choose to continue adding to the longest chain, abandoning the shorter chain. The sequential order must be maintained for the network to function and to ensure the ledger consists of just one chain of blocks.

The Hedera Network is governed by the Hedera Governance Council ("Hedera Council"), a rotating group of global organizations that span across multiple industries and geographies. The primary responsibilities of Hedera Council members are to: (i) participate in the governance of the Hedera Network; and (ii) host and maintain a node on the Hedera Network. Hedera Council members contribute their expertise and experience in Hedera Council deliberations and decision-making relating to software updates, Hedera Treasury management, network pricing, regulatory compliance, and other key governance matters.

As of February 20, 2025, the Hedera Council represented the largest owner, holding approximately 10,624,000,000 HBAR, or 21.25% of the total supply of

HBAR, most in unreleased supply yet to be distributed and held in treasury. On December 20, 2024, the Hedera Council announced a grant of 7,000,000,000 HBAR to the Hedera Foundation, representing 14% of the total supply of HBAR. On February 14, 2025, 3,500,000,000 HBAR of the grant was transferred to wallets controlled by the Hedera Foundation. As of February 20, 2025, approximately 41,904,000,000 HBAR, or 83.8% of the total supply of HBAR was in circulation distributed across multiple wallets.

Pricing Benchmark

The net assets of the Trust and its Shares are valued at on a daily basis with reference to the Pricing Benchmark as of 4:00 p.m. ET, which integrates spot market prices from various digital asset trading platforms. The Pricing Benchmark is designed to reflect the performance of HBAR in U.S. dollars. The Trust uses the Pricing Benchmark to calculate its NAV, which is the aggregate U.S. dollar value of HBAR in the Trust, based on the Pricing Benchmark, less its liabilities and expenses. "NAV per Share" is calculated by dividing NAV by the number of Shares currently outstanding.

Custody of the Trust's Assets

The Custodians will be responsible for custody of the Trust's HBAR. The Custodians are qualified custodians under Rule 206-4 of the Investment Adviser Act. The Custodians will custody the Trust's HBAR pursuant to custody agreements. The custody agreements require the Custodians to maintain the Trust's HBAR in segregated accounts that clearly identify the Trust as owner of the accounts and assets held in the accounts; the segregation will be both from the proprietary property of the Custodians and the assets of any other customer. Such arrangements are generally deemed to be "bankruptcy remote," that is, in the event of an insolvency of a Custodian, assets held in such segregated accounts would not become property of the Custodian's estate and would not be available to satisfy claims of creditors of the Custodian. In addition, the Custodians carry fidelity insurance, which covers assets held by the Custodians in custody from risks such as theft of funds. HBAR owned by the Trust will at all times be held by, and in the control of, the Custodians, and transfer of such HBAR to or from the Custodians will occur only in connection with creation and redemptions of Shares.

The Custodians carefully consider the design of the physical, operational and

cryptographic systems for secure storage of the Trust's private keys in an effort to lower the risk of loss or theft. The Custodians utilize a variety of security measures to ensure that private keys necessary to transfer digital assets remain uncompromised and that the Trust maintains exclusive ownership of its assets. The operational procedures of the Custodians are reviewed by third-party advisors with specific expertise in physical security. The devices that store the keys will never be connected to the internet or any other public or private distributed network—this is colloquially known as “cold storage.” Only specific individuals are authorized to participate in the custody process, and no individual acting alone will be able to access or use any of the private keys. In addition, no combination of the executive officers of the Sponsor or the investment professionals managing the Trust, acting alone or together, will be able to access or use any of the private keys that hold the Trust's HBAR.

Creation and Redemption of Shares

As stated in the Registration Statement, the Trust creates and redeems Shares from time to time, but only in one or more Baskets. The Trust would allow for both an in-kind creation and redemption process as well as a cash creation and redemption process. As such, Baskets are only made in exchange for delivery to the Trust or the distribution by the Trust of the amount of HBAR or cash represented by the Baskets being created or redeemed (the “Basket Deposit”). The amount of HBAR required in a Basket Deposit (the “Basket HBAR Deposit”) and amount of cash required in a Basket Deposit (the “Basket Cash Deposit”) are based on the quantity or value of the quantity, as applicable, of HBAR and cash attributable to each Share of the Trust (net of accrued but unpaid Sponsor Fees and any accrued but unpaid Extraordinary Expenses) being created or redeemed determined as of 4:00 p.m. ET on the day the order to create or redeem Baskets is properly received.

“Authorized Participants” are the only persons that may place orders to create and redeem Baskets. Authorized Participants must be (1) registered broker-dealers or other securities market participants, such as banks and other financial institutions, that are not required to register as broker-dealers to engage in securities transactions described below and (2) Depository Trust Company (“DTC”) Participants. To become an Authorized Participant, a person must enter into an Authorized Participant agreement with a distributor (the “Distributor”), who is responsible

for working with the Administrator to review and approve, or reject, purchase and redemption orders of Baskets placed by Authorized Participants.

Creation Procedures

On any business day, an Authorized Participant may place an order with the Transfer Agent to create one or more Baskets. For purposes of processing creation and redemption orders, a “business day” means any day other than a day when the Exchange is closed for regular trading. Purchase orders must be placed by the close of the Exchange's regular market session of 9:30 a.m. to 4:00 p.m. ET (the “Regular Market Session”) on the Exchange or an earlier time as determined and communicated by the Sponsor and its agent. A purchase order will be effective on the date it is received in good order by the Transfer Agent (“Purchase Order Date”).

The manner by which creations are made is dictated by the terms of the Authorized Participant agreement. Creation orders may be denominated and settled in an amount of HBAR (“In-Kind Creation Order”) or cash (“Cash Creation Order”). By placing an In-Kind Creation Order, an Authorized Participant agrees to facilitate (either directly or through its designee) the deposit of HBAR with the Custodian. By placing a Cash Creation Order, an Authorized Participant agrees to facilitate the deposit of cash with the Cash Custodian. In either case, if an Authorized Participant fails to consummate the foregoing, the order will be cancelled or delayed until the full cash deposit has been received. An Authorized Participant may not withdraw a creation order without the prior consent of the Sponsor in its discretion.

Following an Authorized Participant's In-Kind Creation Order, the Trust's account at the Custodian must be credited with the required HBAR by the end of the following business day or such later time as may be agreed upon by the Authorized Participant and the Sponsor following the Purchase Order Date. The Authorized Participant or its designee will normally send the required HBAR in an “on chain” transaction over the HBAR network. Upon receipt of the Basket HBAR Deposit amount in the Trust's account at the Custodian, the Custodian will notify the Transfer Agent, the Distributor, the Authorized Participant, and the Sponsor that the Basket HBAR Deposit amount has been deposited. The Transfer Agent will then direct DTC to credit the number of Shares created to the Authorized Participant's DTC account.

Following an Authorized Participant's Cash Creation Order, the Trust's account at the Cash Custodian must be credited with the Basket Cash Deposit amount by the end of the following business day or such earlier or later time as may be agreed upon by the Authorized Participant and the Sponsor following the Purchase Order Date. Upon receipt of the Basket Cash Deposit amount in the Trust's account at the Cash Custodian, the Transfer Agent will notify the Distributor, the Authorized Participant, and the Sponsor that the Basket Cash Amount has been deposited. The Sponsor, on behalf of the Trust, will instruct an HBAR trading counterparty to purchase the amount of HBAR equivalent in value to the cash deposit amount associated with the creation order, with such purchase transaction prearranged to be executed, in the Sponsor's reasonable efforts, at the Pricing Benchmark price used by the Trust to calculate NAV, taking into account any spread, commissions, or other trading costs on the applicable Purchase Order Date. The resulting HBAR will be deposited in the Trust's account with the Custodians. Any slippage incurred (including, but not limited to, any trading fees, spreads, or commissions), on a cash equivalent basis, will be the responsibility of the Authorized Participant and not of the Trust or Sponsor. To the extent the execution price of the HBAR acquired by the trading counterparty exceeds the cash deposit amount, such cash difference will be the responsibility of the Authorized Participant and not the Trust or Sponsor. The Transfer Agent will then direct DTC to credit the number of Shares created to the Authorized Participant's DTC account.

Redemption Procedures

The procedures by which an Authorized Participant can redeem one or more Baskets mirror the procedures for the creation of Baskets with an additional safeguard on HBAR being removed from the HBAR Account at the Custodian. On any business day, an Authorized Participant may place an order with the Transfer Agent to redeem one or more Baskets. Redemption orders must be placed by the close of the Regular Market Session on the Exchange or an earlier time as determined and communicated by the Sponsor and its agent. A redemption order will be effective on the date it is received by the Transfer Agent (“Redemption Order Date”).

The manner by which redemptions are made is dictated by the terms of the Authorized Participant agreement. Redemption orders are denominated

and settled in HBAR (“In-Kind Redemption Order”) or cash (“Cash Redemption Order”). By placing a Cash Redemption Order, an Authorized Participant agrees to facilitate the deposit of Shares with the Transfer Agent. If an Authorized Participant fails to consummate the foregoing, the order will be cancelled or delayed until the required Shares have been received. An Authorized Participant may not withdraw a redemption order without the prior consent of the Sponsor in its discretion.

In the case of an In-Kind Redemption Order, the redemption distribution from the Trust consists of a movement of HBAR to the redeeming designee of the Authorized Participant, representing the amount of HBAR held by the Trust, net of accrued expenses and other liabilities, evidenced by the Shares being redeemed on the Redemption Order Date. In the case of a Cash Redemption Order, the redemption distribution from the Trust consists of a transfer to the Authorized Participant of an amount of cash that is in the same proportion to the total assets of the Trust, net of accrued expenses and other liabilities, on the Redemption Order Date, as the number of Shares to be redeemed under the purchase order is in proportion to the total number of Shares outstanding on the Redemption Order Date. With respect to either an In-Kind Redemption Order or Cash Redemption Order, the redemption distribution due from the Trust will be delivered once the Transfer Agent notifies the Cash Custodian, the Distributor and the Sponsor that the Authorized Participant has delivered the Shares represented by the Baskets to be redeemed to the Transfer Agent’s DTC account. If the Transfer Agent’s DTC account has not been credited with all of the Shares of the Baskets to be redeemed, the redemption distribution will be cancelled or delayed until such time as the Transfer Agent confirms receipt of all such Shares.

By placing a redemption order, an Authorized Participant agrees to deliver the Baskets to be redeemed through DTC’s book-entry system to the Trust by the end of the following business day or such later time as may be agreed upon by the Authorized Participant and the Sponsor following the Redemption Order Date. An Authorized Participant may not withdraw a redemption order without the prior consent of the Sponsor in its discretion.

Net Asset Value

As set forth in the Registration Statement, NAV means the total assets of the Trust including, but not limited

to, all HBAR and cash less total liabilities of the Trust. The Administrator determines the NAV of the Trust on each day that the Exchange is open for regular trading, as promptly as practical after 4:00 p.m. ET. The NAV of the Trust is the aggregate value of the Trust’s assets less its accrued but unpaid liabilities (which include accrued expenses). In determining the Trust’s NAV, the Administrator values the HBAR held by the Trust based on the price set by the Pricing Benchmark as of 4:00 p.m. ET. The Administrator also determines the NAV per Share. The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time.

Availability of Information and Intraday Indicative Value

In addition to the price transparency of the Pricing Benchmark, the Trust will provide information regarding the Trust’s HBAR holdings as well as additional data regarding the Trust. The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) the prior business day’s NAV per Share; (b) the prior business day’s Nasdaq official closing price; (c) calculation of the premium or discount of such Nasdaq official closing price against such NAV per Share; (d) data in chart form displaying the frequency distribution of discounts and premiums of the Exchange’s official closing price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (e) the prospectus; and (f) other applicable quantitative information. The Trust will also disseminate the Trust’s holdings on a daily basis on the Trust’s website. Quotation and last sale information regarding the Shares will be disseminated through the facilities of the relevant securities information processor.

The intraday indicative value (“IIV”) will be calculated by using the prior day’s closing NAV per Share as a base and updating that value during the Exchange’s Regular Market Session to reflect changes in the value of the Trust’s HBAR holdings during the trading day. The IIV disseminated during the Regular Market Session should not be viewed as an actual real-time update of the NAV, because NAV per Share is calculated only once at the end of each trading day based upon the relevant end-of-day values of the Trust’s investments. The IIV will be widely disseminated on a per-Share basis every 15 seconds during the Regular Market

Session through the facilities of the relevant securities information processor by market data vendors. In addition, the IIV will be available through online information services, such as Bloomberg and Reuters.

Quotation and last sale information for HBAR is disseminated through a variety of major market data vendors. Information related to trading, including price and volume information, in HBAR is available from major market data vendors and from the trading platforms on which HBAR are traded. Depth of book information is also available from HBAR trading platforms. The normal trading hours for HBAR trading platforms are 24 hours per day, 365 days per year.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. Information regarding the previous day’s Nasdaq official closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Applicable Standard

The Commission has previously approved or disapproved exchange filings to list and trade series of Trust Issued Receipts, including spot-based Commodity-Based Trust Shares, on the basis of whether the listing exchange has in place a comprehensive surveillance sharing agreement with a regulated market of significant size related to the underlying commodity to be held.⁷ The Commission has also

⁷ See Securities Exchange Act Release Nos. 78262 (July 8, 2016), 81 FR 78262 (July 14, 2016) (the “Winklevoss Proposal”). The Winklevoss Proposal was subsequently disapproved by the Commission. See Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the “Winklevoss Order”). Prior orders from the Commission have pointed out that in every prior approval order for Commodity-Based Trust Shares, there has been a derivatives market that represents the regulated market of significant size, generally a Commodity Futures Trading Commission (the “CFTC”) regulated futures market. Further to this point, the Commission’s prior orders have noted that the spot commodities and currency markets for which it has previously approved spot ETPs are generally unregulated and that the Commission relied on the underlying futures market as the regulated market of significant size that formed the basis for approving the series of Currency and Commodity-Based Trust Shares, including gold, silver, platinum, palladium, copper, and other commodities and currencies. The Commission specifically noted in the Winklevoss Order that the approval order issued related to the first spot gold ETP “was based on an assumption that the currency market and the spot gold market were largely unregulated.” See Winklevoss Order at 37592. As such, the regulated market of significant size test does not require that the spot market be regulated in order for the Commission to approve this

consistently recognized, however, that this is not the *exclusive* means by which an ETP listing exchange can meet this statutory obligation.⁸ A listing exchange could, alternatively, demonstrate that “other means to prevent fraudulent and manipulative acts and practices will be sufficient” to justify dispensing with a surveillance-sharing agreement with a regulated market of significant size.

The Commission recently issued orders granting approval for proposals to list bitcoin- and ether-based commodity trust shares and bitcoin- and ether-based trust issued receipts (these proposed funds are nearly identical to the Trust, but proposed to hold bitcoin and ether, respectively, instead of HBAR) (“Spot Bitcoin ETPs” and “Spot ETH ETPs”). In both the Spot Bitcoin ETP Approval Order and Spot ETH ETP Approval Order, the Commission found that sufficient “other means” of preventing fraud and manipulation had been demonstrated that justified dispensing with a surveillance-sharing agreement with a market of significant size. Specifically, the Commission found that while the Chicago Mercantile Exchange (“CME”) futures market for both bitcoin and ether were not of “significant size” with respect to the spot market, the Exchange demonstrated that other means could be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the proposals.

Both the Exchange and the Sponsor believe that this proposal is sufficient to establish that there are sufficient “other means” of preventing fraud and manipulation that warrant dispensing of

proposal, and precedent makes clear that an underlying market for a spot commodity or currency being a regulated market would actually be an exception to the norm. These largely unregulated currency and commodity markets do not provide the same protections as the markets that are subject to the Commission’s oversight, but the Commission has consistently looked to surveillance sharing agreements with the underlying futures market in order to determine whether such products were consistent with the Act. *See* Securities Exchange Act No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units) (the “Spot Bitcoin ETP Approval Order”); 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products) (the “Spot ETH ETP Approval Order”).

⁸ *See* Winklevoss Order, 83 FR at 37580; *see* Spot Bitcoin ETP Approval Order, 89 FR at 3009; *see* Spot ETH ETP Approval Order 89 FR at 46938.

the surveillance-sharing agreement with a regulated market of significant size, as was done with both Spot Bitcoin ETPs and Spot ETH ETPs, and that this proposal should be approved.

The Commission has approved numerous series of Trust Issued Receipts,⁹ including Commodity-Based Trust Shares,¹⁰ to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange’s rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act.

As noted above, the Commission has recognized that the “regulated market of significant size” standard is not the only means for satisfying Section 6(b)(5) of the Act, specifically providing that a listing exchange could demonstrate that “other means to prevent fraudulent and manipulative acts and practices” are sufficient to justify dispensing with the requisite surveillance-sharing agreement.¹¹ For example, in approving the Spot Bitcoin ETPs, the Commission

⁹ Pursuant to Nasdaq Rule 5720(a), the term “Trust Issued Receipt” means a security (a) that is issued by a trust which holds specified securities deposited with the trust; (b) that, when aggregated in some specified minimum number, may be surrendered to the trust by the beneficial owner to receive the securities; and (c) that pays beneficial owners dividends and other distributions on the deposited securities, if any are declared and paid to the trustee by an issuer of the deposited securities.

¹⁰ Pursuant to Nasdaq Rule 5711(d)(iv), the term “Commodity-Based Trust Shares” means a security (1) that is issued by a trust that holds (a) a specified commodity deposited with the trust, or (b) a specified commodity and, in addition to such specified commodity, cash; (2) that is issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and (3) that, when aggregated in the same specified minimum number, may be redeemed at a holder’s request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash.

¹¹ *See* Winklevoss Order at 37580. The Commission has also specifically noted that it “is not applying a ‘cannot be manipulated’ standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met.” *Id.* at 37582.

found that there were “sufficient ‘other means’ of preventing fraud and manipulation,” including that:

[B]ased on the record before the Commission and the improved quality of the correlation analysis in the record, including the Commission’s own analysis, the Commission is able to conclude that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME’s surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges’ comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market whose bitcoin futures market is consistently highly correlated to spot bitcoin, albeit not of “significant size” related to spot bitcoin—can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Spot Bitcoin ETPs].¹²

Today, Coinbase Derivatives, LLC (“Coinbase Derivatives”) offers trading in HBAR futures. Nasdaq has a comprehensive surveillance-sharing agreement with Coinbase Derivatives via its common membership in the Intermarket Surveillance Group (“ISG”).¹³ This facilitates the sharing of information that is available to Coinbase Derivatives through its surveillance of its markets, including its surveillance of Coinbase Derivatives’ HBAR futures market. Similar to the Spot Bitcoin and Spot ETH ETPs previously approved by the SEC, Nasdaq’s ability to obtain information regarding trading in the HBAR futures from other markets that are members of the ISG (specifically Coinbase Derivatives) would assist Nasdaq in detecting and deterring misconduct.

Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5711(d)(vi), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust’s NAV per Share will be calculated daily and will be made available to all market participants at the same time. A

¹² *See* Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Bitcoin-Based Commodity-Based Trust Shares and Trust Units). The SEC made substantially similar findings in the approval order for Spot ETH ETPs. *See* Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products).

¹³ For a list of the current members and affiliate members of ISG, *see* <https://isgportal.org/public-members>.

minimum of 40,000 Shares will be required to be outstanding at the time of commencement of trading on the Exchange. Upon termination of the Trust, the Shares will be removed from listing. The Trustee will be a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Nasdaq Rule 5711(d)(vi)(D) and no change will be made to the Trustee without prior notice to and approval of the Exchange.

As required in Nasdaq Rule 5711(d)(viii), the Exchange notes that any registered market maker ("Market Maker") in the Shares must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying commodity, related futures or options on futures, or any other related derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker in the Shares shall trade in the underlying commodity, related futures or options on futures, or any other related derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by Nasdaq Rule 5711(d). In addition to the existing obligations under Exchange rules regarding the production of books and records, the registered Market Maker in the Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying commodity, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

The Exchange is able to obtain information regarding trading in the Shares and the underlying HBAR through members acting as registered Market Makers, in connection with their proprietary or customer trades.

As a general matter, the Exchange has regulatory jurisdiction over its members, and their associated persons. The Exchange also has regulatory jurisdiction over any person or entity controlling a member, as well as a subsidiary or affiliate of a member that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities would not be subject to Exchange jurisdiction, but the Exchange

could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in the Shares from 4:00 a.m. to 8:00 p.m. ET. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. The Shares of the Trust will conform to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d) and will comply with the requirements of Rule 10A-3 of the Act.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including without limitation the conditions specified in Nasdaq Rule 4120(a)(9) and (10) and the trading pauses under Nasdaq Rules 4120(a)(11) and (12).

Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the HBAR underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

If the IIV or the value of the Index is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or the value of the Index occurs. If the interruption to the dissemination of the IIV or the value of the Index persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

In addition, if the Exchange becomes aware that the NAV per Share with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV per Share is available to all market participants.

Surveillance

The Exchange believes that its surveillance procedures are adequate to

properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, pinging, phishing). Trading of Shares on the Exchange will be subject to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, listed HBAR futures, or any other HBAR derivative from such markets and other entities.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an information circular ("Information Circular") of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for creations and redemptions of Shares in Baskets (and that Shares are not individually redeemable); (2) Section 10 of Nasdaq General Rule 9, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the IIV and NAV

is disseminated; (4) the risks involved in trading the Shares during the pre-market and post-market sessions when an updated IIV will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular will also reference the fact that there is no regulated source of last sale information regarding HBAR that the Commission has no jurisdiction over the trading of HBAR as a commodity.

Additionally, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Trust's website.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁵ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Commission has approved numerous series of Trust Issued Receipts, including Commodity-Based Trust Shares, to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act.

As noted above, the Commission has recognized that the "regulated market of significant size" standard is not the only means for satisfying Section 6(b)(5) of the act, specifically providing that a listing exchange could demonstrate that "other means to prevent fraudulent and manipulative acts and practices" are sufficient to justify dispensing with the requisite surveillance-sharing agreement with the underlying spot market. The Exchange and Sponsor believe that such conditions are present. As discussed above, in approving the Spot Bitcoin ETPs, the Commission found that there were "sufficient 'other means' of preventing fraud and manipulation," including that:

[B]ased on the record before the Commission and the improved quality of the correlation analysis in the record, including the Commission's own analysis, the Commission is able to conclude that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME's surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges' comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market whose bitcoin futures market is consistently highly correlated to spot bitcoin, albeit not of "significant size" related to spot bitcoin—can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Spot Bitcoin ETPs].¹⁶

As discussed above, Coinbase Derivatives offers trading in HBAR futures. Nasdaq has a comprehensive surveillance-sharing agreement with Coinbase Derivatives via its common membership in ISG, which facilitates the sharing of information that is available to Coinbase Derivatives through its surveillance of its markets, including its surveillance of Coinbase Derivatives' HBAR futures market. Similar to the Spot Bitcoin and Spot ETH ETPs previously approved by the SEC, Nasdaq's ability to obtain information regarding trading in the HBAR futures from other markets that are members of the ISG (specifically Coinbase Derivatives) would assist Nasdaq in detecting and deterring misconduct. The Exchange further

believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d). The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. As discussed above, the surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, ping, phishing). Trading of Shares on the Exchange will be subject to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange may obtain trading information regarding trading in the Shares and any HBAR derivatives from such markets and other entities.

Trading in Shares of the Trust will be halted if the circuit breaker parameters have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.

The proposed rule change is designed to perfect the mechanism of a free and

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ See Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Bitcoin-Based Commodity-Based Trust Shares and Trust Units). The SEC made substantially similar findings in the approval order for spot ether ETPs. See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products).

open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

For all the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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 purpose of the Act. The Exchange notes that the proposed rule change rather will facilitate the listing and trading of additional exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2025-018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NASDAQ-2025-018. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2025-018 and should be submitted on or before April 3, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2025-03969 Filed 3-12-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0555]

Proposed Collection; Comment Request; Extension: Rule 6h-1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

¹⁷ 17 CFR 200.30-3(a)(12).

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in Rule 6h-1 (17 CFR 240.6h-1) under the Securities Exchange Act of 1934 ("Act") (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Section 6(h) of the Act (15 U.S.C. 78f(h)) requires national securities exchanges and national securities associations that trade security futures products to establish listing standards that, among other things, require that: (i) trading in such products not be readily susceptible to price manipulation; and (ii) the market on which the security futures product trades has in place procedures to coordinate trading halts with the listing market for the security or securities underlying the security futures product. Rule 6h-1 implements these statutory requirements and requires that (1) the final settlement price for each cash-settled security futures product fairly reflects the opening price of the underlying security or securities, and (2) the exchanges and associations trading security futures products halt trading in any security futures product for as long as trading in the underlying security for trading of a security futures product based on a single security, or trading in 50% or more of the underlying securities for trading of a security futures product based on a narrow-based security index, is halted on the listing market.

It is estimated that approximately 1 respondent will incur an average burden of 10 hours per year to comply with this rule, for a total burden of 10 hours per year. At an average internal cost per hour of approximately \$451, the resultant total internal cost of compliance for the respondents is \$4,510 per year (1 respondent × 10 hours/respondent × \$451/hour).

Compliance with Rule 6h-1 is mandatory. Any listing standards established pursuant to Rule 6h-1 would be filed with the Commission as proposed rule changes pursuant to Section 19(b) of the Act and would be published in the **Federal Register**.

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.

Written comments are invited on: (a) whether this collection of information is necessary for the proper performance of

the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 12, 2025.

Please direct your written comment to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg, 100 F Street NE, Washington, DC 20549 or send an email to: PaperworkReductionAct@sec.gov.

Dated: March 7, 2025.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2025-03966 Filed 3-12-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102539; File No. SR-NASDAQ-2025-019]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To List and Trade Shares of the Grayscale Polkadot Trust Under Nasdaq Rule 5711(d)

March 7, 2025.

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 February 24, 2025, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Grayscale Polkadot Trust (DOT) (the "Trust") under Nasdaq Rule 5711(d) ("Commodity-Based Trust

Shares"). The shares of the Trust are referred to herein as the "Shares."

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares³ under Nasdaq Rule 5711(d), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.⁴ The sponsors of the Trust are Grayscale Operating, LLC and Grayscale Investments Sponsors, LLC (each, a "Sponsor" and, collectively, the "Sponsors"), each a Delaware limited liability company.⁵ The Sponsors are indirect wholly owned subsidiaries of Digital Currency Group, Inc. ("Digital Currency Group"). The trustee for the Trust is CSC Delaware Trust Company ("Trustee"). The custodian for the Trust is Coinbase Custody Trust Company, LLC ("Custodian"). The administrator and transfer agent of the Trust is expected to be BNY Mellon Asset Servicing, a division of The Bank of New York Mellon (the "Transfer Agent"). The distribution and marketing agent for the Trust is expected to be Foreside Fund Services, LLC (the "Marketing Agent"). The index provider for the Trust is

CoinDesk Indices, Inc. (the "Index Provider").

The Trust is a Delaware statutory trust, formed on January 27, 2021, that operates pursuant to a trust agreement between the Sponsor and the Trustee ("Trust Agreement").

Operation of the Trust

According to the prospectus the Trust intends to file (the "Prospectus"), the Trust's assets consist solely of DOT tokens, the native token of the Polkadot Network (as defined below) ("DOT").

Each Share represents a proportional interest, based on the total number of Shares outstanding, in the Trust's assets as determined by reference to the Index Price,⁶ less the Trust's expenses and other liabilities (which include accrued but unpaid fees and expenses). The Sponsors expect that the market price of the Shares will fluctuate over time in response to the market prices of DOT. In addition, because the Shares reflect the estimated accrued but unpaid expenses of the Trust, the number of DOT represented by a Share will gradually decrease over time as the Trust's DOT are used to pay the Trust's expenses.

The activities of the Trust are limited to (i) issuing "Baskets" (as defined below) in exchange for DOT transferred to the Trust as consideration in connection with creations, (ii) transferring or selling DOT as necessary to cover the "Sponsor's Fee"⁷ and/or certain Trust expenses, (iii) transferring DOT in exchange for Baskets surrendered for redemption (subject to obtaining regulatory approval from the Commission and approval of the Sponsor), (iv) causing the Sponsor to sell DOT on the termination of the Trust, and (v) engaging in all administrative and security procedures necessary to accomplish such activities in accordance with the provisions of the Trust Agreement, the Custodian Agreement, the Index License

⁶ The "Index Price" means the U.S. dollar value of DOT derived from the Digital Asset Trading Platforms (as defined below) that are reflected in the CoinDesk DOT CCIX Reference Rate (the "Index"), calculated at 4:00 p.m., New York time, on each business day.

⁷ The Sponsor's Fee means a fee, payable in DOT, which will daily in U.S. dollars at an annual rate of a to-be-determined percentage of the NAV Fee Basis Amount of the Trust as of 4:00 p.m., New York time, on each day, provided that for a day that is not a business day, the calculation of the Sponsor's Fee will be based on the NAV Fee Basis Amount from the most recent business day, reduced by the accrued and unpaid Sponsor's Fee for such most recent business day and for each day after such most recent business day and prior to the relevant calculation date. The "NAV Fee Basis Amount" is calculated in the manner set forth under "Valuation of DOT and Determination of NAV" below.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Shares are expected to be listed under the ticker symbol "DOT"

⁴ The Commission approved Nasdaq Rule 5711 in Securities Exchange Act Release No. 66648 (March 23, 2012), 77 FR 19428 (March 30, 2012) (SR-NASDAQ-2012-013).

⁵ As of May 3, 2025, Grayscale Operating, LLC will cease to act as Sponsor of the Trust and Grayscale Investment Sponsors, LLC will be sole Sponsor of the Trust.

Agreement, and the Participant Agreements (each as defined below).

The Trust will not be actively managed. It will not engage in any activities designed to obtain a profit from, or to ameliorate losses caused by, changes in the market prices of DOT.

The Trust is not a registered investment company under the Investment Company Act and the Sponsors believe that the Trust is not required to register under the Investment Company Act.

Investment Objective

According to the Prospectus, and as further described below, the Trust's investment objective is for the value of the Shares (based on DOT per Share) to reflect the value of the DOT held by the Trust, determined by reference to the Index Price, less the Trust's expenses and other liabilities. While an investment in the Shares is not a direct investment in DOT, the Shares are designed to provide investors with a cost-effective and convenient way to gain investment exposure to DOT. Generally speaking, a substantial direct investment in DOT may require expensive and sometimes complicated arrangements in connection with the acquisition, security and safekeeping of the DOT and may involve the payment of substantial fees to acquire such DOT from third-party facilitators through cash payments of U.S. dollars. Because the value of the Shares is correlated with the value of DOT held by the Trust, it is important to understand the investment attributes of, and the market for, DOT.

The Trust uses the Index Price to calculate its "NAV," which is the aggregate value, expressed in U.S. dollars, of the Trust's assets (other than U.S. dollars or other fiat currency), less the U.S. dollar value of the Trust's expenses and other liabilities calculated in the manner set forth under "Valuation of DOT and Determination of NAV." "NAV per Share" is calculated by dividing NAV by the number of Shares then outstanding.

Valuation of DOT and Determination of NAV

The following is a description of the material terms of the Trust Agreement as they relate to valuation of the Trust's DOT and the NAV calculations.

On each business day at 4:00 p.m., New York time, or as soon thereafter as practicable (the "Evaluation Time"), the Sponsor will evaluate the DOT held by the Trust and calculate and publish the NAV of the Trust. To calculate the NAV, the Sponsor will:

1. Determine the Index Price as of such business day.

2. Multiply the Index Price by the Trust's aggregate number of DOT owned by the Trust as of 4:00 p.m., New York time, on the immediately preceding day, less the aggregate number of DOT payable as the accrued and unpaid Sponsor's Fee as of 4:00 p.m., New York time, on the immediately preceding day.

3. Add the U.S. dollar value of DOT, calculated using the Index Price, receivable under pending creation orders, if any, determined by multiplying the number of the Baskets represented by such creation orders by the Basket Amount and then multiplying such product by the Index Price.⁸

4. Subtract the U.S. dollar amount of accrued and unpaid Additional Trust Expenses, if any.⁹

5. Subtract the U.S. dollar value of the DOT, calculated using the Index Price, to be distributed under pending redemption orders, if any, determined by multiplying the number of Baskets to be redeemed represented by such redemption orders by the Basket Amount and then multiplying such product by the Index Price (the amount derived from steps 1 through 5 above, the "NAV Fee Basis Amount").

6. Subtract the U.S. dollar amount of the Sponsor's Fee that accrues for such business day, as calculated based on the NAV Fee Basis Amount for such business day.

In the event that the Sponsor determines that the primary methodology used to determine the Index Price is not an appropriate basis for valuation of the Trust's DOT, the Sponsor will utilize the cascading set of rules as described in "Determination of the Index Price When Index Price is Unavailable" below.

DOT and the Polkadot Network

According to the Prospectus, DOT is a digital asset that is created and transmitted through the operations of the "Polkadot Network," an online,

decentralized, distributed computing platform that operates on a peer-to-peer basis. The Polkadot Network uses a heterogeneous multi-chain to ensure the secure transfer and authenticity of each DOT and hosts the public transaction ledger. This central chain is known as the Relay Chain (the "Relay Chain") on which all DOT is recorded. The Relay Chain is a decentralized digital file, or ledger, that contains all the records of DOT and is stored in multiple copies globally on the computers of users of the Polkadot Network. DOT is mainly used for the functional mechanisms of the Polkadot Network, including governance of updates, staking for network operations, as the gas token of the network and bonding for Parachains to secure a spot on the Relay Chain (see Technology and Operation, below). Unlike bitcoin, there is no maximum amount of DOT that may be outstanding. DOT is divisible to up to ten decimal places into shares named "Plancks."

DOT is "stored" on a blockchain and is linked to a unique digital address, or wallet, that is associated with a public key and a private key. The public key is used to generate the address that is available to other users of the Polkadot Network. The address serves as the location to which DOT can be transferred and from which DOT can be sent. The private key authorizes the transfer or "spending" of DOT from its associated public address. Ownership of DOT is established by recording on the Relay Chain the unique address and the amount of DOT held. The wallet thus holds the cryptographic keys associated with DOT, rather than the DOT itself. DOT cannot be transferred by a holder unless that holder provides the private key.

The Relay Chain is the decentralized, publicly distributed ledger that holds DOT and the mechanism that allows people to exchange DOT. All transactions on the Polkadot Network are recorded on the Relay Chain. Like other blockchains, the Polkadot Relay Chain can be thought of as a collective chain of digital signatures that reflect transaction history. The Relay Chain is downloaded and stored, in whole or in part, on the computers of each user of the Polkadot Network. The Relay Chain is public and accessible to all, and includes a record of every DOT, every transaction in DOT in order and every public address on the Polkadot Network. Every computer on the Polkadot Network is a "node", and collectively all of the nodes ensure that each new transaction in DOT adheres to certain rules before it is added to the Relay Chain.

⁸ "Baskets" and "Basket Amount" have the meanings set forth in "Creation and Redemption of Shares" below.

⁹ A "Digital Asset Market" is a "Brokered Market," "Dealer Market," "Principal-to-Principal Market" or "Exchange Market," as each such term is defined in the Financial Accounting Standards Board Accounting Standards Codification Master Glossary. The "Digital Asset Trading Platform Market" is the global trading platform market for the trading of DOT, which consists of transactions on electronic Digital Asset Trading Platforms. A "Digital Asset Trading Platform" is an electronic marketplace where trading participants may trade, buy and sell DOT based on bid-ask trading. The largest Digital Asset Trading Platforms are online and typically trade on a 24-hour basis, publishing transaction price and volume data.

Transaction data is permanently recorded on the Relay Chain in data files called “blocks,” which reflect transactions that have been recorded and authenticated by Polkadot Network participants. Each newly recorded block of transactions refers back to and “connects” with the immediately preceding recorded block in the ledger. Each new block records outstanding DOT transactions, and outstanding transactions are settled and validated through such recording. Although there are size limits to each block, the Relay Chain is designed to represent a complete, transparent, secure and unbroken history of all the transactions that have occurred on the Polkadot Network. The Polkadot Network and associated software programs can view the Relay Chain to determine the exact balance, if any, of DOT associated with any public address listed on the Relay Chain.

DOT can be transferred in direct peer-to-peer transactions through the direct sending of DOT over the Polkadot Network from one Polkadot Network address to another.

DOT can be used as a means to conduct cross-border payments and to pay other users of the Polkadot Network for goods and services under what resembles a barter system. Consumers can also pay merchants and other commercial businesses for goods or services through direct peer-to-peer transactions on the Polkadot Network or through third-party service providers.

DOT spot markets typically permit investors to open accounts with the market and then purchase and sell DOT via websites or through mobile applications. Prices for trades on DOT spot markets are typically reported publicly. An investor opening a trading account on a digital asset trading platform must deposit an accepted government-issued currency into its account with the trading platform, or a previously acquired digital asset, before they can purchase or sell assets on the trading platform. The process of establishing an account with a digital asset trading platform and trading DOT is different from, and should not be confused with, the process of users sending DOT from one DOT address to another DOT address on the Polkadot Network. This latter process is an activity that occurs on the Polkadot Network, while the former is an activity that occurs entirely within the order book operated by the digital asset trading platform. The digital asset trading platform typically records the investor's ownership of DOT in its internal books and records, rather than on the Polkadot Network. The digital

asset trading platform ordinarily does not transfer DOT to the investor on the Polkadot Network unless the investor makes a request to the exchange to withdraw the DOT in its platform trading account to an off-platform DOT wallet.

Outside of the spot markets, DOT can be traded OTC. The OTC market is largely institutional in nature, and OTC market participants generally consist of institutional entities, such as firms that offer two-sided liquidity for DOT, investment managers, proprietary trading firms, high-net-worth individuals that trade DOT on a proprietary basis, entities with sizeable DOT holdings, and family offices. The OTC market provides a relatively flexible market in terms of quotes, price, quantity, and other factors, although it tends to involve large blocks of DOT. The OTC market has no formal structure and no open-outcry meeting place. Parties engaging in OTC transactions will agree upon a price—often via phone or email—and then one of the two parties will then initiate the transaction. For example, a seller of DOT could initiate the transaction by sending the DOT to the buyer's DOT address. The buyer would then wire U.S. dollars to the seller's bank account. OTC trades are sometimes hedged and eventually settled with concomitant trades on digital asset trading platforms.

Custody of the Trust's DOT

Digital assets and digital asset transactions are recorded and validated on blockchains, the public transaction ledgers of a digital asset network. Each digital asset blockchain serves as a record of ownership for all of the units of such digital asset, even in the case of certain privacy-preserving digital assets, where the transactions themselves are not publicly viewable. All digital assets recorded on a blockchain are associated with a public blockchain address, also referred to as a digital wallet. Digital assets held at a particular public blockchain address may be accessed and transferred using a corresponding private key.

Key Generation

Public addresses and their corresponding private keys are generated by the Custodian in secret key generation ceremonies at secure locations inside faraday cages, which are enclosures used to block electromagnetic fields and thus mitigate against attacks. The Custodian uses quantum random number generators to generate the public and private key pairs.

Once generated, private keys are encrypted, separated into “shards,” and then further encrypted. After the key generation ceremony, all materials used to generate private keys, including computers, are destroyed. All key generation ceremonies are performed offline. No party other than the Custodian (including the Trust itself) has access to the private key shards of the Trust.

Key Storage

Private key shards are distributed geographically in secure vaults around the world, including in the United States. The locations of the secure vaults may change regularly and are kept confidential by the Custodian for security purposes.

The “Digital Asset Account” is a segregated custody account controlled and secured by the Custodian to store private keys, which allows for the transfer of ownership or control of the Trust's DOT on the Trust's behalf. The Digital Asset Account uses offline storage, or “cold,” mechanisms to secure the Trust's private keys. The term cold storage refers to a safeguarding method by which the private keys corresponding to digital assets are disconnected and/or deleted entirely from the internet. Cold storage of private keys may involve keeping such keys on a non-networked (or “air-gapped”) computer or electronic device or storing the private keys on a storage device (for example, a USB thumb drive) or printed medium (for example, papyrus, paper, or a metallic object). A digital wallet may receive deposits of digital assets but may not send digital assets without use of the digital assets' corresponding private keys. In order to send digital assets from a digital wallet in which the private keys are kept in cold storage, either the private keys must be retrieved from cold storage and entered into an online, or “hot,” digital asset software program to sign the transaction, or the unsigned transaction must be transferred to the cold server in which the private keys are held for signature by the private keys and then transferred back to the online digital asset software program. At that point, the user of the digital wallet can transfer its digital assets.

Security Procedures

The Custodian is the custodian of the Trust's private keys (which, as noted above, facilitate the transfer of ownership or control of the Trust's DOT) in accordance with the terms and provisions of the custodian agreement by and between the Custodian, the Sponsor and the Trust (the “Custodian

Agreement”). Transfers from the Digital Asset Account require certain security procedures, including, but not limited to, multiple encrypted private key shards, usernames, passwords and 2-step verification. Multiple private key shards held by the Custodian must be combined to reconstitute the private key to sign any transaction in order to transfer the Trust’s assets. Private key shards are distributed geographically in secure vaults around the world, including in the United States.

As a result, if any one secure vault is ever compromised, this event will have no impact on the ability of the Trust to access its assets, other than a possible delay in operations, while one or more of the other secure vaults is used instead. These security procedures are intended to remove single points of failure in the protection of the Trust’s assets.

Transfers of DOT to the Digital Asset Account will be available to the Trust once processed on the Blockchain.

Subject to obtaining regulatory approval to operate a redemption program and authorization of the Sponsor, the process of accessing and withdrawing DOT from the Trust to redeem a Basket by an Authorized Participant will follow the same general procedure as transferring DOT to the Trust to create a Basket by an Authorized Participant, only in reverse.

The Sponsor will maintain ownership and control of the Trust’s DOT in a manner consistent with good delivery requirements for spot commodity transactions.

DOT Value

Digital Asset Trading Platform Valuation

The value of DOT is determined by the value that various market participants place on DOT through their transactions. The most common means of determining the value of a DOT is by surveying one or more Digital Asset Trading Platforms where DOT is traded publicly and transparently (e.g., Bitfinex, Crypto.com, and Kraken).

Digital Asset Trading Platform Public Market Data

On each online Digital Asset Trading Platform, DOT is traded with publicly disclosed valuations for each executed trade, measured by one or more fiat currencies such as the U.S. dollar or euro, or stablecoins such as U.S. Dollar Coin (“USDC”). Over-the-counter dealers or market makers do not typically disclose their trade data.

As of December 31, 2024, the Digital Asset Trading Platforms included in the Index were Bitfinex, Bitstamp, Bullish, Bybit, Crypto.com, Gemini, Kraken and OKX. As further described below, the Sponsor and the Trust reasonably believe each of these Digital Asset Trading Platforms are in material compliance with applicable licensing requirements based on the Trading Platform Category and Jurisdiction, as detailed below, and maintain practices and policies designed to comply with anti-money laundering (“AML”) and know-your-customer (“KYC”) regulations.

- **Bitstamp:** A U.K.-based trading platform registered as a money services business (“MSB”) with the Financial Crimes Enforcement Network (“FinCEN”) and licensed as a virtual currency business under the New York State Department of Financial Services (“NYDFS”) BitLicense as well as a money transmitter in various U.S. states.

- **Bitfinex:** A British Virgin Islands based trading platform. Bitfinex does not hold any licenses or registrations in the U.S. and is not available to U.S. based customers. Bitfinex is categorized by the Index Provider as a “Category 2” trading platform which meets the Inclusion Criteria outlined below but is non-U.S. licensed.

- **Bullish:** A Gibraltar-based trading platform registered as an MSB with FinCEN. Bullish is not available to U.S. based customers. Bullish is categorized by the Index Provider as a “Category 2” trading platform which meets the Inclusion Criteria outlined below but is non-U.S. licensed.

- **Bybit:** A United Arab Emirates based trading platform. Bybit does not

hold any licenses or registrations in the U.S. and is not available to U.S. based customers. Bybit is categorized by the Index Provider as a “Category 2” trading platform which meets the Inclusion Criteria outlined below but is non-U.S. licensed.

- **Crypto.com:** A Singapore-based trading platform registered as an MSB with FinCEN and licensed as a money transmitter in various U.S. states. Crypto.com does not hold a BitLicense.

- **Gemini:** A U.S.-based trading platform registered as an MSB with FinCEN and licensed as money transmitter in various U.S. states. Gemini is exempt from applying for a BitLicense under the framework established by NYDFS because of their trust charter under NY Banking Law.

- **Kraken:** A U.S.-based trading platform registered as an MSB with FinCEN and licensed as a money transmitter in various U.S. states. Kraken does not hold a BitLicense.

- **OKX:** A Seychelles based trading platform. OKX does not hold any licenses or registrations in the U.S. and is not available to U.S. based customers. OKX is categorized by the Index Provider as a “Category 2” trading platform which meets the Inclusion Criteria outlined below but is non-U.S. licensed.

Currently, there are several Digital Asset Trading Platforms operating worldwide and online Digital Asset Trading Platforms represent a substantial percentage of DOT buying and selling activity and provide the most data with respect to prevailing valuations of DOT. These trading platforms include established trading platforms such as trading platforms included in the Index which provide a number of options for buying and selling DOT. The below table reflects the trading volume in DOT and market share of the DOT–U.S. dollar and DOT–USDC trading pairs of each of the Digital Asset Trading Platforms included in the Index as of December 31, 2024 (collectively, “Constituent Trading Platforms”), using data since the January 1, 2024:

DOT Trading Platforms included in the Index as of December 31, 2024	Volume (DOT)	Market share ¹
Kraken	171,609,182	20.74%
Crypto.com	67,367,246	8.14%
Bitfinex	16,371,564	1.98%
Bitstamp	8,304,889	1.00%
Gemini	4,855,186	0.59%
Total U.S. Dollar-DOT trading pair	268,508,067	32.45%
Bullish	31,804,657	17.14%
Bybit	23,556,417	12.69%

DOT Trading Platforms included in the Index as of December 31, 2024	Volume (DOT)	Market share ¹
OKX	12,399,513	6.68%
Kraken	166,623	0.09%
Total USDC–DOT trading pair	67,927,210	36.60%

¹ Market share is calculated using trading volume (in DOT) for certain Digital Asset Trading Platforms including, Kraken, Crypto.com, Bitfinex, Bitstamp, Gemini, Bullish, Bybit and OKX, as well as certain other large U.S.-dollar denominated Digital Asset Trading Platforms that were not included in the Index as of December 31, 2024, including Coinbase, Binance, Kucoin and LBank.

The Index and the Index Price

The Index is a U.S. dollar-denominated composite reference rate for the price of DOT. The Index is designed to (1) mitigate the effects of fraud, manipulation and other anomalous trading activity from impacting the DOT reference rate, (2) provide a real-time, volume-weighted fair value of DOT and (3) appropriately handle and adjust for non-market related events.

The Index Price is determined by the Index Provider through a process in which trade data is cleansed and compiled in such a manner as to algorithmically reduce the impact of anomalous or manipulative trading. This is accomplished by the (a) real-time introduction and capture of new trades on a trade-by-trade basis where prior trade data becomes immediately less relevant with new trades, (b) utilization of an Outlier Detection Factor ¹⁰ for excluding a price or price(s) deemed to be an outlier relative to the most recently calculated Index price, and (c) utilization of a time penalty factor for penalizing inactivity for any of the Constituent Trading Platforms.

The value of the Index is calculated and disseminated on a 24-hour basis and will be available on a continuous basis at <https://indices.coindesk.com>.

Constituent Trading Platform Selection

According to the Memorandum, the Digital Asset Trading Platforms that are included in the Index are selected by the Index Provider utilizing a methodology that is guided by the International Organization of Securities Commissions (“IOSCO”) principles for financial benchmarks. For a trading platform to become a Constituent Trading Platform, it must satisfy each of the criteria listed below (the “Inclusion Criteria”):

- No evidence in the past 12 months of trading restrictions on individuals or entities that would otherwise meet the trading platform’s eligibility requirements to trade;

- No evidence in the past 12 months of undisclosed restrictions on deposits or withdrawals from user accounts;
- Real-time price discovery;
- Limited or no capital controls; ¹¹
- Transparent ownership including a publicly-known ownership entity;
- Publicly available language and policies addressing legal and regulatory compliance in the U.S., including KYC, AML and other policies designed to comply with relevant regulations that might apply to it; and

- Offer programmatic spot trading of the trading pair ¹² and reliably publish trade prices and volumes on a real-time basis through Rest and Websocket APIs.

All trading platforms that meet these Inclusion Criteria will be assigned to one Exchange Category as defined by the additional criteria below:

• Category 1

- Licensed and/or able to serve investors, retail or professional, in the U.S.; and
- Maintain sufficient USD or USDC liquidity relative to the size of the listed assets.

• Category 2

- Licensed (including in-principal licensure) and/or able to serve investors, retail or professional, in one or more of the following jurisdictions:

- United Kingdom,
- European Union,
- Hong Kong,
- Singapore; and

- Maintain sufficient USD or USDC liquidity relative to the size of the listed assets.

In the event a trading platform is only licensed or able to serve investors in select European Union countries and none of the other listed jurisdictions, the Index Provider reserves the right to evaluate its eligibility on a case-by-case basis.

¹¹ “Capital controls” in this context means governmental sanctions that would limit the movement of capital into, or out of, the jurisdiction in which such Digital Asset Trading Platforms operate.

¹² Trading platforms with programmatic trading offer traders an application programming interface that permits trading by sending programmed commands to the trading platform.

A Digital Asset Trading Platform is removed as a Constituent Trading Platform when it no longer satisfies the Inclusion Criteria. The Index Provider does not currently include data from over-the-counter markets or derivatives platforms among the Constituent Trading Platforms. According to the Memorandum, over-the-counter data is not currently included because of the potential for trades to include a significant premium or discount paid for larger liquidity, which creates an uneven comparison relative to more active markets. There is also a higher potential for over-the-counter transactions to not be arms-length, and thus not be representative of a true market price.

The Index Provider and the Sponsor have entered into the index license agreement, dated as of February 1, 2022 (as amended, the “Index License Agreement”), governing the Sponsor’s use of the Index Price.¹³ Pursuant to the terms of the Index License Agreement, the Index Provider may adjust the calculation methodology for the Index Price without notice to, or consent of, the Trust or its shareholders. The Index Provider may decide to change the calculation methodology to maintain the integrity of the Index Price calculation should it identify or become aware of previously unknown variables or issues with the existing methodology that it believes could materially impact its performance and/or reliability. The Index Provider has sole discretion over the determination of Index Price and may change the methodologies for determining the Index Price from time to time. Shareholders will be notified of any material changes to the calculation methodology or the Index Price in the Trust’s current reports and will be notified of all other changes that the Sponsor considers significant in the Trust’s periodic or current reports. The Sponsor will determine the materiality of any changes to the Index Price on a

¹⁰ Outlier Detection Factor means a factor used for penalizing a price deemed to be an outlier in accordance with the Index Provider’s methodology.

¹³ Upon entering into the Index License Agreement, the Sponsor and the Index Provider terminated the license agreement between the parties dated as of February 28, 2019.

case-by-case basis, in consultation with external counsel.

The Index Provider may change the trading venues that are used to calculate the Index or otherwise change the way in which the Index is calculated at any time. For example, the Index Provider has scheduled quarterly reviews in which it may add or remove Constituent Trading Platforms that satisfy or fail the Inclusion Criteria. The Index Provider does not have any obligation to consider the interests of the Sponsor, the Trust, the shareholders, or anyone else in connection with such changes. While the Index Provider is not required to publicize or explain the changes or to alert the Sponsor to such changes, it has historically notified the Trust (and other subscribers to the Index) of any material changes to the Constituent Trading Platforms, including any additions or removals, contemporaneous with its issuance of press releases in connection with the same. The Sponsor will notify investors of any such material event by filing a current report on Form 8-K. Although the Index methodology is designed to operate without any manual intervention, rare events would justify manual intervention. Intervention of this kind would be in response to non-market-related events, such as the halting of deposits or withdrawals of funds on a Digital Asset Trading Platform, the unannounced closure of operations on a Digital Asset Trading Platform, insolvency or the compromise of user funds. In the event that such an intervention is necessary, the Index Provider would issue a public announcement through its website, API or other established communication channels with its clients.

Determination of the Index Price

The Index applies an algorithm to the price of DOT on the Constituent Trading Platforms calculated every 5 seconds over a 24-hour period. The Index's algorithm is expected to *reflect* a five-pronged methodology to calculate the Index Price from the Constituent Trading Platforms:

- **Volume Weighting:** Constituent Trading Platforms with greater liquidity receive a higher weighting in the Index, increasing the ability to execute against (*i.e.*, replicate) the Index in the underlying spot markets. The Index Price methodology is a volume-weighted real-time price where each Constituent Trading Platform is weighted based on its trailing 24-hour volume.

- **FX Conversion:** The Index Price algorithm utilizes a volume-weighted real-time FX conversion rate for any trading activity for the relevant

Stablecoin-USD pair. This normalizes all trading activity to USD denomination.

- **Outlier Detection Factor:** The Index Price algorithm excludes trade data and price(s) deemed to be an outlier relative to the most recently calculated Index Price.

- **Inactivity Adjustment:** The Index Price algorithm penalizes stale activity from any given Constituent Trading Platform. When a Constituent Trading Platform does not have recent trading data, the outdated prices and their contribution to the Index Price calculation is gradually reduced until it is de-weighted to 0.1%. Similarly, once trading activity at a Constituent Trading Platform resumes, the corresponding weighting for that Constituent Trading Platform will no longer be penalized.

- **Manipulation Resistance:** In order to mitigate the effects of wash trading and order book spoofing, and in an effort to prioritize the most significant Constituent Trading Platforms for a given asset—the Index utilizes a Constituent Trading Platform Selection and Review process, which seeks to identify the highest-ranking Constituent Trading Platforms based on both qualitative and quantitative factors. The Qualitative Review includes legal and regulation, data provision, security, trade monitoring, market quality, and negative events policy, among others. The Quantitative Review includes review of trading activity for the asset on the given Constituent Trading Platform.

The Index Provider re-evaluates the weighting algorithm on a periodic basis, but maintains discretion to change the way in which an Index Price is calculated based on its periodic review or in extreme circumstances and does not make the exact methodology to calculate the Index Price publicly available. Nonetheless, the Sponsors believe that the Index is designed to limit exposure to trading or price distortion of any individual Digital Asset Trading Platform that experiences periods of unusual activity or limited liquidity by discounting, in real-time, anomalous price movements at individual Digital Asset Trading Platforms.

The Sponsors believe the Index Provider's selection process for Constituent Trading Platforms as well as the methodology of the Index Price's algorithm provides a more accurate picture of DOT price movements than a simple average of Digital Asset Trading Platform spot prices, and that the weighting of DOT prices on the Constituent Trading Platforms limits the inclusion of data that is influenced by

temporary price dislocations that may result from technical problems, limited liquidity or fraudulent activity elsewhere in the DOT spot market. By referencing multiple trading venues and weighting them based on trade activity, the Sponsors believe that the impact of any potential fraud, manipulation or anomalous trading activity occurring on any single venue is reduced.

If the Index Price becomes unavailable, or if the Sponsor determines in good faith that such Index Price does not reflect an accurate price for DOT, then the Sponsor will, on a best efforts basis, contact the Index Provider to obtain the Index Price directly from the Index Provider. If after such contact such Index Price remains unavailable or the Sponsor continues to believe in good faith that such Index Price does not reflect an accurate price for DOT, then the Sponsor will employ a cascading set of rules to determine the Index Price, as described below in "Determination of the Index Price When Index Price is Unavailable."

The Trust values its DOT for operational purposes by reference to the Index Price. The Index Price is the value of DOT as represented by the Index, calculated at 4:00 p.m., New York time, on each business day.

Illustrative Example

For the purposes of illustration, outlined below are examples of how the attributes that impact weighting and adjustments in the aforementioned methodology may be utilized to generate the Index Price for a digital asset. For example, Constituent Trading Platforms used to calculate the Index Price of the digital asset may include trading platforms such as Bitstamp, Kraken, LMAX Digital, and Crypto.com.

The Index Price algorithm, as described above, is designed to account for manipulation at the outset by only including data from executed trades on Constituent Trading Platforms that charge trading fees. Then, the below-listed elements may impact the weighting of the Constituent Trading Platforms on the Index Price as follows:

- **Volume Weighting:** Each Constituent Trading Platform will be weighted to appropriately reflect the trading volume share of the Constituent Trading Platform relative to all the Constituent Trading Platforms during this same period. For example, an average hourly weighting of 67.06%, 14.57%, 11.88%, and 6.49% for Bitstamp, Kraken, LMAX Digital, and Crypto.com, respectively, would represent each Constituent Trading Platform's share of trading volume during the same period.

- *Inactivity Adjustment:* Assume that a Constituent Trading Platform represented a 14% weighting on the Index Price of the digital asset, which is based on the per-second calculations of its trading volume and price-variance relative to the cohort of Constituent Trading Platforms included in such Index, and then went offline for approximately two hours. The index algorithm would automatically recognize inactivity and start de-weighting the Constituent Trading Platform at the 5-minute mark and continue to do so over with each additional 5-minute period of inactivity—until its influence was effectively zero, 25 minutes after becoming inactive. As soon as trading activity resumed at the Constituent Trading Platform, the index algorithm would re-weight it to the appropriate weighting based on trading volume and price-variance relative to the cohort of Constituent Trading Platforms included in the Index.

- *Price Outlier Detection:* New traded prices from Constituent Trading Platforms are compared to the latest calculated Index Price. In the event the new traded price deviates by $\pm 5\%$ from the latest calculated Index Price it will be considered an outlier and not used in the calculation of the Index Price until such time as a majority of the Constituent Trading Platforms are similarly considered outlier prices. In that case, the new prices will be used to calculate the Index Price. For example, if the Index Price is \$10 and a new trade price of \$11 from Constituent Trading Platform X, the price of \$11 will be considered an outlier and not used. However, if the most recent prices on a majority of the Constituent Trading Platforms are aligned with the price of \$11, then these prices will no longer be considered outliers and will be used to calculate the new Index Price.

Determination of the Index Price When Index Price Is Unavailable

The Sponsor uses the following cascading set of rules to calculate the Index Price when the Index Price is unavailable.¹⁴ For the avoidance of doubt, the Sponsor will employ the below rules sequentially and in the order as presented below, should one or more specific rule(s) fail:

1. Index Price = The price set by the Index as of 4:00 p.m., New York time, on the valuation date.¹⁵ If the Index becomes unavailable, or if the Sponsor

determines in good faith that the Index does not reflect an accurate price, then the Sponsor will, on a best efforts basis, contact the Index Provider to obtain the Index Price directly from the Index Provider. If after such contact the Index remains unavailable or the Sponsor continues to believe in good faith that the Index does not reflect an accurate price, then the Sponsor will employ the next rule to determine the Index Price. There are no predefined criteria to make a good faith assessment and it will be made by the Sponsor in its sole discretion.

2. Index Price = The price set by Coin Metrics Real-Time Rate (the “Secondary Index”) as of 4:00 p.m., New York time, on the valuation date (the “Secondary Index Price”). The Secondary Index Price is a real-time reference rate price, calculated using trade data from constituent markets selected by Coin Metrics, Inc. (the “Secondary Index Provider”). The Secondary Index Price is calculated by applying weighted-median techniques to such trade data where half the weight is derived from the trading volume on each constituent market and half is derived from inverse price variance, where a constituent market with high price variance as a result of outliers or market anomalies compared to other constituent markets is assigned a smaller weight. If the Secondary Index becomes unavailable, or if the Sponsor determines in good faith that the Secondary Index does not reflect an accurate price, then the Sponsor will, on a best efforts basis, contact the Secondary Index Provider to obtain the Secondary Index Price directly from the Secondary Index Provider. If after such contact the Secondary Index remains unavailable or the Sponsor continues to believe in good faith that the Secondary Index does not reflect an accurate price, then the Sponsor will employ the next rule to determine the Index Price. There are no predefined criteria to make a good faith assessment and it will be made by the Sponsor in its sole discretion.

3. Index Price = The price set by the Trust’s principal market (as defined in the Memorandum) (the “Tertiary Pricing Option”) as of 4:00 p.m., New York time, on the valuation date. The Tertiary Pricing Option is a spot price derived from the principal market’s public data feed that is believed to be consistently publishing pricing information as of 4:00 p.m., New York time, and is provided to the Sponsor via an application programming interface. If the Tertiary Pricing Option becomes unavailable, or if the Sponsor determines in good faith that the Tertiary Pricing Option does not reflect

an accurate price, then the Sponsor will, on a best efforts basis, contact the Tertiary Pricing Provider to obtain the Tertiary Pricing Option directly from the Tertiary Pricing Provider. If after such contact the Tertiary Pricing Option remains unavailable after such contact or the Sponsor continues to believe in good faith that the Tertiary Pricing Option does not reflect an accurate price, then the Sponsor will employ the next rule to determine the Index Price. There are no predefined criteria to make a good faith assessment and it will be made by the Sponsor in its sole discretion.

4. Index Price = The Sponsor will use its best judgment to determine a good faith estimate of the Index Price. There are no predefined criteria to make a good faith assessment and it will be made by the Sponsor in its sole discretion.

In the event of a fork, the Index Provider may calculate the Index Price based on a digital asset that the Sponsor does not believe to be an appropriate asset of the Trust (*i.e.*, a digital asset other than DOT).¹⁶ In this event, the Sponsor has full discretion to use a different index provider or calculate the Index Price itself using its best judgment. In such an event, the Exchange will submit a proposed rule filing to contemplate the assets that would subsequently be held by the Trust.

The Sponsor may, in its sole discretion, select a different index provider, select a different index price provided by the Index Provider, calculate the Index Price by using the cascading set of rules set forth above, or change the cascading set of rules set forth above at any time.¹⁷

¹⁶ According to the Prospectus, the Polkadot Network operates using open-source protocols, meaning that any user can download the software, modify it and then propose that the users and validators of DOT adopt the modification. When a modification is introduced and a substantial majority of users and validators’ consent to the modification, the change is implemented and the network remains uninterrupted. However, if less than a substantial majority of users and validators’ consent to the proposed modification, and the modification is not compatible with the software prior to its modification, the consequence would be what is known as a “hard fork” of the Polkadot Network, with one group running the pre-modified software and the other running the modified software. The effect of such a fork would be the existence of two versions of DOT running in parallel, yet lacking interchangeability. Forks may also occur as a network community’s response to a significant security breach.

¹⁷ The Sponsor will provide notice of any such changes in the Trust’s periodic or current reports and, if the Sponsor makes such a change other than on an ad hoc or temporary basis, will file a proposed rule change with the Commission.

¹⁴ The Sponsor updated these rules on January 11, 2022.

¹⁵ The valuation date is any day for which the value of the DOT in the Trust may be calculated utilizing the Index Price.

Creation and Redemption of Shares

Authorized Participants may submit orders to create or redeem Shares under procedures for “Cash Orders.”

The Authorized Participants will deliver only cash to create Shares and will receive only cash when redeeming Shares. Further, Authorized Participants will not directly or indirectly purchase, hold, deliver, or receive DOT as part of the creation or redemption process or otherwise direct the Trust or a third party with respect to purchasing, holding, delivering, or receiving DOT as part of the creation or redemption process.

The Trust will create Shares by receiving DOT from a third party that is not the Authorized Participant, and the Trust, or an affiliate of the Trust (and in any event not the Authorized Participant), is responsible for selecting the third party to deliver the DOT. Further, the third party will not be acting as an agent of the Authorized Participant with respect to the delivery of the DOT to the Trust nor acting at the direction of the Authorized Participant with respect to the delivery of the DOT to the Trust. The Trust will redeem Shares by delivering DOT to a third party that is not the Authorized Participant, and the Trust, or an affiliate of the Trust (and in any event not the Authorized Participant), is responsible for selecting the third party to receive the DOT. Further, the third party will not be acting as an agent of the Authorized Participant with respect to the receipt of the DOT from the Trust nor acting at the direction of the Authorized Participant with respect to the receipt of the DOT from the Trust.

Cash Orders are made through the participation of a Liquidity Provider¹⁸ who obtains or receives DOT in exchange for cash, and are facilitated by

the Transfer Agent and Grayscale Investments Sponsors, LLC, acting in its capacity as the Liquidity Engager. Liquidity Providers are not party to the Participant Agreements (as defined below) and are engaged separately by the Liquidity Engager.

According to the Registration Statement, the Trust creates Baskets (as described below) of Shares only upon receipt of DOT and redeems Shares only by distributing DOT. “Authorized Participants” are the only persons that may place orders to create and redeem Baskets. Each Authorized Participant must (i) be a registered broker-dealer and (ii) enter into an agreement with the Sponsor and Transfer Agent that provides the procedures for the creation and redemption of Baskets and for the delivery of DOT required for the creation and redemption of Baskets via a Liquidity Provider (each, a “Participant Agreement”). An Authorized Participant may act for its own account or as agent for broker-dealers, custodians and other securities market participants that wish to create or redeem Baskets. Shareholders who are not Authorized Participants will only be able to create or redeem their Shares through an Authorized Participant.

The Trust issues Shares to and redeems Shares from Authorized Participants on an ongoing basis, but only in one or more “Baskets” (with a Basket being a block of 10,000 Shares). The Trust will not issue fractions of a Basket.

The creation and redemption of Baskets will be made only in exchange for the delivery to the Trust, or the distribution by the Trust, of the number of whole and fractional DOT represented by each Basket being created or redeemed, which is determined by dividing (x) the number of DOT owned by the Trust at 4:00 p.m., New York time, on the trade date of a creation or redemption order, after deducting the number of DOT representing the U.S. dollar value of accrued but unpaid fees and expenses of the Trust (converted using the Index Price at such time, and carried to the eighth decimal place), by (y) the number of Shares outstanding at such time (with the quotient so obtained calculated to one one-hundred-millionth of one DOT (i.e., carried to the eighth decimal place)), and multiplying such quotient by 10,000 (the “Basket Amount”). The U.S. dollar value of a Basket is calculated by multiplying the Basket Amount by the Index Price as of the trade date (the “Basket NAV”). The Basket NAV multiplied by the number of Baskets being created or redeemed is

referred to as the “Total Basket NAV.” All questions as to the calculation of the Basket Amount will be conclusively determined by the Sponsor and will be final and binding on all persons interested in the Trust. The number of DOT represented by a Share will gradually decrease over time as the Trust’s DOT are used to pay the Trust’s expenses.

The creation of Baskets requires the delivery by the Authorized Participant of a cash amount equivalent to the Total Basket Amount and the redemption of Baskets requires the distribution to the Authorized Participant of a cash amount equivalent to the Total Basket Amount.

Although the Trust creates Baskets only upon the receipt of DOT, and redeems Baskets only by distributing DOT, an Authorized Participant will submit Cash Orders, pursuant to which the Authorized Participant will deposit cash with, or accept cash from, the Transfer Agent in connection with the creation and redemption of Baskets.

Cash Orders will be facilitated by the Transfer Agent and Liquidity Engager, acting other than in its capacity as Sponsor. On an order-by-order basis, the Liquidity Engager will engage one or more Liquidity Providers to obtain or receive DOT in exchange for cash in connection with such order, as described in more detail below.

Unless the Sponsor requires that a Cash Order be effected at actual execution prices (an “Actual Execution Cash Order”),¹⁹ each Authorized Participant that submits a Cash Order to create or redeem Baskets (a “Variable Fee Cash Order”)²⁰ will pay a fee (the

¹⁹ With respect to a creation or redemption pursuant to an Actual Execution Cash Order, as between the Trust and an Authorized Participant, the Authorized Participant is responsible for the dollar cost of the difference between the DOT price utilized in calculating Total Basket NAV on the trade date and the price at which the Trust acquires or disposes of the DOT on the settlement date. If the price realized in acquiring or disposing of the corresponding Total Basket Amount is higher than the Total Basket NAV, the Authorized Participant will bear the dollar cost of such difference, in the case of a creation, by delivering cash in the amount of such shortfall (the “Additional Creation Cash”) to the Cash Account or, in the case of a redemption, with the amount of cash to be delivered to the Authorized Participant being reduced by the amount of such difference (the “Redemption Cash Shortfall”). If the price realized in acquiring the corresponding Total Basket Amount is lower than the Total Basket NAV, the Authorized Participant will benefit from such difference, with the Trust promptly returning cash in the amount of such excess (the “Excess Creation Cash”) to the Authorized Participant.

²⁰ Unless the Sponsor determines otherwise in its sole discretion based on market conditions and other factors existing at the time of such Cash Order, all creations and redemptions pursuant to Cash Orders are expected to be executed as Variable Fee Cash Orders, and any price differential of DOT

Continued

¹⁸ A “Liquidity Provider” means one or more eligible companies that facilitate the purchase and sale of DOT in connection with creations or redemptions pursuant to Cash Orders. The Liquidity Providers with which Grayscale Investments Sponsors, LLC, acting other than in its capacity as the Sponsor (in such other capacity, the “Liquidity Engager”) will engage in DOT transactions are third parties that are not affiliated with the Sponsor or the Trust and are not acting as agents of the Trust, the Sponsor, or any Authorized Participant, and all transactions will be done on an arms-length basis. Except for the contractual relationships between each Liquidity Provider and Grayscale Investments Sponsors, LLC in its capacity as the Liquidity Engager, there is no contractual relationship between each Liquidity Provider and the Trust, the Sponsor, or any Authorized Participant. When seeking to buy DOT in connection with creations or sell DOT in connection with redemptions, the Liquidity Engager will seek to obtain commercially reasonable prices and terms from the approved Liquidity Providers. Once agreed upon, the transaction will generally occur on an “over-the-counter” basis.

“Variable Fee”) based on the Total Basket NAV, and any price differential of DOT between the trade date and the settlement date will be borne solely by the Liquidity Provider until such DOT have been received or liquidated by the Trust. The Variable Fee is intended to cover all of a Liquidity Provider’s expenses in connection with the creation or redemption order, including any DOT trading platform fees that the Liquidity Provider incurs in connection with buying or selling DOT. The amount may be changed by the Sponsor in its sole discretion at any time, and Liquidity Providers will communicate to the Sponsor in advance the Variable Fee they would be willing to accept in connection with a Variable Fee Cash Order, based on market conditions and other factors existing at the time of such Variable Fee Cash Order.

Alternatively, the Sponsor may require that a Cash Order be effected as an Actual Execution Cash Order, in its sole discretion based on market conditions and other factors existing at the time of such Cash Order, and under such circumstances, any price differential of DOT between the trade date and the settlement date will be borne solely by the Authorized Participant until such DOT have been received or liquidated by the Trust.

In the case of creations, to transfer the Total Basket Amount to the Trust’s Digital Asset Account, the Liquidity Provider will transfer DOT to one of the public key addresses associated with the Digital Asset Account and as provided by the Sponsor. In the case of

redemptions, the same procedure is conducted, but in reverse, using the public key addresses associated with the wallet of the Liquidity Provider and as provided by such party. All such transactions will be conducted on the Polkadot Blockchain and parties acknowledge and agree that such transfers may be irreversible if done incorrectly.

Authorized Participants do not pay a transaction fee to the Trust in connection with the creation or redemption of Baskets, but there may be transaction fees associated with the validation of the transfer of DOT by the Polkadot Network, which will be paid by the Custodian in the case of redemptions and the Authorized Participant or the Liquidity Provider in the case of creations. Service providers may charge Authorized Participants administrative fees for order placement and other services related to creation of Baskets. As discussed above, Authorized Participants will also pay the Variable Fee in connection with Variable Fee Cash Orders. Under certain circumstances, Authorized Participants may also be required to deposit additional cash in the Cash Account, or be entitled to receive excess cash from the Cash Account, in connection with creations and redemptions pursuant to Actual Execution Cash Orders. Authorized Participants will receive no fees, commissions or other form of compensation or inducement of any kind from either the Sponsor or the Trust and no such person has any obligation or responsibility to the

Sponsor or the Trust to effect any sale or resale of Shares.

The following is a summary of the procedures for the creation and redemption of Baskets.

Creation Procedures

On any business day, an Authorized Participant may place an order with the Transfer Agent to create one or more Baskets.

Cash Orders for creation must be placed with the Transfer Agent no later than 1:59:59 p.m., New York time.

The Sponsor may in its sole discretion limit the number of Shares created pursuant to Cash Orders on any specified day without notice to the Authorized Participants and may direct the Marketing Agent to reject any Cash Orders in excess of such capped amount. In exercising its discretion to limit the number of Shares created pursuant to Cash Orders, the Sponsor expects to take into consideration a number of factors, including the availability of Liquidity Providers to facilitate Cash Orders and the cost of processing Cash Orders.

Creations under Cash Orders will take place as follows, where “T” is the trade date and each day in the sequence must be a business day. Before a creation order is placed, the Sponsor determines if such creation order will be a Variable Fee Cash Order or an Actual Execution Cash Order, which determination is communicated to the Authorized Participant.

Trade date (T)	Settlement date (T+1, or T+2, as established at the time of order placement)
• The Authorized Participant places a creation order with the Transfer Agent. • The Marketing Agent accepts (or rejects) the creation order, which is communicated to the Authorized Participant by the Transfer Agent. • The Sponsor notifies the Liquidity Provider of the creation order. • The Sponsor determines the Total Basket NAV and any Variable Fee and Additional Creation Cash as soon as practicable after 4:00 p.m., New York time.	• The Authorized Participant delivers to the Cash Account:¹ (x) in the case of a Variable Fee Cash Order, the Total Basket NAV, plus any Variable Fee; or (y) in the case of an Actual Execution Cash Order, the Total Basket NAV, plus any Additional Creation Cash, less any Excess Creation Cash, if applicable (such amount, as applicable, the “Required Creation Cash”). • The Liquidity Provider transfers the Total Basket Amount to the Trust’s Digital Asset Account. • Once the Trust is in simultaneous possession of (x) the Total Basket Amount and (y) the Required Creation Cash, the Trust issues the aggregate number of Shares corresponding to the Baskets ordered by the Authorized Participant, which the Transfer Agent holds for the benefit of the Authorized Participant. • Cash equal to the Required Creation Cash is delivered to the Liquidity Provider from the Cash Account. • The Transfer Agent delivers Shares to the Authorized Participant by crediting the number of Baskets created to the Authorized Participant’s DTC account.

¹ The “Cash Account” means the account maintained by the Transfer Agent for purposes of receiving cash from, and distributing cash to, Authorized Participants in connection with creations and redemptions pursuant to Cash Orders. For the avoidance of doubt, the Trust shall have no interest (beneficial, equitable or otherwise) in the Cash Account or any cash held therein.

Redemption Procedures

The procedures by which an Authorized Participant can redeem one or more Baskets mirror the procedures for the creation of Baskets. On any business day, an Authorized Participant may place a redemption order specifying the number of Baskets to be redeemed.

The redemption of Shares pursuant to Cash Orders will only take place if approved by the Sponsor in writing, in

its sole discretion and on a case-by-case basis. In exercising its discretion to approve the redemption of Shares pursuant to Cash Orders, the Sponsor expects to take into consideration a number of factors, including the availability of Liquidity Providers to facilitate Cash Orders and the cost of processing Cash Orders.

Cash Orders for redemption must be placed no later than 1:59:59 p.m., New York time on each business day. The Authorized Participants may only

redeem Baskets and cannot redeem any Shares in an amount less than a Basket.

Redemptions under Cash Orders will take place as follows, where “T” is the trade date and each day in the sequence must be a business day. Before a redemption order is placed, the Sponsor determines if such redemption order will be a Variable Fee Cash Order or an Actual Execution Cash Order, which determination is communicated to the Authorized Participant.

Trade date (T)	Settlement date (T+1 (or T+2 on case by case basis, as approved by Sponsor))
• The Authorized Participant places a redemption order with the Transfer Agent. • The Marketing Agent accepts (or rejects) the redemption order, which is communicated to the Authorized Participant by the Transfer Agent. • The Sponsor notifies the Liquidity Provider of the redemption order. • The Sponsor determines the Total Basket NAV and, in the case of a Variable Fee Cash Order, any Variable Fee, as soon as practicable after 4:00 p.m., New York time.	• The Authorized Participant delivers Baskets to be redeemed from its DTC account to the Transfer Agent. • The Liquidity Provider delivers to the Cash Account: (x) in the case of a Variable Fee Cash Order, the Total Basket NAV less any Variable Fee; or (y) in the case of an Actual Execution Cash Order, the actual proceeds to the Trust from the liquidation of the Total Basket Amount (such amount, as applicable, the “Required Redemption Cash”). • Once the Trust is in simultaneous possession of (x) the Total Basket Amount and (y) the Required Redemption Cash, the Transfer Agent cancels the Shares comprising the number of Baskets redeemed by the Authorized Participant. • The Custodian sends the Liquidity Provider the Total Basket Amount, and cash equal to the Required Redemption Cash is delivered to the Authorized Participant from the Cash Account.

Suspension or Rejection of Orders and Total Basket Amount

The creation or redemption of Shares may be suspended generally, or refused with respect to particular requested creations or redemptions, during any period when the transfer books of the Transfer Agent are closed or if circumstances outside the control of the Sponsor or its delegates make it for all practicable purposes not feasible to process creation orders or redemption orders or for any other reason at any time or from time to time.²¹ The Transfer Agent may reject an order or, after accepting an order, may cancel such order if: (i) such order is not presented in proper form as described in the Participant Agreement, (ii) the transfer of the Total Basket Amount comes from an account other than a DOT wallet address that is known to the

Custodian as belonging to a Liquidity Provider or (iii) the fulfillment of the order, in the opinion of counsel, might be unlawful, among other reasons. None of the Sponsor or its delegates will be liable for the suspension, rejection or acceptance of any creation order or redemption order.

Availability of Information and Intraday Indicative Value

In addition to the price transparency of the Index, the Trust will provide information regarding the Trust’s DOT holdings as well as additional data regarding the Trust. The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) the prior business day’s NAV per Share; (b) the prior business day’s Nasdaq official closing price; (c) calculation of the premium or discount of such Exchange official closing price against such NAV per Share; (d) data in chart form displaying the frequency distribution of discounts and premiums of the Exchange’s official closing price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (e) the prospectus; and (f) other applicable quantitative information. The Trust will also disseminate the Trust’s holdings on a daily basis on the Trust’s website.

Quotation and last sale information regarding the Shares will be disseminated through the facilities of the relevant securities information processor.

The intraday indicative value (“IIV”) will be calculated by using the prior day’s closing NAV per Share as a base and updating that value during the Exchange’s regular market session of 9:30 a.m. to 4:00 p.m. ET (the “Regular Market Session”) to reflect changes in the value of the Trust’s DOT holdings during the trading day. The IIV disseminated during the Regular Market Session should not be viewed as an actual real-time update of the NAV, because NAV per Share is calculated only once at the end of each trading day based upon the relevant end-of-day values of the Trust’s investments. The IIV will be widely disseminated on a per-Share basis every 15 seconds during the Regular Market Session through the facilities of the relevant securities information processor by market data vendors. In addition, the IIV will be available through online information services, such as Bloomberg and Reuters.

Quotation and last sale information for DOT is disseminated through a variety of major market data vendors. Information related to trading, including price and volume information, in DOT

²¹ Extenuating circumstances outside of the control of the Sponsor and its delegates or that could cause the transfer books of the Transfer Agent to be closed are outlined in the Participant Agreement and include, for example, public service or utility problems, power outages resulting in telephone, telecopy and computer failures, acts of God such as fires, floods or extreme weather conditions, market conditions or activities causing trading halts, systems failures involving computer or other information systems, including any failures or outages of the Polkadot Network, affecting the Authorized Participant, the Sponsor, the Trust, the Transfer Agent, the Marketing Agent and the Custodian and similar extraordinary events.

is available from major market data vendors and from the trading platforms on which DOT are traded. The normal trading hours for DOT trading platforms are 24 hours per day, 365 days per year.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's Nasdaq official closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Applicable Standard

The Commission has historically approved or disapproved exchange filings to list and trade series of Trust Issued Receipts, including spot-based Commodity-Based Trust Shares, on the basis of whether the listing exchange has in place a comprehensive surveillance sharing agreement with a regulated market of significant size related to the underlying commodity to be held.²² The Commission has also

consistently recognized, however, that this is not the *exclusive* means by which an ETP listing exchange can meet this statutory obligation.²³ A listing exchange could, alternatively, demonstrate that "other means to prevent fraudulent and manipulative acts and practices will be sufficient" to justify dispensing with a surveillance-sharing agreement with a regulated market of significant size.

The Commission has issued orders granting approval for proposals to list bitcoin- and ether-based commodity trust shares and bitcoin- and ether-based trust issued receipts (these proposed funds are nearly identical to the Trust, but proposed to hold bitcoin and ether, respectively, instead of DOT) ("Spot Bitcoin ETPs" and "Spot ETH ETPs"). In both the Spot Bitcoin ETP Approval Order and Spot ETH ETP Approval Order, the Commission found that sufficient "other means" of preventing fraud and manipulation had been demonstrated that justified dispensing with a surveillance-sharing agreement with a market of significant size. Specifically, the Commission found that while the Chicago Mercantile Exchange ("CME") futures market for both bitcoin and ether were not of "significant size" with respect to the spot market, the Exchange demonstrated that other means could be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the proposals.

As further discussed below, both the Exchange and the Sponsor believe that this proposal and the analysis to be included are sufficient to establish that there are sufficient "other means" of preventing fraud and manipulation that warrant dispensing of the surveillance-sharing agreement with a regulated market of significant size, as was done with both Spot Bitcoin ETPs and Spot ETH ETPs, and that this proposal should be approved.

The Commission has approved numerous series of Trust Issued Receipts,²⁴ including Commodity-Based

Trust Shares,²⁵ to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act.

As noted above, the Commission has recognized that the "regulated market of significant size" standard is not the only means for satisfying Section 6(b)(5) of the Act, specifically providing that a listing exchange could demonstrate that "other means to prevent fraudulent and manipulative acts and practices" are sufficient to justify dispensing with the requisite surveillance-sharing agreement.²⁶ For example, in approving the Spot Bitcoin ETPs, the Commission found that there were "sufficient 'other means' of preventing fraud and manipulation," including that:

[B]ased on the record before the Commission and the improved quality of the correlation analysis in the record, including the Commission's own analysis, the Commission is able to conclude that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME's surveillance can assist in detecting those impacts on CME bitcoin

surrendered to the trust by the beneficial owner to receive the securities; and (c) that pays beneficial owners dividends and other distributions on the deposited securities, if any are declared and paid to the trustee by an issuer of the deposited securities.

²⁵ Pursuant to Nasdaq Rule 5711(d)(iv), the term "Commodity-Based Trust Shares" means a security (1) that is issued by a trust that holds (a) a specified commodity deposited with the trust, or (b) a specified commodity and, in addition to such specified commodity, cash; (2) that is issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and (3) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash.

²⁶ See Winklevoss Order at 37580. The Commission has also specifically noted that it "is not applying a 'cannot be manipulated' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met." *Id.* at 37582.

²² See Securities Exchange Act Release Nos. 78262 (July 8, 2016), 81 FR 78262 (July 14, 2016) (the "Winklevoss Proposal"). The Winklevoss Proposal was subsequently disapproved by the Commission. See Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the "Winklevoss Order"). Prior orders from the Commission have pointed out that in every prior approval order for Commodity-Based Trust Shares, there has been a derivatives market that represents the regulated market of significant size, generally a Commodity Futures Trading Commission (the "CFTC") regulated futures market. Further to this point, the Commission's prior orders have noted that the spot commodities and currency markets for which it has previously approved spot ETPs are generally unregulated and that the Commission relied on the underlying futures market as the regulated market of significant size that formed the basis for approving the series of Currency and Commodity-Based Trust Shares, including gold, silver, platinum, palladium, copper, and other commodities and currencies. The Commission specifically noted in the Winklevoss Order that the approval order issued related to the first spot gold ETP "was based on an assumption that the currency market and the spot gold market were largely unregulated." See Winklevoss Order at 37592. As such, the regulated market of significant size test does not require that the spot market be regulated in order for the Commission to approve this proposal, and precedent makes clear that an underlying market for a spot commodity or currency being a regulated market would actually be an exception to the norm. These largely unregulated currency and commodity markets do not provide the same protections as the markets that are subject to the Commission's oversight, but the Commission has consistently looked to surveillance sharing agreements with the underlying futures market in order to determine whether such products were consistent with the Act. See Securities Exchange Act No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-

Based Commodity-Based Trust Shares and Trust Units) (the "Spot Bitcoin ETP Approval Order"); 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products) (the "Spot ETH ETP Approval Order").

²³ See Winklevoss Order, 83 FR at 37580; see Spot Bitcoin ETP Approval Order, 89 FR at 3009; see Spot ETH ETP Approval Order 89 FR at 46938.

²⁴ Pursuant to Nasdaq Rule 5720(a), the term "Trust Issued Receipt" means a security (a) that is issued by a trust which holds specified securities deposited with the trust; (b) that, when aggregated in some specified minimum number, may be

futures prices, the Exchanges' comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market whose bitcoin futures market is consistently highly correlated to spot bitcoin, albeit not of “significant size” related to spot bitcoin—can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Spot Bitcoin ETPs].²⁷

Today, Coinbase Derivatives, LLC (“Coinbase Derivatives”) offers trading in DOT futures. Nasdaq has a comprehensive surveillance-sharing agreement with Coinbase Derivatives via its common membership in the Intermarket Surveillance Group (“ISG”).²⁸ This facilitates the sharing of information that is available to Coinbase Derivatives through its surveillance of its markets, including its surveillance of Coinbase Derivatives' DOT futures market. Similar to the Spot Bitcoin and Spot ETH ETPs previously approved by the SEC, Nasdaq's ability to obtain information regarding trading in the DOT futures from other markets that are members of the ISG (specifically Coinbase Derivatives) would assist Nasdaq in detecting and deterring misconduct.

Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5711(d)(vi), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust's NAV per Share will be calculated daily and will be made available to all market participants at the same time. A minimum of 40,000 Shares will be required to be outstanding at the time of commencement of trading on the Exchange. Upon termination of the Trust, the Shares will be removed from listing. The Trustee will be a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Nasdaq Rule 5711(d)(vi)(D) and no change will be made to the Trustee without prior notice to and approval of the Exchange.

²⁷ See Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Bitcoin-Based Commodity-Based Trust Shares and Trust Units). The SEC made substantially similar findings in the approval order for Spot ETH ETPs. See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products).

²⁸ For a list of the current members and affiliate members of ISG, see <https://isgportal.org/public-members>.

As required in Nasdaq Rule 5711(d)(viii), the Exchange notes that any registered market maker (“Market Maker”) in the Shares must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying commodity, related futures or options on futures, or any other related derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker in the Shares shall trade in the underlying commodity, related futures or options on futures, or any other related derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by Nasdaq Rule 5711(d). In addition to the existing obligations under Exchange rules regarding the production of books and records, the registered Market Maker in the Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying commodity, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

The Exchange is able to obtain information regarding trading in the Shares and the underlying DOT, DOT futures contracts, or any other DOT derivative through members acting as registered Market Makers, in connection with their proprietary or customer trades.

As a general matter, the Exchange has regulatory jurisdiction over its members, and their associated persons. The Exchange also has regulatory jurisdiction over any person or entity controlling a member, as well as a subsidiary or affiliate of a member that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of

equity securities. The Exchange will allow trading in the Shares from 4:00 a.m. to 8:00 p.m. ET. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. The Shares of the Trust will conform to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d) and will comply with the requirements of Rule 10A-3 of the Act.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including without limitation the conditions specified in Nasdaq Rule 4120(a)(9) and (10) and the trading pauses under Nasdaq Rules 4120(a)(11) and (12).

Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the DOT underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

If the IIV or the value of the Index is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or the value of the Index occurs. If the interruption to the dissemination of the IIV or the value of the Index persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

In addition, if the Exchange becomes aware that the NAV per Share with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV per Share is available to all market participants.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, ping, phishing). Trading of Shares on the Exchange will be subject

to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and listed DOT futures from such markets and other entities. The Exchange also may obtain information regarding trading in the Shares, listed DOT futures via the ISG, from other exchanges who are members or affiliates of the DOT, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an information circular ("Information Circular") of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for creations and redemptions of Shares in Baskets (and that Shares are not individually redeemable); (2) Section 10 of Nasdaq General Rule 9, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the IIV and NAV is disseminated; (4) the risks involved in trading the Shares during the pre-market and post-market sessions when an updated IIV will not be calculated or

publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular will also reference the fact that there is no regulated source of last sale information regarding DOT, that the Commission has no jurisdiction over the trading of DOT as a commodity.

Additionally, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Trust's website.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,³⁰ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Commission has approved numerous series of Trust Issued Receipts, including Commodity-Based Trust Shares, to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act.

As noted above, the Commission has recognized that the "regulated market of significant size" standard is not the only means for satisfying Section 6(b)(5) of

the act, specifically providing that a listing exchange could demonstrate that "other means to prevent fraudulent and manipulative acts and practices" are sufficient to justify dispensing with the requisite surveillance-sharing agreement with the underlying spot market. The Exchange and Sponsor believe that such conditions are present. As discussed above, in approving the Spot Bitcoin ETPs, the Commission found that there were "sufficient 'other means' of preventing fraud and manipulation," including that:

[B]ased on the record before the Commission and the improved quality of the correlation analysis in the record, including the Commission's own analysis, the Commission is able to conclude that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME's surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges' comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market whose bitcoin futures market is consistently highly correlated to spot bitcoin, albeit not of "significant size" related to spot bitcoin—can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the [Spot Bitcoin ETPs].³¹

As discussed above, Coinbase Derivatives offers trading in DOT futures. Nasdaq has a comprehensive surveillance-sharing agreement with Coinbase Derivatives via its common membership in ISG, which facilitates the sharing of information that is available to Coinbase Derivatives through its surveillance of its markets, including its surveillance of Coinbase Derivatives' DOT futures market. Similar to the Spot Bitcoin and Spot ETH ETPs previously approved by the SEC, Nasdaq's ability to obtain information regarding trading in the DOT futures from other markets that are members of the ISG (specifically Coinbase Derivatives) would assist Nasdaq in detecting and deterring misconduct.

The Exchange further believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect

³¹ See Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Bitcoin-Based Commodity-Based Trust Shares and Trust Units). The SEC made substantially similar findings in the approval order for spot ether ETPs. See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products).

²⁹ 15 U.S.C. 78f(b).

³⁰ 15 U.S.C. 78f(b)(5).

investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d). The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. As discussed above, the surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, pinging, phishing). Trading of Shares on the Exchange will be subject to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange may obtain trading information regarding trading in the Shares and listed DOT futures from such markets and other entities.

Trading in Shares of the Trust will be halted if the circuit breaker parameters have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of Shares that will enhance competition

among market participants, to the benefit of investors and the marketplace.

For all the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change rather will facilitate the listing and trading of additional exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (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 trading data, views and arguments concerning the foregoing, including whether the proposed rule change, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2025-019 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NASDAQ-2025-019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2025-019 and should be submitted on or before April 3, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2025-03968 Filed 3-12-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0731]

Submission for OMB Review; Comment Request; Extension for Generic ICR: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995

³² 17 CFR 200.30-3(a)(12).

(44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Commission’s commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the SEC and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Below is the projected average annual estimates each year for the next three years:

Expected annual number of activities: 20.

Respondents: 30,000.

Annual responses: 30,000.

Frequency of response: Once per request.

Average minutes per response: 10.

Annual burden hours: 5,000.

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.

Written comments are invited on: (a) whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202501-3235-031 or send an email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice by April 14, 2025.

Dated: March 7, 2025.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2025–03965 Filed 3–12–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–102541]

Notice of Designation of Entity To Maintain and Operate the Lost and Stolen Securities Program

AGENCY: Securities and Exchange Commission.

ACTION: Notice of designation.

SUMMARY: The Securities and Exchange Commission has designated an entity to maintain and operate the Lost and Stolen Securities Program.

FOR FURTHER INFORMATION CONTACT:

Bryant Eng, Special Counsel; Cate Whiting, Senior Counsel; Kevin Schopp, Senior Special Counsel; Moshe Rothman, Assistant Director; Office of Clearance and Settlement, Division of Trading and Markets, (202) 551–5500, tradingandmarkets@sec.gov.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (“Commission”) has designated Accenture Federal Services LLC (“Accenture”) to maintain and operate the Lost and Stolen Securities Program (“LSSP”) on the Commission’s behalf, effective as of January 1, 2025.

The Commission established the LSSP in 1977, pursuant to Section 17(f)(1) of the Securities Exchange Act of 1934 ¹

¹ 15 U.S.C. 78q(f)(1).

(the “Exchange Act”) and Rule 17f–1 thereunder.² Section 17(f)(1) and Rule 17f–1 require certain financial institutions, including banks, clearing agencies, exchanges, broker-dealers, and transfer agents (“Reporting Institutions”), to (1) report securities certificates that they discover to be missing, lost, stolen, or counterfeit ³ and (2) make inquiries about securities certificates that come into their possession to determine if they are missing, lost, stolen, or counterfeit. Reporting Institutions must make these reports and inquiries to the Commission or other person designated by the Commission.

In 1977, pursuant to Section 17(f)(1), the Commission designated an entity to maintain and operate the LSSP on the Commission’s behalf.⁴ That designee and its successors maintained and operated the LSSP on the Commission’s behalf through the end of 2024. On July 21, 2023, the Commission issued a solicitation for services in support of the LSSP.⁵ Pursuant to that solicitation, the Commission selected and entered into a contract with Accenture to maintain and operate the LSSP.⁶

Accordingly, the Commission has designated Accenture to maintain and operate the LSSP pursuant to Section 17(f)(1) of the Act ⁷ and Rule 17f–1 thereunder,⁸ effective as of January 1, 2025. This designation supersedes all previous designations.

By the Commission.

Dated: March 7, 2025.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2025–03972 Filed 3–12–25; 8:45 am]

BILLING CODE 8011–01–P

TENNESSEE VALLEY AUTHORITY

Hope Solar and Storage Project

AGENCY: Tennessee Valley Authority.

² 17 CFR 240.17f–1.

³ Securities certificate means any physical instrument that represents or purports to represent ownership in a security that was printed by or on behalf of the issuer thereof and shall include any such instrument that is or was: printed but not issued; issued and outstanding, including treasury securities; cancelled; and counterfeit or reasonably believed to be counterfeit. 17 CFR 240.17f–1(a)(6).

⁴ See Designation of Entity to Receive Reports and Inquiries, Exchange Act Release No. 13538, 42 FR 26495 (May 24, 1977).

⁵ See Lost and Stolen Securities Program (LSSP), <https://sam.gov/opp/5616f351e4dd41d09d19d7accf511471/view>.

⁶ See Lost and Stolen Securities Program (LSSP), Award Notices, <https://sam.gov/opp/5616f351e4dd41d09d19d7accf511471/view>.

⁷ 15 U.S.C. 78q(f)(1).

⁸ 17 CFR 240.17f–1.

ACTION: Notice of intent.

SUMMARY: The Tennessee Valley Authority (TVA) intends to prepare an environmental document for the purchase of electricity generated by the proposed Hope Solar and Storage Project in Clay County, Mississippi. The environmental review will assess the potential environmental effects of constructing, operating, and maintaining the proposed 200-megawatt (MW) alternating current (AC) solar photovoltaic (PV) facility and up to 200 MW Battery Energy Storage System (BESS). The proposed solar facility and BESS system would occupy a portion of the 2,427-acre Project Study Area. Public comments are invited concerning the scope of the review, alternatives being considered, and environmental issues that should be addressed as a part of this review. TVA is also requesting data, information, and analysis relevant to the proposed action from the public; affected federal, state, tribal, and local governments, agencies, and offices; the scientific community; industry; or any other interested party.

DATES: The public scoping period begins with the publication of this Notice of Intent in the **Federal Register**. To ensure consideration, comments must be postmarked, emailed, or submitted online no later than April 10, 2025.

ADDRESSES: Written comments should be sent to Elizabeth Smith, NEPA Specialist, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11B, Knoxville, Tennessee 37902. Comments may be submitted online at: www.tva.gov/nepa, or by email to nepa@tva.gov. Please note that TVA encourages comments submitted electronically.

FOR FURTHER INFORMATION CONTACT: Elizabeth Smith by email at esmith14@tva.gov, by phone at (865) 632-3053, or by mail at the address above.

SUPPLEMENTARY INFORMATION: The unique identification number is EISX-455-00-000-1731928656. This notice is provided in accordance with TVA's procedures for implementing the NEPA (18 CFR 1318). TVA is an agency and instrumentality of the United States, established by an act of Congress in 1933, to foster the social and economic welfare of the people of the Tennessee Valley region and to promote the proper use and conservation of the region's natural resources. One component of this mission is the generation, transmission, and sale of reliable and affordable electric energy.

Background

In June 2019, TVA completed the final 2019 Integrated Resource Plan (IRP) and associated EIS. The IRP is a comprehensive study of how TVA will meet the demand for electricity in its service territory over the next 20 years. The 2019 IRP recommends solar expansion and anticipates growth in all scenarios analyzed, with most scenarios anticipating 5,000–8,000 MW and one anticipating up to 14,000 MW by 2038.

TVA is considering entering into a Power Purchase Agreement (PPA) with Origo to purchase 200 MW AC of power and up to 200 MW of BESS generated by the proposed Hope Solar and Storage Project, hereafter referred to as the Project. The proposed 200 MW AC solar PV facility and 200 MW BESS system would occupy a portion of the 2,427-acre Project Study Area which is located in Clay County, Mississippi. The project site is north of West Point, Mississippi, and west of US Highway 45 Alternate. The project site is mostly farmland with areas of woody wetlands, deciduous forest, and hay/pasture. The land surplus is to accommodate relocating the array if any areas need to be avoided as a result of the NEPA review. A map showing the project site is available at www.tva.gov/nepa.

Preliminary Proposed Action and Alternatives

In addition to a No Action Alternative, TVA will evaluate the action alternative of purchasing power from the proposed Hope Solar and Storage Project under the terms of a PPA. In evaluating alternatives, TVA considered other solar proposals, prior to selecting the Hope Solar and Storage site for further evaluation. Part of the screening process included a review of transmission options, including key connection points to TVA's transmission system. The Hope Solar and Storage site stood out as a viable option for connectivity to TVA's existing West Point Substation. Environmental and cultural considerations are also included in TVA's screening. For the proposed site, the solar developer plans to consider the establishment of an alternative footprint so that impacts to cultural and/or biological resources could be avoided. The environmental review will also evaluate ways to mitigate impacts that cannot be avoided. The description and analysis of these alternatives in the review will inform decision makers, other agencies, and the public about the potential for environmental impacts associated with the proposed solar facility. TVA solicits comments on

whether there are other alternatives that should be assessed in the environmental review.

Project Purpose and Need

TVA is a corporate agency of the United States (U.S.) and the largest public power provider in the country. Through its partnership with 153 local power companies, TVA supplies electricity across 80,000 square miles for 10 million people, 750,000 businesses, and 56 large industrial customers, including military installations and the U.S. Department of Energy facilities in Oak Ridge, Tennessee. TVA's service area includes most of Tennessee and parts of six adjacent states. Since 1933, TVA's mission has been to serve the people of the Tennessee Valley region to make life better.

TVA produces or obtains electricity from a diverse portfolio of energy sources, including solar, hydroelectric, wind, biomass, fossil fuel, and nuclear. In June 2019, TVA completed an Integrated Resource Plan (IRP) and associated environmental impact statement. The 2019 IRP identified the various resources that TVA intends to use to meet the energy needs of the TVA region over the 20-year planning period while achieving TVA's objectives to deliver reliable, low-cost, and cleaner energy with fewer environmental impacts. The 2019 IRP recommends the expansion of solar generating capacity of up to 14,000 MW by 2038 (TVA 2019) and is currently in the process of updating the IRP. With the demand for solar energy increasing, TVA has an expansion target of 10,000 MW of solar by 2035 (TVA 2021). The Hope Solar and Storage Project would provide cost effective renewable energy consistent with the 2019 IRP and TVA goals.

To meet these goals, public scoping is integral to the process for implementing NEPA and ensures that (1) issues are identified early and properly studied, (2) issues of little significance do not consume substantial time and effort, and (3) the analysis of identified issues is thorough and balanced. This environmental review will identify the purpose and need of the project and will contain descriptions of the existing environmental and socioeconomic resources within the area that could be affected by the proposed solar facility and BESS system, including the documented historical, cultural, and environmental resources. Evaluation of potential environmental impacts to these resources will include, but not be limited to, air quality and greenhouse gas emissions, surface water, groundwater, wetlands, floodplains, vegetation, wildlife, threatened and

endangered species, land use, natural areas and parks and recreation, geology, soils, prime farmland, visual resources, noise, cultural resources, socioeconomic, solid and hazardous waste, public and occupational health and safety, utilities, and transportation.

Based on a preliminary evaluation of these resources, potential impacts to cultural resources through construction of the facility are possible. Impacts to vegetation and wildlife due to the conversion of deciduous forest of various ages to early maintained grass-dominated fields may occur. Impacts to water resources would likely be minor with the use of best management practices and avoidance of siting project components in or near streams, wetlands, and riparian areas to the extent feasible. Land use would be impacted by the conversion of farmland to industrial use and the elimination of current farming operations. This would also result in visual impacts. Beneficial impacts are expected by facilitating the development of renewable energy and thereby increasing local job opportunities, as well as improving regional air quality and reducing carbon emissions. The environmental review will analyze measures that would avoid, minimize, or mitigate environmental effects. The final range of issues to be addressed in the environmental review will be determined, in part, from scoping comments received.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

Public scoping is integral to the process for implementing NEPA and ensures that issues are identified early and properly studied, issues of little significance do not consume substantial time and effort, and the analysis of those issues is thorough and balanced. The final range of issues to be addressed in the environmental review will be determined, in part, from scoping comments received. TVA is particularly interested in public input on other reasonable alternatives that should be considered in the review. The preliminary identification of reasonable alternatives and environmental issues in this notice is not meant to be exhaustive or final.

Public Participation

The public is invited to submit comments on the scope of this environmental review no later than the date identified in the **DATES** section of this notice. Federal, state, and local agencies and Native American Tribes are also invited to provide comments.

Information about this project is available on the TVA web page at www.tva.gov/nepa, including a link to an online public comment page. Any comments received, including names and addresses, will become part of the administrative record and will be available for public inspection. After consideration of comments received during the scoping period, TVA will develop and distribute a scoping document that will summarize public and agency comments that were received and identify the schedule for completing this process. Following analysis of the issues, TVA will prepare the draft environmental document for public review and comment; expected to be released early 2026. TVA anticipates the final environmental document in summer 2026. In finalizing the document and in making its final decision, TVA will consider the comments that it receives on the draft.

Dawn Booker,

Senior Manager, NEPA Compliance.

[FR Doc. 2025-04066 Filed 3-10-25; 4:15 pm]

BILLING CODE 8120-08-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Interagency Statement on Complex Structured Finance Transactions

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, "Interagency Statement on Complex Structured Finance Transactions."

DATES: Comments must be received by May 12, 2025.

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: 1557-0229, 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 "1557-0229" in your comment. In general, the OCC will publish comments on www.reginfo.gov without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- **Viewing Comments Electronically:** Go to www.reginfo.gov. Hover over the "Information Collection Review" tab and click on "Information Collection Review" from the drop-down menu. From the "Currently under Review" drop-down menu, select "Department of Treasury" and then click "submit." This information collection can be located by searching OMB control number "1557-0229" or "Interagency Statement on Complex Structured Finance Transactions." 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. Section 3506(c)(2)(A) of title 44 generally requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal of this collection.

Title: Interagency Statement on Complex Structured Finance Transactions.

OMB Control No.: 1557-0229.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: The Interagency Statement on Complex Structured Finance Transactions¹ describes the types of internal controls and risk management procedures that the agencies (OCC, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the Securities and Exchange Commission) consider particularly effective in helping financial institutions identify and address the reputational, legal, and other risks associated with complex structured finance transactions. Those internal controls and risk management procedures form the basis of this information collection.

Estimated Burden:

Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 9.

Estimated Total Annual Burden: 225 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the

OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Patrick T. Tierney,

Assistant Director, Office of the Comptroller of the Currency.

[FR Doc. 2025-04009 Filed 3-12-25; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Collection Activities; Requesting Comments Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) Programs

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The IRS, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the VITA/TCE (Volunteer Income Tax Assistance/Tax Counseling for the Elderly) Volunteer Program.

DATES: Written comments should be received on or before May 6, 2025, to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB Control No. 1545-2222 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this collection should be directed to Marcus McCrary, (470) 769-2001, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW,

Washington, DC 20224, or through the internet at marcus.w.mccrary@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: VITA/TCE Volunteer Program.

OMB Control Number: 1545-2222.

Form Number: 8653, 8654, 13206, 13715, 13977, 13978, 13979, 13979-A, 13980 and 13981, 14204, 14310, and 14335.

Abstract: The Internal Revenue Service offers free assistance with tax return preparation and tax counseling using specially trained volunteers. The Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs assist seniors and individuals with low to moderate incomes, those with disabilities.

Current Actions: There is a change in the paperwork burden previously approved by OMB. The agency has requested to add Forms 13977, 13978, and 14335 to this collection and has updated the form to meet 508 compliance. The information on the form can only be submitted to the IRS at <https://www.irs.gov/individuals/irs-tax-volunteers>. This process is part of Link and Learn (a self-paced e-learning for the Volunteer Income Tax Assistance and Tax Counseling for the Elderly (VITA/TCE) program).

Type of Review: Revision of currently approved collection.

Affected Public: Individuals and households.

Estimated Number of Responses: 49,700.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 17,083.5.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of

¹ 72 FR 1372 (January 11, 2007).

information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital

or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 7, 2025.

Marcus W. McCrary,

Tax Analyst.

[FR Doc. 2025–03970 Filed 3–12–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials, Amended Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. Ch. 10, that the annual meeting of the Advisory Committee on Cemeteries and Memorials will be held April 2–3, 2025. The meeting sessions will begin and end as follows:

Date(s)	Time(s)	Location(s)	Open to the public
April 2, 2025	8:00 a.m. to 4:30 p.m. Mountain Standard Time (MST).	Southern Arizona VA Healthcare System, 3601 S 6th Avenue, Conference Rooms A&B, Tucson, AZ 85723.	Yes.
April 3, 2025	9:00 a.m. to 11:20 a.m. (MST)	Southern Arizona VA Healthcare System, 3601 S 6th Avenue, Conference Rooms A&B, Tucson, AZ 85723.	Yes.
April 3, 2025	1:15 p.m.–2:00 p.m. (MST)	Monte Calvario Veterans Cemetery, 5149 W Omokol, Tucson, AZ 85757.	Yes.
April 3, 2025	3:00 p.m.–4:00 p.m. (MST)	Arizona Veterans Memorial Cemetery at Marana, 15950 N Luckett Road, Marana, AZ 85653.	Yes.

The meeting sessions are open to the public. *Note: This notice was amended to update the Webex virtual meeting link.*

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of national cemeteries, soldiers' lots and plots, the selection of new national cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits. The Committee makes recommendations to the Secretary regarding such activities.

On Wednesday, April 2, 2025, the Committee will convene an open session from 8:00 a.m. to 4:30 p.m. MST. The agenda will include remarks by National Cemetery leadership, and briefings from the Office of Cemetery Operations and Field Programs, Office of Engagement and Memorial Innovation, National Training Center, and National Cemetery Scheduling Office Pre-Need Eligibility Program. The Committee will conduct an open discussion regarding committee matters.

On Thursday, April 3, 2025, the Committee will convene an open

session from 9:00 a.m. to 11:20 a.m. MST. The agenda will include committee discussion, and review of recommendations. Additionally, time will be allotted for the public to provide comments starting at 10:45 a.m. MST and ending no later than 11:15 a.m. MST. The comment period may end sooner, if there are no comments presented or they are exhausted before the end time. Individuals interested in providing comments during the public comment period are allowed no more than three minutes for their statements. The Committee will reconvene in an open session from 12:30 p.m. to 4:00 p.m. MST to tour Monte Calvario Veterans Cemetery and Arizona Veterans Memorial Cemetery at Marana. Transportation will not be provided for the public.

Any member of the public seeking additional information or that wish to attend the meeting in person should contact Ms. Faith Hopkins, Designated Federal Officer, at 202–603–4499. Please leave a voice mail message. The Committee will also accept written comments. Comments may be

transmitted electronically to the Committee at faith.hopkins@va.gov. In the public's communications with the Committee, the writers must identify themselves and state the organizations, associations, or persons they represent.

Any member of the public who wishes to attend the meeting virtually may use the following Cisco Webex Meeting Link:

Join On Your Computer or Mobile App: <https://veteransaffairs.webex.com/j.php?MTID=m8431585c79f9badf376fefdcc3b74a3f>.

Meeting number: 2825 525 9552.

Password: Y2aYJfkY?58.

Join by phone: 404–397–1596.

Access code: 2825 525 9552.

Dated: March 10, 2025.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2025–04032 Filed 3–12–25; 8:45 am]

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FEDERAL REGISTER

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Part II

Federal Communications Commission

47 CFR Parts 0, 1, and 43

Review of Submarine Cable Landing License Rules and Procedures To Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks; Schedule of Application Fees; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, and 43

[OI Docket No. 24–523, MD Docket No. 24–524; FCC 24–119; FR ID 282229]

Review of Submarine Cable Landing License Rules and Procedures To Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks; Schedule of Application Fees

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission (“FCC” or “Commission”) takes another important step to protect the Nation’s submarine cable infrastructure from threats in an evolving national security and law enforcement landscape by undertaking the first major comprehensive review of the Commission’s submarine cable rules since 2001. This review seeks to develop forward-looking rules to better protect submarine cables, identify and mitigate harms affecting national security and law enforcement, and facilitate the deployment of submarine cables and capacity to the market. Among other things, the Commission proposes to adopt a three-year periodic reporting requirement for submarine cable landing licenses; in the alternative, the Commission seeks comment on shortening the current 25-year submarine cable license term or adopting a shorter license term in combination with periodic reporting. The Commission also proposes or seeks comment on codifying the Commission’s legal jurisdiction and other legal requirements in its rules to provide regulatory certainty to submarine cable owners and operators. Additionally, the Commission proposes and seeks comment on appropriate applicant and application requirements to account for the evolution of technologies and facilities and changes in the national security landscape over the last two decades and to ensure the Commission has targeted and granular information regarding the ownership, control, use of a submarine cable system, and other things, which are critical to the Commission’s review to assess potential national security risks and other important public interest factors. Further, the Commission seeks comment on improving the quality of the circuit capacity data and facilitating the sharing of such information with other Federal agencies. Through these proposals, the Commission seeks to

ensure that the Commission is exercising appropriate oversight of submarine cables to safeguard U.S. communications networks.

DATES: Comments are due on or before April 14, 2025; and reply comments are due on or before May 12, 2025. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before May 12, 2025.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). You may submit comments, identified by OI Docket No. 24–523 and MD Docket No. 24–524, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
- Hand-delivered or messenger-delivered paper filings for the Commission’s Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC’s mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov.

Include in the comments the OMB control number 3060–0944.

FOR FURTHER INFORMATION CONTACT:

Desiree Hanssen, Attorney Advisor, Telecommunications and Analysis Division, Office of International Affairs, at (202) 418–0887 or via email at Desiree.Hanssen@fcc.gov. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to PRA@fcc.gov or contact Cathy Williams, Office of Managing Director, at (202) 418–2918 or Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Notice of Proposed Rulemaking (NPRM), in OI Docket No. 24–523 and MD Docket No. 24–524; FCC 24–119, adopted on November 21, 2024, and released on November 22, 2024. The full text of this document is available on the FCC’s website at <https://docs.fcc.gov/public/attachments/FCC-24-119A1.pdf>. The Notice of Proposed Rulemaking is adopted pursuant to sections 1, 4(i), 4(j), 201–255, 303(r), 403, 413 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–255, 303(r), 403, 413, and the Cable Landing License Act of 1921, 47 U.S.C. 34–39, and Executive Order 10530, section 5(a) (May 12, 1954) reprinted as amended in 3 U.S.C. 301.

To request materials in accessible formats for people with disabilities, send an email to FCC504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document is available on <https://www.fcc.gov/proposed-rulemakings>.

Initial Paperwork Reduction Act of 1995 Analysis. This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due May 12, 2025.

Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s

burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

I. Notice of Proposed Rulemaking

1. In the *NPRM*, the Commission initiates a comprehensive review of its submarine cable rules to develop forward-looking rules to better protect submarine cables, identify and mitigate harms affecting national security and law enforcement, and facilitate the deployment of submarine cables and capacity to the market. The Commission believes this proceeding will improve Commission review and oversight of submarine cable landing licenses and ensure each licensee continues to serve the public interest in an evolving national security and law enforcement landscape.

A. Legal Authority Under the Cable Landing License Act of 1921

1. Commission Jurisdiction

a. General License Requirement

2. As an initial matter, the Commission proposes to codify in its rules when a submarine cable license is required under the Cable Landing License Act. The Cable Landing License Act states that “[n]o person shall land or operate in the United States any submarine cable directly or indirectly connecting the United States with any foreign country, or connecting one portion of the United States with any other portion thereof, unless a written license to land or operate such cable has been issued by the President.” The Cable Landing License Act further states that “[t]he conditions of sections 34 to 39 of this title shall not apply to cables, all of which, including both terminals, lie wholly within the continental United States.”¹

¹ In 1921, the definition of “United States” included “the Canal Zone, the Philippine Islands, and all territory, continental or insular, subject to

3. Specifically, the Commission proposes to adopt a rule stating that a submarine cable landing license must be obtained prior to landing a submarine cable that connects:

(1) the continental United States with any foreign country;

(2) Alaska, Hawaii or the U.S. territories or possessions with a

(i) foreign country,

(ii) the continental United States, or

(iii) with each other; or

(3) points within the continental United States, Alaska, Hawaii, or a territory or possession in which the cable is laid in international waters.

Although the Commission believes that the scope of the Cable Landing License Act has been well-understood, the Commission also believes that codifying these requirements will bring additional clarity to the application process and provide regulatory certainty to submarine cable owners and operators.

b. Submarine Cable System Definition

4. For the same reasons the Commission proposes to codify in its rules when a submarine cable landing license must be obtained, the Commission seeks comment generally on whether to adopt a definition of a submarine cable system. Conceptually and in simple terms, a submarine cable system is comprised of a cable laid beneath the water that carries telecommunication transmission signals between two or more cable landing stations containing equipment that converts submarine cable signals to terrestrial signals.² The wet segment of the submarine cable system makes landfall at the beach manhole or beach joint that, in turn, connects to the dry segment and submarine cable landing stations. A submarine cable landing station is a dry land facility where submarine cables terminate traffic, allowing voice, data, and internet to be transmitted to terrestrial or local networks.³ At the terminal, equipment

the jurisdiction of the United States of America.” In 1946, following the proclamation of the independence of the Philippines by the President, the definition was amended to remove the Philippines. In 1959, Hawaii and Alaska became part of the United States and were admitted as states. The Cable Landing License Act definition, however, was not later amended to incorporate Hawaii and Alaska as part of the continental United States, or other territories or possessions.

² In the Technical Appendix, the Commission provides a technical description of a submarine cable system for informational purposes.

³ Cable landing stations contain equipment that supplies power to optical submarine cables and equipment that receives signals from submarine cables and transmits signals to a backhaul network that terminates at a Point of Presence (PoP). A data center can serve as a cable landing station, and PoPs

such as Submarine Line Terminal Equipment (SLTE),⁴ converts cable signals to terrestrial signals allowing the cable to interconnect to terrestrial facilities in the United States.

5. Based on the description above, the Commission seeks comment on whether it is necessary to adopt a definition of submarine cable for purposes of the Commission’s licensing process. If so, should the Commission define a submarine cable as a cable(s) laid beneath the water⁵ that transmits voice, data, and internet between terminal cable landing stations that, among other functions, contain the SLTE located in the continental United States, Alaska, Hawaii, or the U.S. territories or possessions. The Commission believes that defining a submarine cable accordingly would account for a submarine cable system that may have more than one terminal landing point

can be located within a cable landing station or data center.

⁴ The SLTE determines the cable’s data throughput or performance.

⁵ The Cable Landing License Act does not apply to submarine cables wholly within the continental United States, such as a cable traversing a river or a lake located wholly within the continental United States. A submarine cable landing license is required under the Cable Landing License Act, however, if a cable connects the United States to a foreign country, such as Canada or Mexico. The Commission has granted cable landing licenses, for instance, (1) to land and operate a submarine cable under the Rio Grande River connecting the United States and Mexico, (2) to land and operate a submarine cable located within a tunnel traversing the Detroit River between the United States and Canada, and (3) to land and operate a submarine cable across Lake Ontario connecting the United States and Canada. File No. SCL–LIC–20210930–00042, *Actions Taken Under Cable Landing License Act*, Public Notice, Report No. SCL–00376, 37 FCC Rcd 7380, 7381–82 (IB 2022) (granting a cable landing license to Neural Networks USA LLC “for the purpose of landing and operating a non-common carrier fiber optic submarine cable, the Neutral Networks Laredo Cable, that connects Laredo, Texas and Nuevo Laredo, Tamaulipas, Mexico,” which “will consist of three fiber optic cables in a seven duct conduit extending 251 feet under the Rio Grande River”); *GTE Sprint Communications Corp.; Application for a license to land in the United States a submarine cable extending between the United States at Detroit, Michigan and Canada at Windsor, Ontario*, SCL–L–85–002, Cable Landing License, 1986 WL 292524 at *1, paras. 2, 4 (CCB Jan. 10, 1986) (granting to GTE Sprint Communications Corp. a cable landing license “to land and operate a submarine cable between Detroit, Michigan and Windsor, Ontario, Canada,” which “will be located within the conduit space of the Detroit-Windsor tunnel which traverses the Detroit River between Detroit[,] Michigan and Windsor, Ontario”); File No. SCL–LIC–20180216–00002, *Actions Taken Under Cable Landing License Act*, Public Notice, Report No. SCL–00226, DA 18–1026, 2018 WL 4851455 at *2 (IB 2018) (granting a cable landing license to Crosslake Fiber USA LP “for the purpose of constructing, landing and operating a private fiber-optic submarine cable network, the Crosslake Fibre cable system, connecting Toronto, Ontario, with Cambria, New York,” which “will consist of a single, unrepeatable segment across Lake Ontario”).

located on or near the coast. Moreover, the Commission believes this definition is sufficiently flexible to also account for the various technical options available to cable owners and operators for routing traffic from a cable landing station located near the coast—which may have only certain equipment such as Power Feed Equipment (PFE)⁶—to another cable landing station to connect to a PoP, or similar facility. The Commission seeks comment on this definition and whether it would capture the current state of submarine cable systems and account for the evolution and upgrades of submarine cable technologies.

c. Public Interest Standard

6. The Commission proposes to codify in its rules the longstanding practice that applicants seeking a submarine cable landing license or modification, assignment, transfer of control, and renewal or extension of a cable landing license must include in their application information demonstrating how the grant of the application will serve the public interest, convenience, and necessity, consistent with the Commission's authority to withhold or revoke any license where doing so "will assist in securing rights for the landing or operation of cables in foreign countries, or in maintaining the rights or interests of the United States or of its citizens in foreign countries, or will promote the security of the United States." The Commission has long found that national security, law enforcement, foreign policy, and trade policy concerns are important to its public interest analysis of submarine cable applications, and these concerns warrant continued consideration in view of evolving and heightened threats to the Nation's communications infrastructure.⁷ The Commission's

determination assesses whether the public interest, convenience, and necessity would be served by the grant of an application for a cable landing license or modification, assignment, transfer of control, and renewal or extension of a cable landing license and is based on the totality of the circumstances presented by each application, supplemented with additional information as necessary. The Commission seeks comment on this proposed codification.

d. Character Qualifications

7. The Commission proposes to codify in its rules regarding submarine cable applications the Commission's longstanding practice regarding the character qualifications of applicants for Commission licenses and authorizations. Specifically, the Commission proposes that it will consider whether an applicant seeking a cable landing license or modification, assignment, transfer of control, and renewal or extension of a cable landing license has the requisite character qualifications, including whether the applicant has violated the Cable Landing License Act, the Communications Act, or Commission rules, including making false statements or misrepresentations to the Commission; whether the applicant has been convicted of a felony; and whether there is an adjudicated determination that the applicant has violated U.S. antitrust or other competition laws, has been found to have engaged in fraudulent conduct before another government agency, or has engaged in other non-FCC misconduct the Commission has found to be relevant in assessing the character qualifications of a licensee or authorization holder.⁸ The Commission has found in other contexts that such conduct demonstrates that an applicant may fail to comply with the Commission's rules and policies as well as any conditions on its authorization.⁹

investment, we also consider public interest issues related to national security, law enforcement, foreign policy, or trade policy concerns.").

⁸ The term "non-FCC misconduct" refers to misconduct other than a violation of the Rules or the Act. The Commission and the courts have recognized that "[t]he FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing." Reliability is a key, necessary element to operating a broadcast station in the public interest. An applicant or licensee's propensity to comply with the law generally is relevant because a willingness to be less than truthful with other government agencies, to violate other laws, and, in particular, to commit felonies, is potentially indicative of whether the applicant or licensee will in the future conform to the Commission's rules or policies.

⁹ See also *MCI Telecommunications Corp.; Petition for Revocation of Operating Authority*, 3

The public interest may therefore require, in a particular case, that the Commission deny an application for a cable landing license or modification, assignment, transfer of control, and renewal or extension of a cable landing license because the applicant has violated the Cable Landing License Act, the Communications Act, or the Commission rules, or other laws that may be indicative of the applicant's truthfulness and reliability, or that the Commission revoke a cable landing license on such grounds. The Commission believes consideration of an applicant's or cable landing licensee's regulatory compliance and adherence to other relevant laws is also consistent with the Commission's review of applications in other contexts and is important to the Commission's assessment as to whether the public interest, convenience, and necessity would be served by grant of the applications. The Commission seeks comment on this proposed codification.

e. Process To Withhold or Revoke a Cable Landing License

8. In the *NPRM*, the Commission proposes and seeks comment on adopting a procedural framework that it may use to consider whether withholding a grant of a cable landing license or revocation of a cable landing license is warranted pursuant to the Cable Landing License Act and Executive Order 10530. The Commission has specific statutory authority to withhold or revoke cable landing licenses under the Cable Landing License Act and Executive Order 10530. Section 35 of the Cable Landing License Act states that "[t]he President may withhold or revoke such license when he shall be satisfied after due notice and hearing that such action will assist in securing rights for the landing or operation of cables in foreign countries, or in maintaining the rights or interests of the United States or of its citizens in foreign countries, or will promote the security of the United States" In addition, section 5 of Executive Order 10530 states that the Commission is "designated and empowered to . . . withhold[] or revoke licenses to land or operate submarine cables in the United States" The Commission has not prescribed specific procedures applicable to withholding or revocation of a cable landing license, yet in the *Executive Branch Review Report and Order*, it has stated that if it is

FCC Rcd 509, 512, n.14 (1988) (stating that character qualifications standards adopted in the broadcast context, while not applicable to common carriers, can provide guidance in the common carrier context).

⁶ The PFE, in general, provides the electrical current that powers submarine cable system repeaters and/or optical branching units, and are located in or close to terminal landing stations.

⁷ See *Executive Branch Review Report and Order*, 85 FR 76360 (November 27, 2020), 35 FCC Rcd at 10928–29, para. 3 ("In adopting rules for foreign carrier entry into the U.S. telecommunications market over two decades ago in its *Foreign Participation Order*, the Commission affirmed that it would consider national security, law enforcement, foreign policy, and trade policy concerns in its public interest review of application for international section 214 authorizations and submarine cable landing licenses and petitions for declaratory ruling under section 310(b) of the Act."); see, e.g., *Applications of T-Mobile US, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations, et al.*, WT Docket 18–197, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578, 10732–33, para. 349 (2019) ("When analyzing a transfer of control or assignment application that involves foreign

considering revoking a license that was granted following referral to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee) or its predecessor pursuant to Executive Order 13913, it will provide “such notice and an opportunity to respond as is required by due process and applicable law, and appropriate in light of the facts and circumstances.”¹⁰ The Commission seeks to adopt a process applicable to withholding or revocation of cable landing licenses that will enable it to fulfill its statutory responsibilities—including, among other things, promotion of the national and economic security of the United States and other public interest considerations, such as character issues—while ensuring procedural safeguards to protect licensees’ due process rights.

9. Specifically, the Commission seeks comment on integrating the approach it utilized in recent section 214 revocation proceedings—and which the Court of Appeals for the D.C. Circuit upheld¹¹—where the Commission exercised its discretion to “resolve disputes of fact in an informal hearing proceeding on a written record,” and reasonably determined that the issues raised in those cases could be properly resolved through the presentation and exchange of full written submissions before the Commission itself.¹² The Commission

¹⁰ Section 6 of Executive Order 13913 provides that the Committee may at any time “review existing licenses to identify any additional or new risks to national security or law enforcement interests of the United States.” Executive Order 13913 defines “license” as “any license, certificate of public interest, or other authorization issued or granted by the Federal Communications Commission (FCC) after referral of an application by the FCC to the Committee established by subsection 3(a) of this order or, if referred before the date of this order, to the group of executive departments and agencies involved in the review process that was previously in place.”

¹¹ *China Telecom. (Ams.) Corp. v. FCC*, 57 F.4th at 262 (citing *Procedural Streamlining of Administrative Hearings*, Report and Order, 35 FCC Rcd 10729, 10732–33, para. 11 (2020) (*Administrative Hearings Order*)) (“‘The Communications Act gives the Commission the power of ruling on facts and policies in the first instance. In exercising that power, the Commission may resolve disputes of fact in an informal hearing proceeding on a written record. And the Commission may reach any decision that is supported by substantial evidence in the record.’”)).

¹² *China Telecom (Ams.) Corp. v. FCC*, 57 F.4th at 256, 269 (“As explained above, the FCC has broad discretion to craft its own rules ‘of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties.’” *Schreiber*, 381 U.S. at 290, 85 S.Ct. 1459 (internal quotations omitted); see also *Vermont Yankee*, 435 U.S. at 543, 98 S.Ct. 1197). The Commission has exercised this discretion to ‘resolve disputes of fact in an informal hearing

tentatively finds that it may exercise similar procedural discretion in its evaluation of each case as to whether withholding or revocation of a cable landing license is warranted. The Commission believes that the statutory language “withhold . . . such license” is identical to the concept of denying an application. For purposes of submarine cable licenses, withholding of a license would apply to the Commission’s consideration of a grant of an initial application for a cable landing license and an application to modify, assign, transfer control of, or renew or extend a cable landing license.¹³ The Commission seeks comment on whether it may use the same informal hearing process or an alternative process if it considers termination of a cable landing license due to a licensee’s failure to comply with any condition of the license.

10. Further, the Commission proposes to modify the Office of International Affairs’ (OIA) existing delegated authority to codify the Commission’s existing ability to deny an application and to revoke and/or terminate a submarine cable landing license under the Cable Landing License Act and Executive Order 10530.¹⁴ The Commission also proposes to delegate authority to OIA to implement these procedures described above for denial, revocation, and/or termination, as required by due process and applicable law and in light of the relevant facts and circumstances, including providing the applicant or licensee with notice and opportunity to respond.¹⁵

proceeding on a written record.’ *Streamlining Order*, 35 FCC Rcd. at 10732. Here, the Commission reasonably determined that the issues raised in this case could be properly resolved through the presentation and exchange of full written submissions before the Commission itself.”).

¹³ Section 1.767(g)(15) sets forth that “[t]he cable landing license shall expire twenty-five (25) years from the in-service date, unless renewed or extended upon proper application. Upon expiration, all rights granted under the license shall be terminated.” The Commission notes that within the category of applications for modifications, different procedures might be appropriate based on the nature of the modification. For example, procedures for reviewing an application seeking to incorporate a revised mitigation agreement may be more streamlined than procedures applicable to modifications to update facilities or add a submarine cable landing station.

¹⁴ The Commission’s proposed delegation of authority to OIA would broaden OIA’s existing delegated authority to act pursuant to § 0.19(q) and (r).

¹⁵ OIA’s implementation could include, for example, establishing response and pleading cycle deadlines, addressing waiver requests, addressing requests for live hearing procedures, seeking additional information, and providing for additional pleading cycles.

(i) Due Process and Procedural Requirements

11. The Commission tentatively finds that the process it seeks to apply in cases involving withholding or revocation of cable landing licenses—which, in effect, would constitute an informal hearing process through the presentation and exchange of full written submissions before the Commission—is consistent with due process and procedural requirements under relevant statutes including the Cable Landing License Act, the Communications Act, and the Administrative Procedure Act (APA). The Cable Landing License Act sets forth, among other things, that “[t]he President may withhold or revoke such license when he shall be satisfied after due notice and hearing that such action will assist in securing rights for the landing or operation of cables in foreign countries, or in maintaining the rights or interests of the United States or of its citizens in foreign countries, or will promote the security of the United States” The authority vested in the President, including the authority to withhold or revoke cable landing licenses, is delegated to the Commission pursuant to Executive Order 10530, on the condition that “[n]o such license shall be granted or revoked by the Commission except after obtaining approval of the Secretary of State and such advice from any executive department or establishment of the Government as the Commission may deem necessary.”¹⁶ Currently, the Commission’s rules codify as a condition of such license that “[t]he cable landing license is revocable by the Commission after due notice and opportunity for hearing pursuant to Section 2 of the Cable Landing License Act, 47 U.S.C. 35, or for failure to comply with the terms of the license or with the Commission’s rules.”¹⁷

12. The Cable Landing License Act, which is the source of authority from which authority to withhold or revoke a cable landing license emanates, states that the President may “withhold or revoke such [cable landing] license . . . after due notice and hearing,” but does not identify particular procedures that must be followed. As the Commission has stated, where an agency’s enabling statute does not expressly require an “on the record” hearing and instead calls simply for a “hearing,” a “full hearing,” or uses similar terminology,

¹⁶ Executive Order 10530, sec. 5(a).

¹⁷ Except as otherwise ordered by the Commission, the rules in § 1.767(g) apply to each licensee of a cable landing license granted on or after March 15, 2002.

the statute does not trigger the APA's formal adjudication procedures absent clear evidence of congressional intent to do so.¹⁸ Agencies must adhere to the formal hearing procedures in sections 554, 556, and 557 of the APA only in cases of "adjudication required by statute to be determined on the record after opportunity for an agency hearing."¹⁹ In addition to the Cable Landing License Act, neither the Communications Act, the Commission's rules, nor the APA requires trial-type hearing procedures. Congress has granted the Commission broad authority to "conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice." The Commission has broad discretion to craft its own rules "of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties."²⁰ Furthermore, the Communications Act gives the Commission the power of ruling on facts and policies in the first instance. In exercising that power, the Commission may resolve disputes of fact in an informal hearing proceeding on a written record. For instance, the Commission's subpart B hearing rules provide procedures for hearings in appropriate circumstances, including procedures for the revocation of station licenses and construction permits.²¹ In the *2023 VoIP Direct Access to Numbers Report and Order* (88 FR 80617,

November 20, 2023), the Commission delegated authority to the Wireline Competition Bureau and the Enforcement Bureau to determine appropriate procedures and initiate revocation and/or termination proceedings and to revoke and/or terminate a direct access authorization, as required by due process and applicable law and in light of the relevant facts and circumstances, including providing the direct access authorization holder with notice and opportunity to respond.

13. The Commission proposes an informal written process for Commission actions on denial of applications and revocation and termination of cable landing licenses.²² The Commission seeks comment on the procedural measures necessary to ensure the development of an adequate administrative record, including procedures for participation by other interested parties, and on the appropriate procedural safeguards to ensure due process. To determine what process is due, the Commission considers the factors set forth in the *Mathews v. Eldridge* three-part test: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." With regard to the first *Mathews* factor (the nature of the private interest), while the Commission recognizes that denial of a cable landing license application or revocation of a cable landing license will have an impact on the applicant(s) or on the licensee(s) and any customers,

the Commission tentatively finds that private companies have no unqualified right to land or operate a submarine cable in the United States. On the contrary, the Cable Landing License Act sets forth that a cable landing license may be withheld or revoked, stating that the President may "withhold or revoke such license when he shall be satisfied after due notice and hearing that such action will assist in securing rights for the landing or operation of cables in foreign countries, or in maintaining the rights or interests of the United States or of its citizens in foreign countries, or will promote the security of the United States." The Cable Landing License Act and Executive Order 10530, which delegates this denial and revocation authority to the Commission, thereby puts regulated parties on notice that any application for a cable landing license is subject to denial by the Commission and any grant of a cable landing license is contingent on the Commission's authority to revoke such license. Further, whereas licensees facing revocation have a private interest in continuing to operate licensed facilities, applicants typically have no such interest.

14. With regard to the second *Mathews* factor (risk of erroneous deprivation without additional procedures and their probable value), the Commission tentatively finds that the process it seeks to apply would provide cable landing licensees with sufficient due process—notice and the opportunity to be heard "at a meaningful time and in a meaningful manner."²³ Neither the Cable Landing License Act, the APA, nor the Communications Act requires the conduct of evidentiary hearings for denial of cable landing license applications or revocation of cable landing licenses. The Commission tentatively finds it sufficient due process to provide applicants or cable landing licensees with timely and adequate notice of the reasons for any denial or revocation action, and opportunity to respond with their own evidence and to make any factual, legal, or policy arguments. Further, the process the Commission proposes would provide any other interested parties, including any joint applicants or licensees or other proposed or existing owners of a submarine cable, with notice and the opportunity to be heard. Finally, as noted above, the

¹⁸ See *United States v. Florida East Coast Railway Co.*, 410 U.S. 224, 234–38 (1973) (the words "after hearing" in the Interstate Commerce Act do not require formal APA adjudication); see also, e.g., *City of W. Chicago, Ill. v. U.S. Nuclear Regulatory Comm'n*, 701 F.2d 632, 641 (statutory requirement of a "hearing" does not trigger formal, on-the-record hearing provisions of the APA); *Chem. Waste Mgmt., Inc. v. EPA*, 873 F.2d 1477, 1480–83 (D.C. Cir. 1989) (no presumption that "public hearing" means "on the record" hearing); *Farmers Union Cent. Exch. v. FERC*, 734 F.2d 1486, 1499 n.39 (D.C. Cir. 1984) ("after full hearing" is "not equivalent to the requirement of a decision 'on the record'" (internal citation omitted)).

¹⁹ 5 U.S.C. 551(7) (defining "adjudication").

²⁰ *Numbering Policies for Modern Communications et al.*, WC Docket No. 13–97 et al., Second Report and Order (88 FR 80617, November 20, 2023) and Second Further Notice of Proposed Rulemaking (88 FR 74098, October 30, 2023), 38 FCC Rcd 8951, 8972, para. 64 (2023) (delegating authority to the Wireline Competition Bureau and the Enforcement Bureau to determine appropriate procedures and initiate revocation and/or termination proceedings and to revoke and/or terminate a direct access authorization, as required by due process and applicable law and in light of the relevant facts and circumstances, including providing the direct access authorization holder with notice and opportunity to respond).

²¹ Section 1.91 of the Commission's rules applies subpart B hearing rules to revocations of "station license[s]" or "construction permit[s]," which refer to spectrum licenses issued under title III of the Communications Act.

²² In the 2020 *Executive Branch Review Report and Order*, the Commission addressed how it would handle modifications and revocations requested by the executive branch. See *Executive Branch Review Report and Order*, 35 FCC Rcd at 10963–64, para. 92 ("Consistent with current practice, the Commission will provide any affected authorization holder or licensee an opportunity to respond to the Committee's recommendation prior to any action by the Commission. This will address the commenters' concern that the Commission might proceed with modification or revocation of an existing authorization or license without warning or the opportunity to comment. [The Commission finds] that new rules or a separate proceeding are unnecessary to address Committee reviews of existing licenses as the Commission already has procedural safeguards in place to protect licensees' due process rights, and that until such time as the Commission has more experience with such Committee recommendations, it is more appropriate to tailor such procedures to the facts and circumstances of a particular Committee recommendation.").

²³ See, e.g., *Mathews*, 424 U.S. at 333 (citing *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)); cf. 5 U.S.C. 558(c)(1) and (2) (permitting "revocation . . . of a license" following "notice by the agency in writing" of any basis for revocation and an "opportunity to demonstrate compliance").

private interests in grant of an application typically are less than the private interests in continued use of licensed facilities, thus, the Commission believes that it may appropriately deny an application with fewer procedures than would be appropriate for revocation. The Commission seeks comment on this analysis. Would the Commission's proposed process for denying initial applications be appropriate for renewal and extension applications²⁴ or for modification, assignment, or transfer of control applications? If not, what is the due process rationale for using different procedures in these circumstances?

15. With regard to the third *Mathews* factor (the Government's interest), the Commission tentatively finds that "the fiscal and administrative burdens" on the Commission and the relevant executive branch agencies, including the Committee, weigh in favor of the Commission's proposal to base its procedures on those it utilized in the denial of an international section 214 application of China Mobile USA and in subsequent section 214 revocation proceedings involving Chinese state-owned entities. As the Commission stated in the *China Telecom Americas Order on Revocation and Termination*, *China Unicom Americas Order on Revocation*, and *Pacific Networks and ComNet Order on Revocation and Termination*,²⁵ courts have recognized that hearings before an administrative law judge, with live testimony and cross examination, impose significant temporal and cost burdens on agencies. The Commission determined, among other things, that the fiscal and

administrative burden on the Government would be especially heavy in those cases, as a trial before an administrative law judge could require participation by officials from other agencies and take time away from their essential duties to participate in additional administrative proceedings. For these same reasons, the Commission tentatively finds that the administrative burden on the Government would be heavy in cases involving denial of cable landing license applications or revocation of cable landing licenses. More importantly, given the national security issues that may be at stake, any resulting unwarranted delay could be harmful. The Commission also believes that traditional live hearing procedures involving testimony and cross-examination could entail significant administrative burdens on the Commission even in cases involving other issues that do not involve the executive branch agencies, such as character concerns, or other Commission rule violations. The Commission seeks comment on this assessment.

16. The Commission seeks comment generally on its *Mathews* analysis and whether the process it proposes herein would provide applicants and cable landing licensees with sufficient due process and notice and opportunity to respond. The Commission notes that the process that it proposes to apply in cases involving denial of cable landing license applications or revocation of cable landing licenses is distinct from the Commission's subpart B hearing rules, including the written hearing rules codified in §§ 1.371 through 1.377. The Commission has never applied its subpart B hearing rules to every adjudication,²⁶ and has never had an established practice of requiring subpart B hearings for denial of cable landing license applications or revocation of cable landing licenses. Indeed, the Commission does not believe it would be appropriate to require subpart B rules and procedures, including the written hearing rules providing for discovery and the ability to request an oral hearing before a presiding officer, in all proceedings to deny cable landing license applications or to revoke cable landing licenses, particularly in cases involving national security issues, where the Commission has previously concluded that the burdens on the Government of implementing such

procedures outweighed the private interest and the probable value of additional procedures. Moreover, under the subpart B hearing rules, if the Commission were to delegate initial responsibility to an administrative law judge, the resulting decision could be appealed to the full Commission—which would be required to review the record independently and would not owe any deference to the administrative law judge's determinations.²⁷ The Commission tentatively concludes that the extra step of appointing an administrative law judge to preside prior to the Commission's independent review, rather than simply proceeding directly before the Commission, will not be necessary for nor will enhance the ability of the Commission, which will be the ultimate arbiter, to decide matters that may arise in its evaluation of applications for a cable landing license or existing cable landing licenses. Further, courts have held that the question of whether to hold an evidentiary hearing is "within [the agency's] discretion, and it may 'properly deny an evidentiary hearing if the issues, even disputed issues, may be adequately resolved on the written record, at least where there is no issue of motive, intent or credibility.' " Nevertheless, the Commission seeks comment on whether it should provide a process by which an applicant for a cable landing license or a cable landing licensee may request a live hearing in certain cases. The Commission also seeks comment on whether it should use different procedures for matters that do not involve executive branch expertise. If so, what due process or administrative considerations are relevant to this determination?

17. Furthermore, unlike revocations of title III station licenses and construction permits, the Commission may not revoke a cable landing license "except after obtaining approval of the Secretary of State and such advice from any executive department or establishment of the Government as the Commission may deem necessary." Therefore, in contrast to subpart B hearings, any revocation procedures for cable landing licenses must integrate approval or objection by the State Department before the Commission may issue a final decision. The Commission notes that the Commission and the State Department have existing procedures by which the State Department approves

²⁴ For purposes of this proceeding, the Commission refers to applications to renew or extend a cable landing license collectively as "renewal applications."

²⁵ *China Telecom (Americas) Corporation*, GN Docket No. 20–109, File Nos. ITC–214–20010613–00346, ITC–214–20020716–00371, ITC–T/C–20070725–00285, Order on Revocation and Termination, 36 FCC Rcd 15966, 15958, para. 27 (2021) (*China Telecom Americas Order on Revocation and Termination*), *aff'd*, *China Telecom (Ams.) Corp. v. FCC*, 57 F.4th 256 (D.C. Cir. 2022); *China Unicom (Americas) Operations Limited*, GN Docket No. 20–110, File Nos. ITC–214–20020728–00361, ITC–214–20020724–00427, Order on Revocation, 37 FCC Rcd 1480, 1499, para. 35 (2022) (*China Unicom Americas Order on Revocation*), *appeal pending sub nom China Unicom (Americas) Operations Limited v. FCC*, No. 22–70029 (9th Cir.); *Pacific Networks Corp. and ComNet (USA) LLC*, GN Docket No. 20–111, File Nos. ITC–214–20090105–00006 and ITC–214–20090424–00199, Order on Revocation and Termination, 37 FCC Rcd 4220, 4242, para. 29 (2022) (*Pacific Networks and ComNet Order on Revocation and Termination*) ("A detailed procedural history of Pacific Networks' and ComNet's authorizations can be found in the *Order to Show Cause*."), *aff'd*, *Pacific Networks Corp. v. FCC*, 77 F.4th 1160 (D.C. Cir. 2023); *see, e.g., Chem. Waste Mgmt., Inc. v. EPA*, 873 F.2d at 1485; *G.E. v. EPA*, 595 F. Supp. 2d 8, 38–39 (D.D.C. 2009).

²⁶ In fact, § 1.201 of those rules provides that subpart B applies only to cases that "have been designated for hearing." An explanatory note makes clear that the new procedures for written hearings are a subset of such cases.

²⁷ *See Kay v. FCC*, 396 F.3d 1184, 1189 (D.C. Cir. 2005) (explaining how "an agency reviewing an ALJ decision is not in a position analogous to a court of appeals reviewing a case tried to a district court").

the Commission's grant of a cable landing license application or revocation of a cable landing license, as required by Executive Order 10530, and these procedures would continue to apply to any revocation of a cable landing license. Such procedures would not apply to the Commission's denial of a cable landing license application, given Executive Order 10530 does not require the State Department's approval of a denial action and expressly states that "no such license shall be *granted or revoked* by the Commission except after obtaining approval of the Secretary of State" The Commission notes that the language in Executive Order 10530 appears inconsistent with § 1.767(b) of the existing rules, which states that cable license applications are "acted upon by the Commission after obtaining the approval of the Secretary of State." The term "acted upon" would appear to include denial of an application. The Commission proposes to amend the rule so that it does not state that denial of an application requires approval by the Secretary of State. The Commission seeks comment on the change. While the procedures under subpart B do not automatically apply to denial of cable landing license applications or revocation of cable landing licenses, the Commission seeks comment on whether it should incorporate these or similar procedures, including hearings before an administrative law judge, should the Commission determine they are appropriate in a specific case, for example where a matter does not involve executive branch participation. Under what circumstances, if any, should any such procedures be incorporated in denial or revocation proceedings involving cable landing licenses? The Commission further seeks comment on whether its procedures for denial of an application might be more streamlined than the Commission's procedures for revocation of an existing license, consistent with the Cable Landing License Act, the APA, and due process.²⁸ Should the Commission's

procedures for denial of an application to modify, assign, or transfer control of a license, or for renewal and extension applications mirror the Commission's procedures or denial of an initial application? What considerations are relevant to this determination?

(ii) Denial and Revocation Proceedings

18. Under the Commission's existing rules, the filing of an initial application for a cable landing license or an application to modify, assign, transfer control, or renew or extend a cable landing license after the Commission places the application on an Accepted for Filing public notice commences a proceeding in which the Commission may grant or deny an application. Commission staff may seek additional information after an application is filed, and once complete, the application is placed on public notice.²⁹ Any executive branch recommendation to deny or condition the grant of an application is included in the record of the proceeding, and the Commission provides the applicant a written opportunity to respond. The Commission considers the entire record in reaching its determination. The Commission or OIA, pursuant to its delegated authority, can deny applications for cable landing licenses.³⁰ Consistent with the Commission's rules, applicants may seek reconsideration of a denial of an application. The Commission seeks comment on the extent to which existing procedures for denial of applications should be modified in any respect. The Commission tentatively concludes that additional procedures are not warranted but that OIA should have delegated authority to adopt additional procedures on a case-by-case basis as circumstances warrant, and consistent with due process. The Commission proposes that it may commence a revocation proceeding either on its own initiative or upon the filing of a recommendation by the executive branch agencies, including the Committee, to revoke the license of

a cable landing licensee. To the extent the Commission considers whether revocation of a cable landing license is warranted, the Commission proposes to implement the approach it used in the most recent section 214 revocation proceedings. Specifically, in those revocation proceedings, the Commission exercised its discretion to "resolve disputes of fact in an informal hearing proceeding on a written record," and reasonably determined that the issues raised in those cases could be properly resolved through the presentation and exchange of full written submissions before the Commission itself. The Commission explained that although it adopted regulations prescribing certain procedures for the revocation of station licenses and construction permits pursuant to part 1, subpart B of its rules, those regulations do not apply to the revocation of a section 214 authorization. To provide affected carriers with due process, the Commission allowed them to submit evidence and arguments in writing and determined the need for the revocation and/or termination of section 214 authorizations on the basis of a written record. The court of appeals affirmed the Commission's use of these procedures.³¹ The Commission seeks comment on whether it should incorporate similar procedures to determine whether revocation of a cable landing license is warranted. The Commission also seeks comment on whether it should retain authority to modify these procedures on a case-by-case basis as circumstances warrant, as long as any alternative procedures provide adequate due process.

19. The Commission seeks comment on whether it may use the same process or an alternative process if it considers termination of a cable landing license due to a licensee's failure to comply with any condition of the license. Under section 5 of Executive Order 10530, the Commission is "designated and empowered to . . . withhold[] or revoke licenses to land or operate submarine cables in the United States" Separate and apart from revocation, the Commission uses the term

²⁸ The Commission notes, for example, that it denied China Mobile USA's application for an international section 214 authorization after review of the executive branch recommendation, China Mobile USA's opposition, and the executive branch reply. In contrast, when the Commission subsequently revoked the international section 214 authorizations of CTA, the Commission provided notice and an opportunity to respond before it instituted a revocation proceeding. Similarly, under the APA, the procedure for denying an application need not mirror the procedure for revoking a license. Compare 5 U.S.C. 558(c) ("When application is made for a license required by law, the agency, with due regard for the rights and privileges of all the interested parties or adversely affected persons and within a reasonable time, shall

set and complete proceedings required . . . by law and shall make its decision") with *id.* ("Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the licensee has been given—(1) notice by the agency in writing of the facts or conduct which may warrant the action; and (2) opportunity to demonstrate or achieve compliance with all lawful requirements.").

²⁹ See 47 CFR 1.767(a)(10) (requiring "[a]ny other information that may be necessary to enable the Commission to act on the application.").

³⁰ 47 CFR 0.351(a)(9) (delegating authority to OIA "[t]o act upon applications for cable landing licenses pursuant to § 1.767 of this chapter").

³¹ *China Telecom (Americas) Corp.*, 57 F.4th at 262 (citing *Administrative Hearings Order*, 35 FCC Rcd at 10732–33, para. 11) ("The Communications Act gives the Commission the power of ruling on facts and policies in the first instance. In exercising that power, the Commission may resolve disputes of fact in an informal hearing proceeding on a written record. And the Commission may reach any decision that is supported by substantial evidence in the record."); *id.* at 268–71 (holding that discovery and live hearing procedures, and an opportunity to achieve or demonstrate compliance were not required "by statute, regulation, FCC practice, or the Constitution").

“termination” where a license or authorization is terminated based on the licensee’s or authorization holder’s failure to comply with a condition of the license or authorization, and has determined that the procedures applicable to termination need not mirror the procedures used for revocation of licenses or authorizations.³² The Commission proposes to delegate authority to OIA to determine appropriate procedures, within the framework authorized by the Commission and consistent with Commission precedent and guidance, and initiate revocation and/or termination proceedings and revoke and/or terminate a cable landing license, as required by due process and applicable law and in light of the relevant facts and circumstances, including providing a licensee with notice and opportunity to respond and, where appropriate, to achieve compliance with all lawful requirements.³³

20. The Commission seeks comment on whether this procedural framework would provide cable landing licensees and any other affected parties with sufficient notice of the basis for any denial, revocation, or termination action, an opportunity to present evidence and arguments that support their respective positions, and an opportunity to respond to opposing evidence and arguments. The Commission also seeks comment on whether this process would ensure the development of an adequate administrative record, including procedures for participation by other affected individuals and entities, and appropriate procedural safeguards to ensure due process.

21. *Cable Landing Licenses/Licensees That are Insolvent or No Longer Exist.* Section 1.767(m)(2) of the rules requires that “[a]ny licensee that seeks to relinquish its interest in a cable landing

license shall file an application to modify the license.” The Commission’s records in the International Communications Filing System (ICFS) and other records, indicate that some submarine cables licensed by the Commission may not have commenced service and/or some cable landing licensees of record may be insolvent or no longer in operation.³⁴ Furthermore, some licensees that may be insolvent or no longer exist did not file a modification application to relinquish their interest in the cable landing license or otherwise notify the Commission. The Commission seeks comment on what processes it should adopt when submarine cables and/or licensees are insolvent or no longer exist generally. The Commission seeks comment on whether the same process proposed above is appropriate in all cases involving cable landing licenses, or whether the Commission should consider alternative processes. For example, should the Commission adopt a similar cancellation process as proposed in the *Evolving Risks NPRM* (88 FR 50486, August 1, 2023) for international section 214 authorization holders that are no longer in business, where failure to timely respond to an information collection or other inquiry by the Commission may be deemed presumptive evidence that the cable landing licensee is no longer in operation?³⁵ In these instances, the Commission or OIA may assess whether the cable landing licensee no longer complies with certain terms of the license or the Commission’s rules,³⁶ and thus revocation and/or termination of the license or the licensee’s rights under the license and the Cable Landing License Act is warranted.³⁷

22. For consortium cables, if any of the cable landing licensees no longer

exists and was unable to file an application to modify the license to relinquish its interest in the license, should the Commission adopt rules requiring the remaining joint licensee(s) of the cable, if any, to collectively file a modification application to remove the licensee from the license by demonstrating and certifying that (1) the licensee no longer exists as a legal entity, and (2) the remaining licensee(s) will retain collectively *de jure* and *de facto* control of the U.S. portion of the cable system sufficient to comply with the requirements of the Commission’s rules and any specific conditions of the license? Or, should the Commission adopt rules requiring joint licensees of a submarine cable system to identify the lead licensee responsible for administrative matters concerning the cable system, including directing the lead licensee to submit a filing in the record demonstrating and certifying whether or not an identified licensee is insolvent or has ceased to exist and that the remaining licensee(s) will retain collectively *de jure* and *de facto* control of the U.S. portion of the cable system?

2. Three-Year Periodic Reporting

23. Currently, a cable landing license expires “twenty-five (25) years after the in-service date for the cable, unless renewed or extended upon proper application” pursuant to § 1.767(g)(15) of the Commission’s rules.³⁸ The Commission, however, does not routinely require a submarine cable landing licensee to provide updated ownership and related submarine cable system information during the 25-year term with the exception of annual circuit capacity data. The annual circuit capacity data, however, lacks critical ownership and facilities information that would allow the Commission and other Government agencies to assess for evolving national security and law enforcement concerns. To ensure that the Commission has the information it needs to timely monitor and continually assess national security or other risks that may arise over the course of a licensee’s 25-year license term, the Commission proposes to require

³² See *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15988, para. 35; see also *id.* at 15989, para. 36 (“[S]ection 558(c)(2) does not grant a substantive right to escape from a condition that terminates a license.”); *Atlantic Richfield Co. v. United States*, 774 F.2d 1193, 1200–01 (D.C. Cir. 1985) (holding that the procedural requirements of section 558(c) apply only where “the licensee [may] be able to establish compliance with all legal requirements or . . . change its conduct in a manner that will put its house in lawful order”) (internal quotation and citations omitted).

³³ See *China Telecom. (Ams.) Corp. v. FCC*, 57 F.4th at 270 (“Given the futility of offering China Telecom even more of an opportunity to demonstrate or achieve compliance than they received, the Commission did not err in denying it.”); *Pacific Networks Corp. v. FCC*, 77 F.4th at 1166 (“In short, the FCC reasonably explained why no realistic agreement could have worked given the carriers’ proven lack of trustworthiness.”).

³⁴ See, e.g., Letter from Peter J. Schildkraut, Counsel for AT&T Mobility Puerto Rico Inc., to Marlene H. Dortch, Secretary, FCC at 2–3 (Feb. 5, 2020) (on file in File No. SCL–MOD–20191202–00038) (filing supplement to modification application and addressing, among other things, that the corporate status of certain licensees is void according to state records).

³⁵ See *Evolving Risks NPRM*, 38 FCC Rcd at 4363, paras. 25–26; *id.* at 4377, para. 66.

³⁶ 47 CFR 1.767(g)(14) (“The cable landing license is revocable by the Commission after due notice and opportunity for hearing pursuant to section 2 of the Cable Landing License Act, 47 U.S.C. 35, or for failure to comply with the terms of the license or with the Commission’s rules . . .”).

³⁷ For instance, the Commission’s rules require, as a condition of a cable landing license, that “[t]he licensee, or in the case of multiple licensees, the licensees collectively, shall maintain *de jure* and *de facto* control of the U.S. portion of the cable system, including the cable landing stations in the United States, sufficient to comply with the requirements of the Commission’s rules and any specific conditions of the license.” See also 47 CFR 1.767(m)(2).

³⁸ 47 CFR 1.767(g)(15) (“The licensee must notify the Commission within thirty (30) days of the date the cable is placed into service. The cable landing license shall expire twenty-five (25) years from the in-service date, unless renewed or extended upon proper application. Upon expiration, all rights granted under the license shall be terminated.”). See *2001 Cable Report and Order*, 67 FR 1615 (January 14, 2002), 16 FCC Rcd 22167 (codifying the 25-year license term condition in § 1.767(g)(14), and which is currently codified in § 1.767(g)(15)). The 25-year license term is one of the routine conditions the Commission adopted in 2001 that applies to “each licensee of a cable landing licenses granted on or after March 15, 2002.”

licensees to provide certain information to the Commission every three years (hereinafter, “periodic reporting”). Alternatively, the Commission seeks comment on whether a different time period would support the Commission’s goals.

24. As a fundamental matter, it is critical that the Commission has a continuous and systematic understanding of who owns and controls submarine cables and how they are used because submarine cables are a significant component of the global communications ecosystem. Submarine cables serve as the foundation for the global internet infrastructure and carry over 99% of transoceanic digital communications. Submarine cables are also critical infrastructure that historically have carried more than 95% of all U.S.-international voice, data, and internet traffic, including civilian and military U.S. Government traffic. And increasing demand for capacity³⁹ has spurred the deployment of more submarine cables.

25. Because the Commission does not ordinarily receive updated information about changes in the ownership of licensees or the submarine cable system over the course of the 25-year license term, the Commission likely has incomplete and outdated information regarding submarine cable landing licensees with foreign ownership and the submarine cable system itself. The Commission does receive such information when an applicant/licensee (1) seeks Commission consent to the substantial transfer of control and/or assignment or modification of its existing cable landing license, (2) the licensee undergoes a *pro forma* transfer of control and/or assignment that require(s) notification to the Commission, (3) files a foreign carrier affiliation notification, or (4) files a

renewal application.⁴⁰ The information obtained from substantial or *pro forma* assignment and/or transfer of control applications and foreign carrier affiliation notifications, however, is limited to that particular licensee and does not provide updated information about the other licensees. In the case of renewal applications, the information obtained is based on the end of the license term. The Commission also has authority to conduct an *ad hoc* assessment of whether a licensee’s cable landing license presents national security, law enforcement, foreign policy, and/or trade policy risks that warrant revocation. Reliance on sporadic submissions of applications and *ad hoc* assessments for important information regarding this critical infrastructure, however, creates an information gap that limits the Commission’s knowledge of the licensees, updated information on the cable itself, and its ability to assess any national security, law enforcement, foreign policy, and/or trade policy concerns.

26. The Commission tentatively concludes that the periodic reporting requirement would improve the Commission’s oversight of submarine cable licenses and ensure the license continues to serve the public interest. In this regard, the Commission tentatively finds that the information the Commission would obtain from its proposed three-year periodic reporting requirement provides crucial information about submarine cables that complements the capacity information the Commission already receives from the annual § 43.82 circuit capacity reports provided by filing entities. Among other things, the Commission tentatively concludes information derived from the periodic reports such as updated contact information for licensees and cable landing stations and geographic coordinates of the cable landing stations, coupled with information from the Commission’s annual circuit capacity reports, would better enable the Commission to carry out its public interest responsibilities such as assessing capacity information and conducting time-sensitive outreach to licensees during a natural disaster or in a state of emergency.⁴¹ Importantly, the Commission believes the updated information regarding this critical infrastructure would improve consistency in the Commission’s

consideration of evolving public interest risks (including national security risks), completeness of the Commission’s information regarding submarine cable landing licensees, and timely Commission attention to issues that warrant heightened scrutiny.

27. Additionally, the Commission tentatively concludes the periodic reporting requirement would ensure a more consistent and complete referral of relevant evolving issues to the executive branch agencies, including the Committee, for their review and ultimately, improved protection of U.S. communications infrastructure. With updated information regarding this critical infrastructure, the Commission tentatively concludes it, in coordination with the relevant executive branch agencies, could assess national security and other public interest risks and, if necessary, pursue remedial action and/or initiate a revocation or termination proceeding. As noted above, the executive branch agencies recommended that the Commission revoke certain international section 214 authorizations that posed unacceptable risks to national security and law enforcement interests of the United States. Ultimately, the Commission believes that its proposed periodic reporting requirement would meet the Commission’s principal goal of providing it with updated critical information regarding licensees and the cable systems and “promote the security of the United States . . .” in accordance with the Cable Landing License Act.

28. Accordingly, as discussed below, the Commission proposes to adopt and codify in its rules a routine condition that would require all submarine cable landing licensees to jointly or separately submit to the Commission every three years updated information about, among other things, the licensee and its ownership, points of contact for the submarine cable system, use of foreign owned Managed Network Service Providers (MNSPs), as well as cybersecurity and regulatory compliance certifications. The Commission also proposes that failure to timely submit a periodic report would constitute a breach of this condition that could warrant Commission enforcement action or revocation, the procedures of which are discussed above. The Commission tentatively concludes that the proposed reporting requirement would address the aforementioned information gap by providing the Commission with updated critical information necessary to fulfill its national security and other public interest responsibilities on a more

³⁹ TeleGeography reports that, “[a]s recently as 2016, internet backbone providers accounted for the majority of demand.” At that time, internet backbone providers or internet Service Providers (ISPs) included businesses, such as AT&T, Verizon, Comcast, Tata Communications, CenturyLink, Cogent Communications, Deutsche Telekom, GTT, NTT Communications, and Sprint, among others. Now, internet backbone providers no longer dominate the demand for global submarine cable capacity. According to TeleGeography, “a handful of major content and cloud service providers—namely Google, Facebook, Amazon, and Microsoft—have become the primary sources of demand. As of 2020, these companies are the dominant users of international bandwidth, account for two-thirds of all used international capacity.” These entities “led the way in building mega Data Centers to meet th[e] growing demand [for data processing and storage capacity.” Moreover, the “data demands of hyperscalers’ subsea cable is surging 45% to 60% per year.” Indeed, as of 2023, content and cloud networks accounted for more than 70% of all bandwidth usage.”

⁴⁰ The Commission notes that submarine cable landing licensees are required to submit annual circuit capacity data under § 43.82 of its rules.

⁴¹ See Proposed Rules, § 1.70016(b) (setting forth the contents that must be included in the proposed periodic report).

regular and systematic basis. The Commission seeks comment on this proposal and the impact on small entities, as well as any alternatives.

29. Under the Commission's proposed approach, the submarine cable landing license would continue in force throughout its term. To the extent circumstances in any particular situation raise national security, law enforcement, foreign policy, and/or trade policy or other concerns (for example, due to incompleteness of the periodic report or new foreign ownership), the Commission could initiate a further inquiry to assess the risks and concerns raised and coordinate with the relevant executive branch agencies that may, in turn, result in Commission enforcement action, executive branch mitigation efforts, and/or a revocation or termination proceeding. The Commission's proposed periodic reporting requirement would not supplant existing Commission authority to conduct an *ad hoc* assessment of whether a licensee's cable landing license presents public interest concerns, including national security, law enforcement, foreign policy, and/or trade policy risks nor would this proposed approach replace the 25-year license term. The Commission proposes that each periodic report would be submitted through a filing in ICFS, or any successor system, under each licensee's license file number and would not require action from the Commission, *i.e.*, a grant or confirmation. The Commission proposes that licensees with reportable foreign ownership as of thirty (30) days prior to the date of the submission or that have a mitigation agreement with the Committee or particular agencies must also file a copy of the report directly with the Committee.

30. The Commission seeks comment generally on this approach and whether a three-year period is the appropriate timeframe. The Commission proposes a three-year period because it strikes an appropriate balance between the Commission's need for current ownership, location and facilities information and the reporting burden on the Commission's licensees. The Commission can also stagger the reviews over three years, reducing the workload on the Commission and on the Committee. The Commission seeks comment on whether it should adopt a time period that is longer or shorter for purposes of assessing national security, law enforcement, and other risks. The Commission notes, however, that because the marketplace changes quickly, it believes requiring periodic

information longer than three years might result in the Commission missing significant changes in ownership and changes in facilities, thus potentially endangering national security and other concerns.

31. The Commission proposes that any new report would reflect updated information since the report three-years prior or other substantive filing. If no changes have occurred since the licensee's last periodic report or other substantive filing—which may be an application for a cable landing license or modification, assignment, transfer of control, and renewal or extension of a cable landing license—should the licensee have to provide only a periodic statement that its license remains in compliance with the Commission's rules and with its most recent periodic report, or other substantive filing? How should the Commission account for a situation where the substantive filing does not require all of the same information that would be in a periodic report? Lastly, should the licensee recertify, such as to the character qualification requirements, among other requirements?

32. The Commission seeks comment on how to properly account for multiple licensees on a submarine cable system. The Commission proposes to require joint licensees to submit one joint periodic report per submarine cable system, subject to the proposed filing contents requirements. In what the Commission expects will be the unlikely event of potential issues that may prevent a joint filing, the Commission seeks comment on whether to permit an individual licensee to file its own report. Should the Commission adopt a rule that joint licensees or consortium members must identify a lead licensee that would be required to file the periodic report on behalf of the joint licensees or consortium? How can joint licensees or consortium members provide the periodic information while remaining accountable for providing truthful, complete, and accurate information? Additionally, how can the Commission minimize burdens on licensees while balancing the Commission's policy considerations with administrative efficiency for the Commission and the relevant executive branch agencies, including the Committee? What other options should the Commission consider given evolving national security, law enforcement, foreign policy, and/or trade policy risks?

a. Prioritizing the Periodic Reporting and Other National Security and Law Enforcement Concerns

33. The Commission proposes to adopt a schedule that prioritizes the filing and review of periodic reports based on whether the cable's licensee(s) have reportable foreign ownership and the length of the time since the Commission's most recent review of the license. The proposal would structure the timing of the submission of periodic reports to minimize burdens on licensees, the Commission,⁴² and the executive branch staff, while ensuring that the Commission receives the information it needs to protect this critical infrastructure. The Commission also proposes to delegate authority to OIA to establish and modify, as appropriate, the filing categories and associated deadlines, and if needed, to consult with the relevant executive branch agencies concerning prioritization of the periodic reports.

34. The Commission proposes to assign each of the existing licensed cable systems to one of four categories with a different deadline for each, and with the deadlines separated by six months. The Commission proposes to require that licensees of submarine cable systems in Category 1 shall submit their initial periodic report by six months following the effective date of new rules adopted in this proceeding, and licensees of submarine cable systems in Categories 2, 3, and 4, respectively, shall submit their initial periodic reports thereafter in fixed intervals separated by six months.

• *Category 1:* Submarine cable systems that: (1) have a licensee that is directly or indirectly wholly or partially owned by a government of, or other entities with a place of organization in, a "foreign adversary" country, as defined in the Department of Commerce's rule, 15 CFR 791.4; (2) have a licensee with a place of organization in a "foreign adversary" country; or (3) land in a "foreign adversary" country.⁴³

⁴² See *Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024 Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024*, MD Docket Nos. 24–85 and 24–86, Second Report and Order, 89 FR 78452 (September 25, 2024), FCC–24–93, para. 45 (2024) (*2024 Regulatory Fee Second Report and Order*) (noting that "in the Office of International Affairs, there are eight Full-Time Equivalents (FTEs) within the Telecommunications and Analysis Division that work on international bearer circuit-related issues, including the services provided over submarine cables . . .").

⁴³ 15 CFR 7.4 (stating "[t]he Secretary has determined that the following foreign governments or foreign non-government persons have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the

- *Category 2:* Submarine cable systems where the Commission's most recent review of the license⁴⁴ occurred 4 or more years ago⁴⁵ and where a licensee has reportable foreign ownership.

- *Category 3:* Submarine cable systems where the Commission's most recent review of the license occurred less than 4 years ago and where a licensee has reportable foreign ownership.

- *Category 4:* All other submarine cable systems, including those where no licensee has reportable foreign ownership.

35. *FCC's Preliminary Review of Existing Licensed Submarine Cables.* Commission staff have conducted a preliminary review of its records, and based on this review, the Commission assesses that eight of the 84 licensed submarine cable systems would meet one or more of the criteria under Category 1: (1) Americas-1 Cable System, (2) Asia-America Gateway (AAG), (3) FASTER Cable System, (4) Japan-U.S. Cable Network,⁴⁶ (5) Jupiter, (6) New Cross-Pacific (NCP), (7) PPC-1,

United States or security and safety of United States persons and, therefore, constitute foreign adversaries solely for the purposes of the Executive Order, this rule, and any subsequent rule" promulgated pursuant to the Executive Order); see 15 CFR 7.2 ("Foreign adversary means any foreign government or foreign non-government person determined by the Secretary to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons.").

⁴⁴ The Commission refers to its review of the license to include the grant of an initial application for a cable landing license or an application for modification, substantial assignment, substantial transfer of control, or renewal or extension of a cable landing license.

⁴⁵ For purposes of prioritizing the filing and review of periodic reports, the Commission refers to its most recent review of the license as its most recent action, which would include grant of an initial application for a cable landing license or an application for modification, substantial assignment, substantial transfer of control, or renewal or extension of a cable landing license and ensure that the Committee or particular executive branch agencies also reviewed the cable system for any national security, law enforcement, and other concerns.

⁴⁶ On June 18, 2024, the current licensees of the Japan-U.S. Cable Network filed an application to modify the license to remove all licensees except Verizon Business Global LLC (Verizon) from the license, and request a waiver of § 1.767(h)(1) to replace AT&T Enterprises, LLC with Verizon as the licensee that controls the cable landing facilities in Makaha, Hawaii. On July 25, 2024, Verizon and Hawaiian Telcom Services Company, Inc. filed an application for a license to land and operate the California-Hawaii S1, which will consist of Segment 1 of the Japan-U.S. Cable Network. To the extent the Commission grants these applications prior to the adoption of any final Report and Order in this proceeding, the Commission proposes that it would adjust the categorization of the Japan-U.S. Cable Network accordingly in such Report and Order.

and (8) Trans-Pacific Express (TPE) Cable Network. Based on the Commission's preliminary review of the 84 licensed cables to date,⁴⁷ Category 1 would include eight submarine cable systems; Category 2 would include 21 submarine cable systems; Category 3 would include 36 submarine cable systems; and Category 4 would include 19 submarine cable systems. The full set of categories and the licensed submarine cable systems associated with each category are set forth in the table labeled "Three-Year Periodic Reporting Prioritization Schedule." The Commission seeks comment on the results of its preliminary review.

36. *FCC's Review of Future Licensed Submarine Cables.* The Commission proposes to require that cable landing licensees of submarine cable systems that are licensed after the effective date of new rules shall submit their initial periodic report by a deadline of three years following the date of the grant of authority. The Commission proposes to require licensees of future licensed submarine cable systems to file the periodic reports every three years after the deadline of their initial periodic report. The Commission seeks comment on whether a cable landing licensee should file the required report every three years based on the date of such grant of authority, until and unless the Commission grants a subsequent application filed by the licensee, at which point the three-year reporting cycle would commence anew as of the date of the new grant.

37. The Commission believes these approaches would simplify the reporting requirement and minimize administrative burdens while prioritizing the Commission's consideration of those licensees that most likely raise national security, law enforcement, foreign policy, and/or trade policy concerns. Prioritizing the

⁴⁷ This number of 84 licensed cables does not include cables for which the license expired and has not been renewed or extended, including where an application is pending before the Commission to renew or extend the license. See, e.g., File No. SCL-STA-20240626-00028, Actions Taken Under Cable Landing License Act, Report No. SCL-00484, DA 24-926 (OIA 2024) (granting the request for special temporary authority (STA) filed by GCI Communication Corp. to continue operation of the Alaska United East Cable System (AU-East) (SCL-LIC-19961205-00615, SCL-LIC-19980602-00008, SCL-MOD-20020409-00018, SCL-MOD-20020409-00019) while the Commission considers an application for a new cable landing license for the cable system (SCL-LIC-20240815-00036)). To the extent the Commission grants any application to renew or extend a cable landing license prior to the adoption of any final Report and Order in this proceeding, the Commission proposes that it would include or adjust the categorization of the respective cable system accordingly in such Report and Order.

Commission's review in the manner described above ensures the Commission focuses on those cables that potentially raise concerns and those that have not been reviewed by the Commission and the Committee. The Commission believes this approach would accomplish its national security objectives and provide regulatory certainty to licensees. What are the benefits and potential drawbacks of this approach? Should the Commission instead follow the *Evolving Risks NPRM* proposal and factor in mitigation agreements? Why or why not? The Commission seeks comment generally on this and other approaches for periodic reporting of licensed submarine cables.

b. Shorten the 25 Year License Term

38. As an alternative to the proposed periodic reporting requirement the Commission seeks comment on whether shortening the current 25-year submarine cable license term or adopting a shorter license term in combination with periodic reporting would similarly account for evolving national security, law enforcement, and other risks. Like the Commission's proposed periodic reporting requirement, the Commission would codify either of these options as a routine condition in its rules. The Commission notes that by rule, a submarine cable landing licensee's failure to renew its license would cause the license to expire, and "[u]pon expiration, all rights granted under the license shall be terminated."⁴⁸

39. Given changed circumstances since the Commission codified the 25-year license term, the Commission believes that a shortened license term or a shortened term in combination with periodic reporting, would be consonant with its public interest responsibilities under the Cable Landing License Act regarding national security. The Commission notes that the 25-year license term appears to relate to operational aspects of submarine cable systems.⁴⁹ Also, in light of the

⁴⁸ See 47 CFR 1.767(a)(9) (requiring applicants to certify "that the applicant accepts and will abide by the routine conditions specified in paragraph (g) of this section"); 47 CFR 1.767(g)(15) ("[T]he cable landing license shall expire twenty-five (25) years from the in-service date, unless renewed or extended upon proper application. Upon expiration, all rights granted under the license shall be terminated.").

⁴⁹ For example, according to a working group report of Communications, Security, Reliability, and Interoperability Council (CSRIC) IV, "[t]he normal planned commercial lifespan of the cables is 25 years, though they often get used for longer periods of time. Nevertheless, the commercial lifespan of submarine cable systems may extend well beyond 25 years, particular where the systems

constantly changing national security environment, 25 years is a long time period in which a license is not reviewed. Shortening the license term by itself or in combination with periodic reporting, could enable the Commission to assess—earlier than the current 25-year license term—whether a particular cable landing licensee complies with the relevant statutory and rule requirements, whether there are any rule-compliant but unreported changes in ownership or operations, or other factors that present national security, law enforcement, foreign policy and/or trade policy concerns, and whether the license continues to serve the public interest.

40. The Commission tentatively concludes that a shortened license term or a shortened term in combination with periodic reporting would provide the Commission and the relevant executive branch agencies the ability and opportunity to assess in a more timely and systematic manner, the evolving national security, law enforcement, foreign policy, and/or trade policy risks associated with cable landing licenses.⁵⁰ The Commission seeks comment on an appropriate time frame to better account for evolving risks while minimizing burdens on licensees, recognizing the significant capital expenditures and long lead times in planning and constructing submarine cable systems. What is the current lifespan of a modern submarine cable system, and should that factor into the Commission's analysis? The Commission also seeks comment on the economic impact of shortening the 25-year license term. Would a 5-year or 10-year license term alter investment incentives in new submarine cable infrastructure? Would shortened license terms impact the upgradation and maintenance of existing submarine cable systems? The Commission notes that it has adopted various license terms for differing services. For example, wireless and

have been upgraded or redeployed. Consistent with these characteristics, the Federal Communications Commission ('FCC') grants cable landing licenses for a term of 25 years (subject to renewal) from commencement of commercial service." TeleGeography, *Submarine Cable Frequently Asked Questions*, <https://www2.telegeography.com/submarine-cable-faqs-frequently-asked-questions> (last visited Nov. 12, 2024) ("[c]ables are engineered with a minimum design life of 25 years . . .").

⁵⁰ See *Executive Branch Review Report and Order*, 35 FCC Rcd at 10934–35, para. 17 (discussing executive branch referral process for those applications for international section 214 authorizations and submarine cable licenses or to assign, transfer control or modify such authorizations and licenses where the applicant has reportable foreign ownership filed pursuant to §§ 1.767, 63.18, and 63.24 of the rules, 47 CFR 1.767, 63.18, and 63.24).

broadcast licensees have renewal terms. For Miscellaneous Wireless Communications Services (WCS), the license term varies according to spectrum band, which results in different license periods such as 10, 12, or 15 years. License terms for satellites also vary. Space stations licensed under part 25 of the Commission's rules have a 15-year license term, except that small satellites have a 6-year license term and certain Satellite Digital Audio Radio Service (SDARS) and Direct Broadcast Satellite (DBS) space stations have an 8-year license term.⁵¹ In the context of broadcast licensing, each license granted for the operation of a broadcasting station is limited to a term not to exceed eight years. In the *Evolving Risks NPRM*, the Commission tentatively concluded that a 10-year timeframe is reasonable under the proposed renewal framework for structuring a formalized and systemic reassessment of carriers' international section 214 authority.⁵²

41. Would a shortened license term similar to the terms for a broadcast or wireless license or the proposed 10-year timeframe proposed for international section 214 authorizations be appropriate, and if so, why? Would adopting a 15-year license term similar to geostationary space station licenses under part 25 be more appropriate given the large capital investment typically required to launch these satellites and deploy submarine cable systems? Would a 10- to 15-year renewal time frame, as opposed to a 25-year term, better ensure that the Commission and the relevant executive branch agencies can continually reassess and account for evolving national security and other concerns? The Commission also seeks comment on whether licensees should or could ask for different renewal terms prior to the expiration of their current license term based on their particular circumstances. What is the capital

⁵¹ For geostationary space stations that are issued an initial license term for a period of 15 years, licensees may apply for a modification to extend the license term in increments of five years or less.

⁵² In the *Evolving Risks NPRM*, the Commission tentatively found that a renewal timeframe of 10 years—in conjunction with the proposal in that NPRM to require authorization holders to provide updated ownership information, cross border facilities information, and other information every three years—would ensure that the Commission and the relevant executive branch agencies can continually reassess and account for evolving national security, law enforcement, foreign policy, and/or trade policy concerns associated with international section 214 authorizations. Moreover, the Commission noted that a 10-year timeframe would minimize burdens on authorization holders and balance the Commission's policy considerations with administrative efficiency for the Commission and the relevant executive branch agencies, including the Committee.

investment and lifespan of current fiber optic cable infrastructure and how should that impact the Commission's proposal? While most cable landing licensees have asked for a renewal term of 25 years, a few have asked for a shorter term.⁵³ Should the Commission adopt a rule reserving its discretion to impose a shorter license term on a case-by-case basis based on risk factors where the Commission deems it would be in the public interest? ⁵⁴ Should a license term reset if a submarine cable landing licensee undergoes a complete review, such as during the review of a substantial assignment or transfer of control application? ⁵⁵ What factors should the Commission take into consideration in its analysis of whether to shorten the submarine cable landing license term and renewal process? The Commission seeks comment on whether to adopt a renewal expectancy standard for submarine cable licenses, subject to any approval of or objection to a proposed grant of an application by the State Department. Should such a standard apply only in the event the Commission shorten the license term? Should a specific showing at renewal be required, such as certification that the licensee has been in operation consistent with their initial application

⁵³ File No. SCL–MOD–20190305–00007, *Actions Taken Under Cable Landing License Act*, Public Notice, Report No. SCL–00238, 34 FCC Rcd 2810 (IB 2019) (granting Hawaiian Telecom, Inc.'s application to modify the cable landing license for the Hawaiian Interisland Cable System, to extend the license term for an additional five-year period).

⁵⁴ The Commission's rules expressly preserve its discretion to grant individual broadcast station licenses for less than the standard license term if the public interest, convenience, and necessity would be served by such action. See 47 CFR 73.1020(a) ("Both radio and TV broadcasting stations will ordinarily be renewed for 8 years. However, if the FCC finds that the public interest, convenience and necessity will be served thereby, it may issue either an initial license or a renewal thereof for a lesser term."); *id.* § 74.15(d) ("Lower power TV and TV translator station and FM translator station licenses will ordinarily be renewed for 8 years. However, if the FCC finds that the public interest, convenience or necessity will be served, it may issue either an initial license or a renewal thereof for a lesser term. The FCC may also issue a license renewal for a shorter term if requested by the applicant."); *1997 Broadcast License Terms Order*, 62 FR 5339 (February 5, 1997), 12 FCC Rcd at 1729, 1739, n.24, Appx. A. See also 47 U.S.C. 309(k)(2) (where applicant fails to meet the standards for renewal, the Commission may grant the application "on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.").

⁵⁵ For example, assuming the Commission were to adopt a 10-year license term, if an entity that is granted a license in 2025, so that its 10-year renewal period would be 2035, subsequently files a substantial transfer of control application which is granted in 2030, should the 10-year renewal period be reset to 2040?

for a license?⁵⁶ Commenters should address the burdens that will be placed on the licensees based on the length of the license term and identify the costs and benefits overall and impact, if any, on small businesses.

42. The Commission tentatively affirms that, regardless of whether it adopts any new license term separately or in combination with periodic reporting, the Commission will continue to exercise its existing authority, as it deems necessary, to conduct *ad hoc* reviews of submarine cable landing licenses at any time during any license term. For instance, if the Commission were to adopt a license term of 10 years combined with periodic reporting, it might still elect to exercise its existing authority to review and, if necessary, modify or revoke or terminate licenses at any time during the 10-year license term. The Commission seeks comment on its proposed approach.

43. *Potential Rules Would Apply to All Licensees.* The Commission generally seeks comment on the application of any new license term it may adopt to all submarine cable landing licensees. In particular, the Commission seeks comment on whether all submarine cable landing licenses, regardless of issuance date, should be subject to any new license term.

44. *Licensees Whose License is Granted After the Effective Date of New Rules.* With respect to licensees whose license is granted after the effective date of any new rules adopted in this proceeding, the Commission tentatively concludes that it would apply any new license term adopted in this proceeding to such licensees. If the Commission adopts a new license term, it proposes to direct OIA to include a condition in submarine cable landing licenses granted after the effective date of any new rules requiring compliance with any new license term. The Commission seeks comment on this approach.

45. *Licensees Whose License Was or is Granted Prior to the Effective Date of New Rules.* With respect to licensees whose license was or is granted prior to the effective date of the new rules, the Commission seeks comment on whether

their existing license term should remain the same, but that at the time of renewal, the Commission would apply any new license term it adopts in this proceeding. The Commission also seeks comment on whether any license granted after the issuance of the *NPRM* and before the effective date of the new rules should be subject to any shortened term the Commission may adopt in this proceeding.⁵⁷ If the Commission applies a shortened license term to existing licenses, how should it handle situations in which an existing license has been in effect for a period that exceeds the new license term?

46. *Other Matters.* The Commission seeks comment on whether to apply any shortened license term as a condition of granting an application for a substantial and/or *pro forma* assignment or transfer of control of an existing submarine cable landing license. The Commission also seeks comment on whether cable landing licensees that have a pending renewal application prior to the effective date of any shortened license term should be subject to any new license term the Commission might adopt.

47. *Due Process and Retroactivity.* The Commission seeks comment on due process and retroactivity concerns—including “primary” versus “secondary” retroactivity—that may arise from modifying existing licenses to conform the license term with any shorter term that may be adopted in final rules or from applying a new, shorter license term as a condition of granting applications for modification, assignment, transfer of control, and renewal or extension of existing licenses.⁵⁸

48. The courts have established a distinction for rules between “primary” retroactivity and “secondary” retroactivity. A rule is primarily retroactive if it (1) “increase[s] a party’s liability for past conduct”; (2) “impair[s] rights a party possessed when he acted”; or (3) “impose[s] new duties with respect to transactions already completed.” The standard for primary retroactivity assesses whether a rule has changed the past legal consequences of past actions. In contrast, a rule would be “secondarily” retroactive if it “affects a regulated entity’s investment made in

reliance on the regulatory status quo before the rule’s promulgation.” Secondary retroactivity will be upheld “if it is reasonable.”

49. The Commission tentatively concludes that any shorter license term it ultimately adopts would not be “primarily” retroactive, as the mere adoption of such a requirement would not make past conduct unlawful, alter rights the licensee had at the time when it acted, or impose new duties with respect to completed transactions.

50. The Commission recognizes, however, that such a requirement could upset the expectations of existing submarine cable landing licensees. To the extent that applying any new license term may constitute “secondary” retroactivity, the Commission seeks comment on any impact of applying a new license term to existing licensees. How would such an impact compare to the benefits of applying a shortened license term to existing submarine cable landing licenses, including those granted before the issuance of the *NPRM*, such as providing for a more timely, systematic, and uniform review process that will enable the Commission to consider pertinent issues, including national security, law enforcement, foreign policy, and/or trade policy concerns, in the context of a renewal application without waiting for current licenses to expire, potentially decades from now? The Commission also seeks comment on whether and under what circumstances denial of a submarine cable landing license renewal application or an application for assignment/transfer of control would trigger primary or secondary retroactivity concerns. For example, if the Commission adopts a shorter license term and applies it to existing licensees, would non-renewal of a submarine cable landing license based on evolving national security, law enforcement, foreign policy, and/or trade policy risks, regardless of that submarine cable landing licensee’s prior compliance with the Commission’s rules, have primary or secondary retroactive effect? Additionally, would the application of a new license term to existing cable landing licensees require different standards or procedures based on retroactivity, reliance interests, or fair notice concerns? How would application of a new license term to existing licensees affect those licensees’ operations, financial position, or investment incentives?

⁵⁶ The Commission notes that broadcast licenses must be renewed unless the Commission makes one of the findings enumerated by statute. See also *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 to Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, WT Docket No. 10–112, Second Report and Order (82 FR 41530, September 1, 2017) and Further Notice of Proposed Rulemaking (82 FR 41580, September 1, 2017), 32 FCC Rcd 8874 (adopting rules that, among other things, establish a consistent standard for renewing wireless licenses).

⁵⁷ The Commission notes that applicants seeking licenses after issuance of the *NPRM* will be aware of the possibility that the Commission may adopt a shortened license term and that any new license term may be a condition of grant of their application.

⁵⁸ See, e.g., *Mobile Relay Assocs. v. FCC*, 457 F.3d 1, 11 (D.C. Cir. 2006) (non-renewal resulting from a new regulatory framework may “upset[] expectations based on prior law,” but that is not primarily retroactive).

B. Updated Application Requirements for National Security and Other Purposes

51. In this section, the Commission proposes and seeks comment on appropriate applicant and application requirements to account for the evolution of technologies and facilities and changes in the national security landscape over the last two decades. The Commission's goal is to update and improve its rules to ensure it has targeted and granular information regarding the ownership, control, use of a submarine cable system, and other things, which are critical to the Commission's review to assess potential national security risks and other important public interest factors.

1. Requirements To Be an Applicant/Licensee

52. The Commission seeks comment on modernizing its existing rules setting forth minimum applicant/licensee eligibility requirements to ensure that the Commission identifies and captures information on those entities that own and control the submarine cable system and connect with terrestrial networks in the United States.⁵⁹ Currently, § 1.767(h) of the Commission's rules identifies the following as those entities that, at a minimum, shall be applicants for and licensees on a cable landing license: (1) "[a]ny entity that owns or controls a cable landing station in the United States[.]" and (2) "[a]ll other entities owning or controlling a five percent (5%) or greater interest in the cable system and using the U.S. points of the cable system."⁶⁰ The Commission seeks comment generally on an appropriate rule that would capture who should be an applicant/licensee on a cable landing license under the Cable Landing License Act today and in the future to ensure the Commission meets its public interest responsibilities.

53. Entities that Own or Control a U.S. Landing Station or Submarine Line

⁵⁹ The Commission has reserved the ability to expand the minimum requirements as to who must apply for and become a licensee on a cable landing license. 47 CFR 1.767(h) ("Except as otherwise required by the Commission, the following entities, at a minimum, shall be applicants for, and licensees on, a cable landing license . . ."). Although the Commission prescribes the minimum requirements concerning who must be an applicant for and licensee on a cable landing license, this does not foreclose entities that do not meet the minimum requirements from applying to be joint applicants for and licensees on a cable landing license.

⁶⁰ The Commission has reserved the ability to expand the types of entities who must be applicants and licensees on a cable landing license. Section 1.767(h) (stating that "Except as otherwise required by the Commission . . ."). Thus, other entities are not foreclosed from applying to be a joint applicant and licensee.

Terminal Equipment (SLTE). The Commission seeks comment on whether to require not only entities that own or control the U.S. cable landing station, but also entities that own or control the SLTE or equivalent equipment to be applicants for and licensees on a cable landing license. The SLTE is among the most important equipment associated with the submarine cable system and this modification to the Commission's rule would enable it to know and assess any national security and law enforcement concerns related to the entities that will deploy SLTE and thus who can significantly affect the cable system's operations. Specifically, the Commission seeks comment on whether to expand the applicant/licensee requirement to include any entity that owns or controls or operates a cable landing station(s) or the SLTE or equivalent that converts submarine signals into terrestrial signals located in the U.S. portion of a cable system. The Commission believes that including the term "submarine line terminal equipment" and a general description of the functionality of the equipment would better reflect technological advances in submarine cable systems. Would this be consistent with the statutory requirement that "[n]o person shall land or operate . . . any submarine cable" without a license as specified in the Cable Landing License Act? Moreover, the Commission believes that including such language would capture the potential of a submarine cable system to have more than one cable landing station or a cable landing station that includes multiple SLTEs that could be located farther inland such as in another facility (e.g., a data center). A proposed cable system could also have multiple locations where SLTE is deployed. The Commission seeks comment on whether and if so, how, to incorporate entities with ownership and control of SLTE into the Commission's regulatory framework. Lastly, the Commission seeks comment on how this potential change could impact existing entities, including small business entities, that were not previously required to obtain a cable landing license but now would be required to do so because they own or control SLTE. Should the Commission apply any new requirement to such existing entities and if so, when should it require such existing entities to submit applications? The Commission seeks comment on the burdens this potential change could have on such existing entities, as well as existing licensees, which may include small entities, including how

long it would take them to comply with this potential requirement.

54. This option would require any entity with ownership or control of a cable landing station or SLTE or equivalent equipment to be applicants/licensees for a submarine cable landing license. Under this option, Indefeasible Right of Use (IRU)⁶¹ holders or grantees likely meet these requirements. As background, companies that own and operate submarine cable systems may choose to use the capacity on their submarine cable systems themselves or seek to lease, sell, or swap unused or unowned capacity to recoup their investment in the submarine cable project. Internet Content Providers (ICPs) that are licensees may use the capacity themselves to connect to their data centers abroad to serve customers globally. Alternatively, they may choose to sell, lease, or swap capacity of the submarine cable fiber to telecommunications companies or other entities in need of capacity along a certain route, such as research institutions, education institutions, governments, banks, and enterprises, among others.

55. Although IRUs can be short-term, they more typically constitute long-term contracts of 20 years or longer and provide a holder or grantee with a certain amount of bandwidth of capacity or fiber on a submarine cable system.⁶² These contracts provide holders or grantees with the rights to use the capacity, which includes equipment, fibers, or capacity, and may constitute assets as well, even though legal title is held by the grantor.⁶³ Holders or

⁶¹ See also Katie Terrell Hanna, TechTarget, *Definition: Indefeasible Right of Use (IRU)* (March 2022), <https://www.techtarget.com/searchunifiedcommunications/definition/Indefeasible-Right-of-Use> ("In telecommunications, the Indefeasible Right of Use (IRU) is a contractual agreement (temporary ownership) of a portion of the capacity of an international cable. As the name suggests, the contract provides an indefeasible right to use a cable and cannot be annulled or voided. IRU contracts are specified in terms of a certain number of channels of a given bandwidth.") (*IRU Definition*); *id.* ("Large-scale internet service providers (ISPs) are typical IRU owners. This gives ISPs the ability to assure their own customers of international telecom service on a long-term basis. IRU fibers are also referred to as dark fibers. Here, dark fiber means fiber between two locations that has no electronics attached to it. This needs to be lit by the IRU grantee rather than the cable provider.").

⁶² *Understanding IRU Fiber: A Comprehensive Guide*, 123NET (Mar. 15, 2024), <https://www.123.net/blog/understanding-iru-fiber-a-comprehensive-guide/> ("An Indefeasible Right of Use (IRU) agreement is a legal contract that grants the buyer a permanent right to use a portion of a fiber-optic cable's capacity for a set period.").

⁶³ Fernando Margarit *et al.*, *IRUS AND FIBER OPTIC CABLES: An Overview and Examination of Associated Risks*, Submarine Telecoms Forum,

grantees of these rights may further lease out capacity to other companies that need only a portion of the holder's capacity. The contracts to lease unused or unowned capacity typically constitute short-term contracts of five years or may be shorter or longer and, unlike IRUs, generally do not require an upfront payment. However, these lease contracts do typically require monthly payments during the course of the lease term and provide a grantee with a certain amount of bandwidth of capacity or spectrum of a fiber on a submarine cable system. Importantly, as noted above, some IRU holders or grantees, such as dark fiber IRU holders, may own, control, and use specific SLTE at the ends of the cable system to interconnect with their terrestrial networks,⁶⁴ and such SLTE could be physically or logically accessed by IRU holders or grantees, thus potentially raising national security and law enforcement concerns arising from the Commission's lack of information about and regulatory oversight of these relationships and the ownership of the IRU holder or grantee.

56. Would requiring entities with ownership or control of a cable landing station or SLTE to be applicants/licensees for a submarine cable landing license appropriately address national security and law enforcement concerns regarding physical and/or logical access? Would this be consistent with the statutory requirement that "[n]o person shall land or operate . . . any a submarine cable" without a license as specified in the Cable Landing License Act? Does the Commission's legal authority to withhold or grant a cable landing license⁶⁵ extend to authorizing such purchases or sales of capacity? Would this be consistent with the statutory requirement to obtain a license to "land or operate . . . any submarine cable"? If the Commission requires such entities that meet this requirement to become applicants/licensees for a

submarine cable landing license, how should this requirement be implemented as to such existing entities as well as existing licensees? The Commission seeks comment on the burdens this potential change could have on affected entities, including small entities, and to identify how long it would take them to comply with this potential requirement.

57. The Commission notes that with respect to the entities that own or control the cable landing stations, it frequently receives waiver requests from entities, such as data center owners, that do not seek to become an applicant or licensee. These entities state that they own the real property/facility in which the cable landing station is located but do not have any ability to significantly affect the cable system's operation.⁶⁶ The Commission has granted such waiver requests, based on its review of the particular circumstances raised in each waiver request and done so in coordination with the Committee, as necessary.⁶⁷ The Commission seeks comment generally on the applicability of its rules to data center owners, including the access they have over submarine cables and the site operations, such as physical security, power, backup power, HVAC, and other environmental support essential to proper operations of cable landing systems housed in their facilities.

58. *Own or Control a 5% or Greater Interest in the Cable System and Using the U.S. Points of the Cable System.* The Commission seeks comment on whether it should retain the requirement that an entity that owns or controls a 5% or greater interest in the cable and uses the U.S. points of the cable system shall be an applicant for and licensee on a cable landing license. Prior to the rules adopted in 2001, there was no exception for those entities that owned less than a 5% interest in the cable. In the *2001 Cable Report and Order*, the Commission recognized that "the greater a firm's investment in a cable system, the greater ability the firm has to influence the way in which a cable is operated . . . [and] observed that entities with minimal investment in a cable system, on the other hand, do not have the same ability to affect the

operation of the cable system[.]"⁶⁸ The Commission concluded that "there is not the same need, therefore, to subject these entities to the conditions and responsibilities that come with a cable landing license" unless such entities had at least a 5% or greater ownership interest in the cable system and used the U.S. points of the cable system. At the time of that proceeding, it was commonplace for consortia of many telecommunications companies to join to co-fund and own and operate a submarine cable system. Now, it is less common for consortia of more than a few entities to jointly pursue a submarine cable project. Moreover, the 5% ownership threshold was created in part to not unduly burden small carriers or investors that lacked the ability to significantly affect the operation of a cable system, such as those consortia members that entered the consortia to obtain capacity on the cable system, but held minimal investments in the cable system and did not have any ability to control the submarine cable system.

59. Should the Commission retain the 5% or greater interest threshold requirement for the same reasons noted above? Is the same rationale to retain the 5% threshold reasonable in today's national security environment? Do commenters believe the Commission can accomplish its goals in this proceeding by retaining the 5% threshold? At this level of ownership, can the Commission continue to properly assess whether certain applicants present any national security and law enforcement risks? If the Commission retains the 5% threshold, will it be able to assess whether entities should not obtain a submarine cable license based on public interest assessments? Or should the Commission instead adopt a lower or higher threshold, and if so, why? If the Commission retains a threshold for when an owner of the cable must be an applicant/licensee, the Commission seeks comment on whether it should require the applicant(s) to identify all of the owners of the cable, and for those owners that are not applicants, provide an explanation for each one as to why it is not required to be an applicant/licensee.

<https://subtelforum.com/telecom-indefeasible-rights-of-use/> (last visited Aug. 11, 2024) ("These critical instruments grant exclusive, long-term rights to use specific assets, such as fiber cables, closely mirroring actual ownership without the transfer of legal title.").

⁶⁴ *Open Submarine Cables Handbook* at 4 ("Apart from increased competition for the SLTE supply and deployment of the latest SLTE technology, the open cable model is also more adapted to new business models by providing multiple system owners more independence. Many recent new cables have been built with a per-fiber pair ownership model allowing multiple cable systems owners to use different SLTE (including management systems) on their own fiber pairs. Spectrum sharing within a fiber pair can also be supported. Lastly, when the different owners want to upgrade, they can do so independently from the other owners.").

⁶⁵ 47 U.S.C. 35.

⁶⁶ The Commission has seen instances where a submarine cable system will land in an internet exchange, PoP, data center, or a like facility that is owned by a company that leases colocation space and services to submarine cable owners and operators but does not have any ability to significantly affect the cable system's operation.

⁶⁷ See e.g., File No. SCL-LIC-20210329-00020, *Actions Taken Under Cable Landing License Act*, Public Notice, Report No. SCL-00353, DA 22064 (IB 2022) (granting the applicants' request for a waiver of 47 CFR 1.767(h)(1)).

⁶⁸ *2001 Cable Report and Order*, 16 FCC Rcd at 22167, n.131 (citing *2000 Cable NPRM*, 65 FR 41613 (July 6, 2000), 15 FCC Rcd at 20824, para. 82); see *id.* at 22194–95, paras. 53–54 (modifying the rules to require any entity that could exert influence or control over the cable system or who owned or controlled the cable landing station(s), or the facilities that would permit the cable to interconnect to a terrestrial network in the United States, to be an applicant and licensee on a cable landing license).

60. The Commission also seeks comment on how entities are currently calculating ownership interests to determine if they hold a 5% or greater interest.⁶⁹ Should the Commission specify a method for making this calculation? If so, what is an appropriate basis for the calculation given all of the varying pieces of infrastructure in a cable system—the U.S. cable landing station(s) that has the terminal equipment, including the SLTE and the dry segment; the wet segment (including the U.S. beach manhole and every segment and branching unit of the cable system to the foreign beach manhole(s)); and ultimately, the foreign dry plant(s) terminating with the SLTE in the cable landing station(s)? Should the calculation be based on the number of fiber pairs owned by each entity, the percentage of capacity held by each entity, the percent of the total cost of the cable system that each applicant is contributing, or the percentage of the total distance of the cable system from SLTE to SLTE or from beach manhole to beach manhole?⁷⁰ The Commission seeks comment on these and other bases for making this calculation.

61. In discussing the basis for adopting the 5% requirement in the *2000 Cable NPRM*, the Commission stated that it intended for an entity that has a “five percent or greater ownership interest in the proposed cable . . . and . . . will use the U.S. points of the cable system in *any capacity*, unless that use was simply to hard patch through the United States and would not drop traffic in the United States or would use the U.S. points to re-originate traffic,” to be included as an applicant. The Commission, however, did not further define the phrase “use of the U.S. points of the cable system” in the *2001 Cable Report and Order*. Since the Commission adopted this rule over two decades ago, are there new developments in the landing and operation of submarine cable systems that the Commission should take into account when providing guidance on

what it means to use the U.S. points of the cable system? In addition, how should the Commission consider use of the U.S. points of the cable system when the traffic’s destination is not the United States? The Commission seeks comment on whether and how it should consider “use of the U.S. point” today and for the benefit of any public interest concerns.

62. *Any Entity that Owns the Submarine Cable System.* The Commission seeks comment on whether it should instead require any entity that owns the submarine cable system to be an applicant/licensee, even if the entity does not use the cable system. Should the Commission require that any entity that owns any interest in the cable to become a licensee similar to the Commission’s rules prior to 2001? Prior to the rules adopted in 2001, there was no exception for those entities that owned less than a 5% interest in the cable. Would this approach be consistent with the statutory requirement that no person shall “land or operate . . . any submarine cable” without a license as specified in the Cable Landing License Act? Given the importance of this critical infrastructure and to protect against national security and law enforcement threats, would a rule requiring entities that have any ownership in the cable system to become applicants/licensees be more appropriate today and into the future? Could the Commission better accomplish its goals by adopting this requirement? What are the benefits and concerns with adopting this rule and how would this increase the number of applicants/licensees? What burdens would be imposed on existing and future applicants/licensees, including any implementation concerns? How would this option affect investment incentives and what would be the impact for implementation of this option on existing licenses? How long would it take for entities to come into compliance? How would this change affect small entities? If the Commission were to adopt this rule, would it be able to better assess applicants/licensees for any public interest concerns, including national security or law enforcement risks?

63. *Any Entity that Has Capacity on the Submarine Cable System.* The Commission seeks comment generally on whether to require any entity that holds capacity on the submarine cable to be an applicant/licensee. Would this be consistent with the statutory requirement that no person shall “land or operate . . . any submarine cable” without a license as specified in the Cable Landing License Act? Any entity that holds capacity on the submarine

cable system, such as an entity that leases capacity and may not own the terminal equipment or SLTE, may still have an ability to operate a portion of the cable system. Would this broader requirement better facilitate the Commission’s public interest assessment? Would small entities be affected by this rule change? For example, the Commission seeks comment on whether holding capacity on the cable system should be defined to include the leasing, purchasing, selling, buying, or swapping of a fiber (spectrum, capacity, partial fiber pair, or a full fiber pair, among others) for transmission of voice, data, and internet over the cable system to interconnect with a U.S. terrestrial network. The Commission seeks comment on whether the rule should be limited to entities that hold capacity and are selling, leasing, and/or swapping spectrum or capacity, or extend to those entities that enter into contracts or arrangements to receive spectrum or capacity or a fiber pair. The Commission seeks comment on the same implementation questions as above. For example, what burdens would be imposed on existing and future applicants/licensees? How would this option affect investment incentives and what would be the impact for implementation of this option on existing licenses? How long would it take for entities to come into compliance? How would this change affect small entities? Should the rule apply to entities that lease or employ SLTE in the U.S. point(s) of the cable system for operation of spectrum or capacity? The Commission intends that the rule should not extend to customers on the edge of a network and should instead apply to entities that hold capacity and are using the U.S. end of a submarine cable, which may include ICPs, telecommunications providers, or other businesses.

2. Presumption of Entities Not Qualified To Become a New Submarine Cable Landing Licensee

64. To protect U.S. communications networks from national security and law enforcement threats, the Commission proposes to adopt a presumption that certain entities and their current and future affiliates and subsidiaries shall not be qualified to become a new submarine cable landing licensee. The Commission proposes that such entities shall bear the burden of overcoming this presumption if they file an application for a cable landing license. The Commission also seeks comment on whether it should instead adopt a categorical qualifying condition that would preclude the grant of a cable

⁶⁹ 47 CFR 1.767(h)(2) (“All other entities owning or controlling a five percent (5%) or greater interest in the cable system and using the U.S. points of the cable system” shall be applicants for, and licensees on, a cable system). The Commission has reserved the ability to expand the types of entities who must be applicants and licensees on a cable landing license. 47 CFR 1.767(h) (stating that “Except as otherwise required by the Commission. . . .”). Thus, other entities are not foreclosed from applying to be a joint applicant and licensee.

⁷⁰ For example, assuming that the total cable system distance was 20,000 km, and Company A owns a segment of a cable system that is 1,000 km in length and will use the U.S. points of the cable system, should Company A be attributed with a 5% ownership (1,000 km/20,000 km = 0.05) and required to be an applicant/licensee?

landing license application filed by any applicant: (1) that is directly and/or indirectly owned or controlled by, or subject to the influence of a government organization of a foreign adversary country, as defined under 15 CFR 791.4; (2) that is directly and/or indirectly owned or controlled by, or subject to the influence of an individual or entity that has a citizenship(s) or place(s) of organization in a foreign adversary country; (3) that is directly and/or indirectly owned or controlled by, or subject to the influence of an individual or entity on the Commission's Covered List; and/or (4) that is using or will use equipment or services identified on the Commission's Covered List in the proposed submarine cable infrastructure. Should the Commission also adopt a categorical qualifying condition based on other U.S. Government determinations that certain individuals and entities pose national security or other risks, such as the Consolidated Screening List from the Departments of Commerce, State, and Treasury?⁷¹

65. Specifically, the Commission proposes to adopt a presumption that any entity whose application for international section 214 authority was previously denied or whose domestic or international section 214 authority was previously revoked in view of national security and law enforcement concerns, and its current and future affiliates and subsidiaries, shall not be qualified to become a new cable landing licensee. The Commission proposes to apply the definitions of affiliate and subsidiary that are set out in § 2.903(c) of the rules and seeks comment on this approach.⁷² The Commission proposes that such entities shall bear the burden of overcoming this presumption if they file an application for a cable landing license. Accordingly, the Commission proposes to adopt this presumption with respect to the following entities and their current and future affiliates and subsidiaries—China Mobile USA, CTA, CUA, Pacific Networks, and

ComNet.⁷³ In the *China Mobile USA Order*, *China Telecom Americas Order on Revocation and Termination*, *China Unicom Americas Order on Revocation*, and *Pacific Networks and ComNet Order on Revocation and Termination*,⁷⁴ the Commission found that these entities are subject to exploitation, influence, and control by the Chinese government, and that mitigation would not address the national security and law enforcement concerns. Further, in the *2024 Open Internet Order* (89 FR 45404, May 22, 2024), the Commission excluded China Mobile USA, CTA, CUA, Pacific Networks, ComNet, and their current and future affiliates and subsidiaries from grant of blanket section 214 authority for the provision of broadband internet access service (BIAS). Consistent with the Commission's findings in those proceedings, it believes that allowing entities whose authorizations have been denied or revoked on national security and law enforcement grounds to access critical communications infrastructure would present significant and unacceptable risks.⁷⁵ Furthermore, the Commission proposes to adopt this presumption with respect to any entity whose application (including an application for any authorization or license) is or was previously denied or whose authorization or license is or was previously revoked and/or terminated on national security or law enforcement grounds, and its current and future affiliates and subsidiaries.

66. The Commission tentatively finds that its proposal to adopt a presumption that these entities shall not be qualified to become a new cable landing licensee is consistent with the Commission's statutory authority to withhold cable landing licenses under the Cable Landing License Act and Executive Order 10530. The Cable Landing License Act sets forth, among other things, that the President "may withhold or revoke such license when he shall be satisfied after due notice and

hearing that such action . . . will promote the security of the United States."⁷⁶ The authority vested in the President is delegated to the Commission pursuant to Executive Order 10530.⁷⁷ The Commission tentatively finds that it has authority to adopt this presumption with respect to a class of entities, and to assign them the burden of overcoming the presumption in any cable landing license application, where it relates to the Commission's evaluation as to whether withholding a cable landing license from such entities would "promote the security of the United States." The Commission seeks comment on these tentative findings.

67. In the recent section 214 denial proceeding and revocation proceedings, the Commission extensively evaluated national security and law enforcement considerations raised by existing section 214 authorizations and determined, based on thorough record development, that the present and future public interest, convenience, and necessity was no longer served by those carriers' retention of their section 214 authority. The Commission believes the same national security and law enforcement concerns identified in those proceedings equally exist with respect to these entities seeking to land or operate a submarine cable in the United States. The Commission therefore believes that its determinations in those proceedings are directly relevant to the determination as to whether grant of a new cable landing license to the identified entities and their current and future affiliates and subsidiaries would serve the public interest. The Commission seeks comment on this proposal.

68. The Commission also proposes to presume that any entity whose

⁷¹ The Consolidated Screening List is a list of parties for which the United States Government maintains sanctions or restrictions on certain exports, reexports, or transfers of items.

⁷² 47 CFR 2.903(c) (defining "affiliate" as "an entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another entity; for purposes of this paragraph, the term 'own' means to have, possess, or otherwise control an equity interest (or the equivalent thereof) of more than 10 percent"); *id.* (defining "subsidiary" as "any entity in which another entity directly or indirectly: (i) Holds de facto control; or (ii) Owns or controls more than 50 percent of the outstanding voting stock").

⁷³ The Commission's proposed approach would not modify the cable landing licenses currently held by affiliates of these identified entities. The Commission retains the authority to revoke a licensee's cable landing license when warranted.

⁷⁴ See *China Telecom Americas Order on Revocation and Termination*; *China Unicom Americas Order on Revocation*; *Pacific Networks and ComNet Order on Revocation and Termination*.

⁷⁵ *2024 Open Internet Order* at *131, paras. 339–340; see also *id.* at para. 32 ("There can be no question about the importance to our national security of maintaining the integrity of [the Commission's] critical infrastructure, including communications networks . . . Disruptions of communications can easily have significant cascading effects on other critical infrastructure sectors that rely on communications.").

⁷⁶ 47 U.S.C. 35 ("The President may *withhold* or *revoke* such license when he shall be satisfied after due notice and hearing that such action will assist in securing rights for the landing or operation of cables in foreign countries, or in maintaining the rights or interests of the United States or of its citizens in foreign countries, or *will promote the security of the United States* . . .") (emphasis added).

⁷⁷ Executive Order 10530, section 5(a) (The Federal Communications Commission is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, all authority vested in the President by the act of May 27, 1921, ch. 12, 42 Stat. 8 (47 U.S.C. 34 to 39), including the authority to issue, withhold, or revoke licenses to land or operate submarine cables in the United States: *Provided*, That no such license shall be granted or revoked by the Commission except after obtaining approval of the Secretary of State and such advice from any executive department or establishment of the Government as the Commission may deem necessary. The Commission is authorized and directed to receive all applications for the said licenses.).

application for a Commission authorization is or was previously denied, or whose license or authorization for any service is or was previously revoked and/or terminated, for national security and/or law enforcement reasons, and their current and future affiliates and subsidiaries, is presumptively unqualified to hold a cable landing license. The Commission notes this approach would supplement the Commission's existing character qualifications policy, which looks to whether an applicant has violated the Communications Act or Commission rules, has been convicted of a felony, or has engaged in other specified types of misconduct indicating that the applicant is not trustworthy or reliable. The Commission also seeks comment on whether there are other types of entities that also pose national security, law enforcement, or other concerns and to which the Commission should apply a similar presumption that such entities shall not be qualified to become cable landing licensees and must overcome such a presumption in any cable landing license application that they file with the Commission. What factors or criteria should inform the Commission's determination of any such types of entities and whether they pose national security, law enforcement, and other concerns that warrant adoption of such a presumption? The Commission also seeks comment on whether it should apply a standard in assessing whether such entities have overcome this presumption in any application that is filed for a new cable landing license.

69. The Commission seeks comment on whether it should instead adopt a categorical qualifying condition that would preclude grant of any submarine cable application—including an application for a cable landing license or the modification, assignment, transfer of control, or renewal or extension of such license—filed by any applicant that is directly and/or indirectly owned or controlled by, or subject to the influence of, (1) a government organization of a “foreign adversary” country, and/or (2) an individual or entity that has a citizenship(s) or place(s) of organization in a “foreign adversary” country, as defined under 15 CFR 791.4. If so, what ownership threshold should the Commission apply to any categorical condition precluding the grant of a cable landing license application filed by applicants that are owned by foreign interest holders associated with a foreign adversary country? For example, should the Commission preclude grant of a cable landing license application filed by any

applicant that is directly and/or indirectly majority-owned by such foreign interest holders? Or should the Commission preclude grant of a cable landing license application filed by any applicant that has a direct and/or indirect 10% or greater foreign interest holder associated with a foreign adversary country? Is 10% the appropriate threshold, or should the Commission adopt a greater or lesser threshold?

70. The Commission seeks comment on whether it should prohibit cable landing licensees from entering into arrangements for IRUs or leases for capacity on submarine cables landing in the United States, with any entity that has a citizenship(s) or place(s) of organization in a “foreign adversary” country, as defined under 15 CFR 791.4. The Commission also seeks comment on whether it should prohibit cable landing licensees from entering into such arrangements with any entity that is directly and/or indirectly owned or controlled by, or subject to the influence of, (1) a government organization of a foreign adversary country, and/or (2) any individual or entity that has a citizenship(s) or place(s) of organization in a “foreign adversary” country, as defined under 15 CFR 791.4. What ownership threshold should the Commission apply to the extent it prohibits cable landing licensees from entering into arrangements for IRUs or leases for capacity with entities that are owned by foreign interest holders associated with a foreign adversary country? For example, should the Commission prohibit licensees from entering into such arrangements with any entity that is directly and/or indirectly majority-owned by such foreign interest holders? Or should the Commission prohibit licensees from entering into such arrangements with any entity that has a direct and/or indirect 10% or greater foreign interest holder associated with a foreign adversary country? Is 10% the appropriate threshold, or should the Commission adopt a greater or lesser threshold? Additionally, the Commission seeks comment on whether to adopt rules that prohibit cable landing licensees from landing a cable licensed by the Commission in certain locations, such as landing points in a “foreign adversary” country, as defined under 15 CFR 791.4.

3. Five (5) Percent Threshold for Reportable Interests

71. The Commission seeks comment on whether to lower the current 10% ownership reporting threshold to five percent (5%) or greater direct and

indirect equity and/or voting interests in the applicant(s) and licensee(s). The 5% threshold would apply to initial applications for cable landing licenses and applications for modification, assignment, transfer of control, and renewal or extension of submarine cable licenses. Currently, applicants for a submarine cable landing license must submit the information required in § 63.18(h) of the rules, including identification of “any individual or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent).”

72. The Commission believes that greater insight into the ownership of applicants and licensees who own, control, and operate submarine cable systems is crucial to responding to the evolving threat environment, and that the current reporting threshold of 10% may not capture all interests that may present national security and policy concerns. When the Commission adopted the Standard Questions in the *2021 Standard Questions Order* (86 FR 68428, December 2, 2021), it incorporated input from the Committee staff recommending a 5% ownership reporting threshold. The Commission noted the views of the Committee staff that it was important because “when ownership is widely held, five percent can be a significant interest” and “a group of foreign entities or persons, each owning nine percent and working together, could easily reach a controlling interest in a company without having to disclose any of their interests.”

73. Moreover, both the Commission and other Federal Government entities use a 5% reporting threshold. The Commission notes that the Commission uses a 5% ownership threshold in the broadcast context.⁷⁸ Additionally, a reporting threshold of 5% applies to information that U.S. public companies and their shareholders provide to the Securities and Exchange Commission (SEC). The regulation at 17 CFR 240.13d–1 (Exchange Act Rule 13d–1) requires a person or “group” that becomes, directly or indirectly, the

⁷⁸ 47 CFR 73.3555, n.2 (“[t]he sum of the interests other than those held by or through ‘passive investors’ is equal to or exceeds 5 percent.”); *FCC Form 323 Instruction for Ownership Reports for Commercial Broadcast Stations*, at 5 (“Each officer, director, and owner of stock accounting for 5 percent or more of the issued and outstanding voting stock of the Respondent is considered the holder of an attributable interest, and must be reported.”), <https://www.fcc.gov/sites/default/files/323.pdf> (last visited Oct. 22, 2024).

“beneficial owner” of more than 5% of a class of equity securities registered under section 12 of the Exchange Act to report the acquisition to the SEC. The Commission notes that various SEC forms filed by issuers, including their annual reports (or proxy statements) and quarterly reports, require the issuer to include a beneficial ownership table that contains, among other things, the name and address of any individual or entity, or “group,” who is known to the issuer to be the beneficial owner of more than 5% of any class of the issuer’s voting securities. A reporting threshold of 5% would also be consistent with that required by the Committee on Foreign Investment in the United States (CFIUS)⁷⁹ from parties to a voluntary notice filed with CFIUS. The 5% threshold thus appears to be a generally accepted benchmark for understanding the investors in an entity. The Commission also anticipates, based on this fact, that entities generally will or should already know their 5% interest holders. Thus, the Commission tentatively concludes that its proposal to adopt a reporting threshold of 5% would be consistent with the reporting requirements of other Federal agencies and would impose minimal burdens on applicants.

74. The Commission seeks comment on whether a reporting threshold of 5% equity and/or voting interest adequately captures the relationship, association, and/or extent of influence that an investor may have in an applicant. Would a reporting threshold of 5% equity and/or voting interests sufficiently account for powers held by shareholders with less than 5% equity and/or voting interests but who may hold other special privileges or powers in the corporate structure? For instance, would the reporting threshold account for a situation where a foreign government interest holder with a smaller ownership and/or voting interest, below the 5% threshold, may wield a disproportionately significant influence on the applicant through “golden shares?”⁸⁰ Should the

Commission require additional information about an applicant’s reportable interest holders? Should the Commission expand the reportable interests beyond percentages of equity and/or voting interests, for example, by requiring applicants to identify other types of interests or interest holders, such as management agreements? What other indicia of significant influence or control should the Commission consider in order to fully identify interest holders that are either foreign governments or foreign state-owned entities? What additional information would fully inform and assist the Commission’s assessment of any national security, law enforcement, foreign policy, and/or trade policy risks raised by such interest holders?

75. The Commission seeks comment on what, if any, potential burdens would be imposed on applicants if they were required to report direct and indirect equity and/or voting interests at a 5% threshold. The Commission also seeks comment on ways for the Commission to minimize those burdens. While the Commission anticipates that most entities should readily be able to identify their 5% interest holders given other existing reporting requirements at that threshold, the Commission seeks comment on this belief. The Commission likewise invites comment on whether this lower reporting threshold will generally result in the identification of a substantially, or only marginally, greater number of interest holders.⁸¹

76. Commenters should also address whether there are any privacy concerns implicated by the lower reporting threshold, and whether this information is “financial information” of a privileged and confidential nature. Do licensees and interest holders view this information as confidential? What, if any, privacy or other harms, would result from disclosure of these interest

entities. “[g]olden shares are essentially a special class of stock issued to the privatizing government that grants special voting and veto rights that are disproportionate to, or even independent of, its cash-flow rights in the company.”); see also Reuters, *Fretting about data security, China’s government expands its use of “golden shares”* (Dec. 15, 2021), <https://www.reuters.com/article/china-regulationdata-idCAKBN2IU2B7> (“Seeking influence, Beijing began taking golden shares in private online companies—usually about 1% of a firm—some five years ago. The stakes are bought by government-backed funds or companies which gain a board seat and/or veto rights for key business decisions.”).

⁸¹ To the extent that the lower reporting threshold results in a substantial increase in the number of interest holders identified—or as otherwise required by other proposals in the *NPRM*—the Commission will make necessary changes to applicable Privacy Act System of Records Notices (SORNs).

holders?⁸² The Commission tentatively concludes that the privacy interest of 5% interest holders, if any, in not being identified in applications and any interest in withholding privileged and confidential financial information of this nature is outweighed by national security and other public interest benefits from such reporting. Moreover, the Commission believes that these interests can be otherwise protected. For instance, if the Commission adopts a 5% reporting threshold, filers can seek confidential treatment, as is the case under the Commission’s current reporting threshold. The Commission seeks comment on whether it should instead treat the disclosure of certain ownership interests of 5% and up to less than 10% as presumptively confidential,⁸³ without requiring the applicant to file a request for confidentiality. The Commission notes that the ownership information must not be publicly available elsewhere either in this country or another country for us to treat it as presumptively confidential. Alternatively, should the Commission require public disclosure of ownership interests of 5% and up to less than 10% of only those interest holders that are citizens, entities, or government organizations of foreign adversary countries, as defined in the Department of Commerce’s rule, 15 CFR 791.4?

4. Submarine Cable Infrastructure Information

77. Consistent with the Commission’s goal of ensuring it has sufficient information concerning this critical infrastructure, the Commission proposes to require applicants⁸⁴ for a cable

⁸² Commenters should identify any harms from disclosure that would warrant the withholding of this information under the Commission’s rules and the Freedom of Information Act (FOIA).

⁸³ Other Commission requirements, such as supply chain annual reporting, provide for a checkbox certification and the submission of information that is presumptively confidential. *2020 Protecting Against National Security Threats Order*, 86 FR 2904, January 13, 2021, 35 FCC Rcd at 14369–70, para. 214 (“We believe that the public interest in knowing whether providers have covered equipment and services in their networks outweighs any interest the carrier may have in keeping such information confidential Other information, such as location of the equipment and services; removal or replacement plans that include sensitive information; the specific type of equipment or service; and any other provider specific information will be presumptively confidential.”). In order to request confidential treatment of the Circuit Status Report (the predecessor of the Circuit Capacity Report), a submitter simply has to check a box that appears on the certification form accompanying all submissions.

⁸⁴ For purposes of the information requirements proposed in the *NPRM*, unless otherwise indicated, the Commission uses the terms “applicant” or

⁷⁹ CFIUS is “an interagency committee authorized to review certain transactions involving foreign investment in the United States and certain real estate transactions by foreign persons, in order to determine the effect of such transactions on the national security of the United States.”

⁸⁰ See, e.g., *In re Franchise Services of North America, Inc. v. U.S. Trustee*, 891 F.3d 198, 205 (5th Cir. 2018) (“Generally speaking, a ‘golden share’ is ‘[a] share that controls more than half of a corporation’s voting rights and gives the shareholder veto power over changes to the company’s charter.’ E.g., *Golden Share*, Black’s Law Dictionary (10th ed. 2014); see also Mariana Pargendler, *State Ownership and Corporate Governance*, 80 Fordham L. Rev. 2917, 2967 (2012) (noting that in the context of formerly stated-owned

landing license or modification, assignment, transfer of control, and renewal or extension of a license, and licensees seeking to submit their periodic reports, to provide additional detailed information concerning the submarine cable infrastructure. Currently, § 1.767(a)(4) of the Commission's rules requires applicants for a cable landing license to provide "[a] description of the submarine cable, including the type and number of channels and the capacity thereof[.]"

78. The Commission proposes to also require that the detailed information regarding the submarine cable system include (1) the states, territories, or possessions in the United States and the foreign countries where the cable will land;⁸⁵ (2) the number of segments in the submarine cable system and the designation of each (e.g., Segment A, Main Trunk, A–B segment); (3) the length of the cable by segment and in total; (4) the location, by segment, of branching units; (5) the address and county or county equivalent of each U.S. and non-U.S. cable landing station; (6) the number of optical fiber pairs, by segment, of the submarine cable; (7) the design capacity, by segment, of the cable system, and (8) anticipated time frame when the applicant intends to place the submarine cable system into service. The Commission also proposes to modify the requirement for applicants and licensees to provide the geographic coordinates of cable landing stations as well as beach manholes, to the extent

"applicants" to refer to an applicant or licensee that files an application or notification under § 1.767 of the Commission's rules, as well as the proposed rules for certain types of applications: (1) applicants that file an initial application for a cable landing license or an application for modification, substantial assignment, substantial transfer of control, or renewal or extension of a cable landing license; (2) cable landing licensees that file a notification of *pro forma* assignment or transfer of control of a cable landing license; and/or (3) applicants that file a request for an STA related to the operation of a submarine cable. 47 CFR 63.24(e) (referring to "substantial" transactions); 47 CFR 63.24(d) (defining "Pro forma assignments and transfers of control"). Unless otherwise indicated, the Commission uses the term "application" or "submarine cable application" to refer to an initial application for a cable landing license; an application for modification, substantial assignment, substantial transfer of control, or renewal or extension of a cable landing license; and a *pro forma* assignment or transfer of control notification.

⁸⁵ Section 1.767(a)(5) of the rules requires, among other things, "[a] specific description of the cable landing stations on the shore of the United States and in foreign countries where the cable will land." In addition to revisions to § 1.767(a)(5) on which the Commission seeks comment below, the Commission proposes to specifically require that applicants must include in their description of the submarine cable the states, territories, or possessions in the United States and the foreign countries where the cable will land.

they differ from cable landing station coordinates.⁸⁶ Under the Commission's proposal, applicants would provide a specific description of the submarine cable system, including a map and geographic data in generally accepted Geographic Information Systems (GIS) formats or other formats. The Commission seeks comment on the specific information and the file formats and specific data fields that should be submitted. For example, applicants could provide a specific description of the dry plants, including geographic data in generally accepted GIS formats (e.g., GeoJSON, Shapefile, Geopackage, etc.) with a map that specifies the location of (1) each beach manhole, (2) each cable landing station, including locations of each PFE and each SLTE, and (3) each Network Operations Center (NOC)⁸⁷ providing remote access to the submarine cable system. For example, the GIS data could include the routing of the optical fiber cable from the beach manhole to the cable landing station or like facility/facilities and location of the PFE, SLTE, and NOC. The map could specify the geographic coordinates (longitude and latitude) and street address, county and county equivalent, if applicable, of each beach manhole and cable landing station or similar facility. Should applicants provide maps and geographic coordinates of the location of the dry plant components that are located at the U.S. and foreign ends of the submarine cable system? The Commission proposes to delegate authority to OIA, in coordination with the Office of Economics and Analytics, to determine the file formats and specific data fields in which data will ultimately be collected. The Commission seeks comment on the proposals and approaches above.

79. *Route Position Lists.* Relatedly, the Commission seeks comment on whether it should require applicants for cable

⁸⁶ The Commission seeks comment on whether it should modify the part of that rule that states, "[t]he applicant initially may file a general geographic description of the landing points; however, grant of the application will be conditioned on the Commission's final approval of a more specific description of the landing points, including all information required by this paragraph, to be filed by the applicant no later than ninety (90) days prior to construction. . . ." The Commission proposes to redesignate this part of § 1.767(a)(5) under a new § 1.70005(f)(1).

⁸⁷ A NOC is a centralized location where information technology administrators can continuously monitor the performance of the wet and dry segments of the submarine cable system, either on site or from a remote location. The role of a NOC is to "provide full visibility" into the infrastructure and equipment. *Id.* ("From a security perspective, the NOC functions as the first line of defense that enables the organization to monitor network security and recognize and address any attacks or disruptions to the network.").

landing licenses and cable landing licensees to file with the Commission route position lists containing the geographic coordinates of the wet segment of the submarine cable. The Commission notes that maps showing the exact location of submarine cables are treated as presumptively confidential under the Commission's rules.⁸⁸ The Commission's rules require applicants for cable landing licenses to submit "a map showing specific geographic coordinates . . . of each landing station" and "the coordinates of any beach joint where those coordinates differ from the coordinates of the cable station." Should the Commission also require applicants and licensees to submit the geographic coordinates of the entire wet segment of the submarine cable (for example, including the U.S. and foreign portions of the cable) and/or other components of the cable? Would such data enhance the ability of the Commission and other Federal agencies to identify, prevent, or mitigate spatial conflicts affecting submarine cables and further ensure the protection of this critical infrastructure?

80. *Confidential Treatment of Submarine Cable Landing Geographic Coordinates and Other Information.* The Commission proposes to provide confidential treatment for the exact addresses and specific geographic coordinates of cable landing stations, beach manholes, and other location information associated with a submarine cable system under the Commission's rules. Given the risks associated with the public availability of critical aspects of these cable systems, the Commission believes the exact addresses and geographic coordinates and other specific location information should be treated as presumptively confidential. The Commission seeks comment on the extent to which, if any, this information is treated as privileged and confidential, and what impacts might the public availability of this information have on the commercial interests of cable system owners and users.

81. Among the most sensitive parts of a submarine cable system are the wet segment as it approaches the shore, the submarine cable as it reaches the beach manhole, and the dry segment including the cable landing station(s), such as where the SLTE is located. At present, several applicants for initial cable landing licenses have requested that such information should be confidential and filed under a request for

⁸⁸ 47 CFR 0.457(c)(1)(i) (withholding from public inspection "[m]aps showing the exact location of submarine cables").

confidential treatment.⁸⁹ The Commission proposes to withhold the exact location information from public inspection. The Commission proposes to only release publicly more general location information, such as the city, state/province/department, and country in which the submarine cable system will land. The Commission seeks comment on applicants' commercial interests in this information, the extent to which such information is treated as confidential by the applicants, and what harms would result to applicants' commercial interests if the information were disclosed to the public. The Commission seeks comment on how to treat such information if it is already publicly available from another source.

82. *Sharing with Federal Agencies.* To the extent confidential treatment is requested for submarine cable infrastructure information, any sharing of the information with other Federal agencies would be subject to the procedures set out in § 0.442 of the rules. Under § 0.442, the Commission may disclose to other Federal agencies, upon the Commission's own motion or another agency's request, records that have been submitted to the Commission in confidence, subject to providing the filer notice of the proposed sharing and ten (10) days to object. In general, under Federal law, the Commission may share information it has collected pursuant to an information collection with other Federal Government agencies. If it does, all provisions of law that relate to the unlawful disclosure of information apply to the employees of the agency to which the information is released "to the same extent and in the same manner" as they do to employees of the collecting agency. The Commission seeks comment on whether to adopt a rule that would allow the Commission to share submarine cable landing geographic coordinates, the route position lists, and other information with relevant Federal agencies,

including information for which confidential treatment is requested, without the pre-notification procedures of § 0.442(d). The Commission notes that it is seeking comment on this same process for sharing cybersecurity risk management plans and annual circuit capacity data. The Commission seeks comment generally on this process to ensure the Commission and other Federal agencies have adequate information on submarine cable infrastructure to assess for any national security, law enforcement, and other concerns.

5. Current and Future Service Offerings

83. The Commission proposes to require applicants for an initial application for a cable landing license or an application for modification, assignment, transfer of control, and renewal or extension of such license to include in their application information about the capacity services they currently provide or plan to provide through the submarine cable system. This information includes the capacity they currently own or lease, the amount of capacity they intend to sell or lease, and the capacity management services they will provide. The Commission also proposes to require applicants for a cable landing license, licensees, assignees, and transferees (as appropriate) to disclose current and expected future service offerings as part of their application for a cable landing license or modification, assignment, transfer of control, and renewal or extension of a submarine cable landing license. Collecting such information will help the Commission properly evaluate national security and other risks and the robustness of submarine cable infrastructure on an ongoing basis. Such requirements would bring the Commission's approach for submarine cable landing licenses in line with proposals for international section 214 authorization holders in the *Evolving Risks NPRM*, and incorporate insights from the executive branch agencies' efforts to obtain information about services from applicants with reportable foreign ownership.⁹⁰

84. Specifically, the Commission proposes to require applicants to provide the following information

regarding services that they currently provide and/or will provide through the submarine cable system: (1) identify and describe the capacity services and capacity management services, including the amount of fiber, spectrum, or capacity by selling, leasing, or swapping; (2) identify the types of customers that currently are served and/or will be served, including those with whom the applicant leases, sells, shares, or swaps fiber, spectrum, or capacity and/or plans to lease, sell, share, or swap fiber, spectrum, or capacity; (3) identify whether the applicant currently owns or controls and/or will own or control the U.S. portion of the submarine cable system, including the submarine cable landing station(s), through an IRU or leasehold interest; (4) identify where the applicant currently markets, offers, and provides services and/or expects to market, offer, and provide services; and (5) identify the general terms and conditions that currently apply and/or will apply to the services, such as contract duration, minimum capacity/bandwidth requirements, IRU requirements, termination clauses, security requirements, delivery or Service Level Agreement (SLA) requirements, dispute resolution, and other applicable provisions. This information might be provided as service tiers, ranges, or other applicable frames of reference. The Commission seeks comment on whether this information should be considered presumptively confidential, similar to the Commission's proposal with respect to the exact addresses and specific geographic coordinates of a submarine cable system, such as the cable landing stations and beach manholes, among others. If so, what is the basis for why the information should be treated as presumptively confidential under the Commission's rules and the FOIA?⁹¹ In other words, to what extent does this information constitute privileged or confidential trade secrets or commercial or financial information? To what extent, if any, is this information already publicly available?

6. Regulatory Compliance Certifications

85. Given concerns about ensuring the security and integrity of this critical infrastructure, the Commission proposes new certifications to protect against national security, law enforcement, and other risks. The Commission tentatively

⁸⁹ See, e.g., Letter from Craig J. Brown, Assistant General Counsel, Lumen to Marlene H. Dortch, Secretary, Federal Communications Commission at 1 (Feb. 15, 2023) (requesting confidential treatment of coordinate information, citing security risks to the cable) (on file in File No. SCL-LIC-20230222-00005); Letter from Ulises R. Pin and Brett P. Ferencak, Counsel for GU Holdings, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission at 1-2 (June 9, 2023) (requesting confidential treatment of coordinate and address information, citing security risks to the cable) (on file in File No. SCL-LIC-20230511-00013); Letter from Ulises R. Pin and Brett P. Ferencak, Counsel for Starfish Infrastructure Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission at 1-2 (July 8, 2024) (requesting confidential treatment of coordinate and address information, citing security risks to the cable) (on file in File No. SCL-LIC-20240621-00030).

⁹⁰ See, e.g., 2021 *Standard Questions Order*, 36 FCC Rcd at 14912, Attach. C (stating in the Instructions for Standard Questions for a Submarine Cable Landing License Application, "[t]he questions seek further details regarding the Applicant and its security-related practices, and some questions are particularly directed at identifying and assessing the complete scope of the equipment that the Applicant will be operating and the services the Applicant will be offering should the FCC grant those authorities").

⁹¹ Commenters should identify any harms from disclosure that would warrant the withholding of this information under the Commission's rules and the FOIA.

concludes that such requirements would help mitigate national security, economic security, law enforcement, and other concerns associated with threats to the security of submarine cable infrastructure. The Commission also expects that requiring applicants to provide these certifications will help to expedite Commission review. The Commission seeks comment on the proposals below.

86. *Compliance with FCC Rules.* The Commission proposes that all applicants seeking a cable landing license or modification, assignment, transfer of control, and renewal or extension of such license, and licensees filing their three-year periodic reports, must certify in the applications and the reports whether or not they are in compliance with the Cable Landing License Act, the Communications Act, the Commission's rules, and other laws. Specifically, the Commission proposes to require each applicant to certify in its application whether or not the applicant has violated the Cable Landing License Act, the Communications Act, or Commission rules, including making false statements or misrepresentations to the Commission; whether the applicant has been convicted of a felony; and whether there is an adjudicated determination that the applicant has violated U.S. antitrust or other competition laws, has been found to have engaged in fraudulent conduct before another government agency, or has engaged in other non-FCC misconduct the Commission has found to be relevant in assessing the character qualifications of a licensee or authorization holder. The Commission seeks comment on these proposals. The Commission also seeks comment on whether it should require applicants to disclose any pending FCC investigations, including any pending Notice of Apparent Liability, and any adjudicated findings of non-FCC misconduct. In addition, the Commission seeks comment on whether it should require applicants to disclose any violations of the Communications Act, Commission rules, or U.S. antitrust or other competition law, or any other non-FCC misconduct only where there has been adjudication or notification of a violation by an agency or court.

87. *Cybersecurity Certifications.* The Commission proposes to require all applicants for a cable landing license or modification, assignment, transfer of control, and renewal or extension of a cable landing license, and licensees filing their three-year periodic reports, to certify in the application or report that they have created, updated, and implemented cybersecurity risk

management plans. The Commission also proposes to require that existing licensees shall certify to the same for the first time based on the prioritization schedule set out in the *NPRM*. To facilitate the Commission's review of existing cable landing licenses, the Commission proposes to require that existing licensees provide this cybersecurity certification in their respective periodic reports consistent with the categories and deadlines to be established by OIA as proposed in the *NPRM*. The Commission also proposes to require these applicants and licensees to certify that they take reasonable measures to protect the confidentiality, integrity, and availability of their systems and services that could affect their provision of communications services. In this regard, the Commission proposes that applicants' and licensees' cybersecurity risk management plans must identify the cyber risks they face, the controls they use or plan to use to mitigate those risks, and how they ensure that these controls are applied effectively to their operations. The plans would also describe how the applicant or licensee employs its organizational resources and processes to ensure the confidentiality, integrity, and availability of its systems and services. The Commission seeks comment on these proposals.

88. Given the importance of cybersecurity, the Commission believes that the operation of submarine cable systems should meet baseline security requirements to safeguard systems against threats. The Commission believes these proposals are consistent with the National Cybersecurity Strategy and, in that connection, are in keeping with a whole-of-government effort to "establish cybersecurity requirements to support national security and public safety."⁹² The Commission expects that creating, updating, and implementing cybersecurity risk management plans would help protect applicants' and licensees' systems and services from

⁹² Other Federal agencies are likewise either requiring or proposing to require their regulated entities to take cybersecurity measures to protect their systems. For example, the Commodity Futures Trading Commission (CFTC) requires registrants to establish and maintain information security controls as part of their mandatory system safeguards and to implement five types of security testing through ongoing risk assessments and board oversight: (1) vulnerability testing; (2) penetration testing; (3) controls testing; (4) security incident response plan testing; and (5) enterprise technology risk assessment. The SEC has proposed periodic cybersecurity reporting requirements that include disclosing a registrant's policies and procedures to identify and manage cybersecurity risks. The SEC adopted cybersecurity reporting requirements that include disclosing a registrant's policies and procedures to identify and manage cybersecurity risks.

serious threats to national security, public safety, and the economy. These proposals would require specific actions to protect communications networks and infrastructure and collaborating with communications sector industry members to identify best practices. The Commission seeks comment on these expectations and on any national security, economic, or public safety benefits of effective cybersecurity practices and cybersecurity risk management for applicants and licensees.

89. The Commission proposes that each applicant or licensee have flexibility to structure its cybersecurity risk management plan in a manner that is tailored to its organization, provided that the plan demonstrates that the applicant or licensee is taking affirmative steps to analyze security risks and improve its security posture. While the Commission believes there are many ways that applicants or licensees may satisfy this requirement, the Commission proposes that they could successfully demonstrate compliance with this proposed requirement by following an established risk management framework, such as the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF). The NIST CSF is designed to be scalable and adaptable to the needs and capabilities of companies both large and small, is well understood by industry, and is flexible. The Commission seeks comment on this flexible approach, including whether it would reduce the costs imposed on applicants and licensees. What other risk management frameworks do applicants and licensees implement other than the NIST CSF? To the extent commenters believe the Commission should mandate a particular risk management framework or take a less flexible approach, the Commission seeks comment on their proposed alternative, as well as their rationale and why it would serve the public interest. For example, should the Commission require applicants and licensees to apply the NIST CSF, as the Commission has done in other proceedings?⁹³ The

⁹³ See *Connect America Fund: A National Broadband Plan for The Commission's Future High-Cost Universal Service Support et al.*, WC Docket No. 10–90 et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 38 FCC Rcd 7040, 7086–87 para. 111 (2023) (*Enhanced A–CAM Order*); (requiring Enhanced A–CAM support recipients to implement cybersecurity risk management plans that reflect the latest version of the NIST CSF as a condition of receiving support); *Establishing a 5G Fund for Rural America*, GN Docket No. 20–32, Second Report and Order, Order on Reconsideration, and Second Further Notice of

Commission further seeks comment on how an applicant should demonstrate that it has taken affirmative steps to analyze security risks and improve its security posture after it has implemented a cybersecurity risk management plan.

90. The Commission proposes that an applicant's Chief Executive Officer (CEO), Chief Financial Officer (CFO), Chief Technology Officer (CTO), or a similarly situated senior officer responsible for governance of the organization's security practices would be required to sign the applicant's cybersecurity risk management plan. The Commission believes that a signatory with visibility into the full network and organization is essential to ensure the plan encompasses all necessary elements and is executed throughout the organization. In recommendations made to Microsoft after the Cyber Safety Review Board's investigation of an incident resulting in compromise of Microsoft's systems as a result of a threat actor associated with the Chinese government, the Board noted the importance of "rigorous risk management" and focus on security at the executive level. The Commission seeks comment on this approach. Are there additional steps that the Commission should take to ensure that cybersecurity is an integral part of corporate governance for applicants and licensees?

91. The Commission seeks comment on whether to require applicants' and licensees' cybersecurity risk management plans to include provisions for identifying, assessing, and mitigating supply chain cybersecurity threats. According to NIST, "[g]iven the complex and interconnected relationships in this ecosystem, supply chain risk management . . . is critical for organizations." To what extent do applicants' and licensees' cybersecurity risk management plans already identify and mitigate supply chain cybersecurity risks? The Commission notes that the Commission already requires participants in the Enhanced A-CAM and 5G Fund programs to submit separate supply chain risk management plans that incorporate best practices published by NIST, such as those discussed in *Key Practices in Cyber Supply Chain Risk Management: Observations from Industry* (NISTIR 8276), and *Cybersecurity Supply Chain Risk Management Practices for Systems*

and *Organizations* (NIST 800-161), in addition to cybersecurity risk management plans. Should the Commission require all applicants and licensees to certify to having created, updated, and implemented cybersecurity supply chain risk management plans, either as part of their cybersecurity risk management plan or as a separate document?

92. The Commission proposes to require applicants and licensees to describe in their risk management plans their implementation of security controls sufficient to ensure the confidentiality, integrity, and availability of all aspects of their communications systems and services. While the Commission believes there are many ways for applicants and licensees to satisfy this aspect of the requirement, the Commission proposes that applicants and licensees will satisfy it if they demonstrate they have successfully implemented an established set of cybersecurity best practices, such as the Cybersecurity and Infrastructure Security Agency's (CISA) Cross-Sector Cybersecurity Performance Goals (CPGs) or the Center for Internet Security Critical Security Controls (CIS Controls).⁹⁴ The Commission expects that compliant cybersecurity risk management plans will not be limited to a predetermined set of specific measures, but instead plans will vary based on individual applicants' and licensees' needs and circumstances sufficient to protect against cyber threats.⁹⁵ The Commission seeks comment on this proposal.

93. In conjunction with this proposal, the Commission seeks comment on whether to require applicants and licensees to implement specific security controls sufficient to protect the confidentiality, integrity, and availability of their systems and services. In the *Alerting Security NPRM*, the Commission proposed to require alerting participants to implement the following six controls, among other measures: (1) changing default passwords prior to operation; (2)

installing security updates in a timely manner; (3) securing equipment behind properly configured firewalls or using other segmentation practices; (4) requiring multifactor authentication, where applicable; (5) addressing the replacement of end-of-life equipment; and (6) wiping, clearing, or encrypting user information before disposing of old devices.⁹⁶ These six controls were drawn from CISA's common baseline of cybersecurity controls. The Commission seeks comment on whether it should require the implementation of these or some other subset of common security controls to protect applicants' and licensees' systems and services.

94. The Commission observes that applicants and licensees can benefit from free and low-cost resources that are available to help identify and implement best practices and improve their security over time without requiring the hiring of outside experts. NIST publishes guidance that could assist organizations with measuring their safeguards, including how to address ransomware, malware, malicious code, spyware, distributed denial of service (DDoS) attacks, phishing, securing networks, and threats to mobile phones. CISA offers vulnerability scanning at no cost for critical infrastructure, which includes communications providers, and also provides CPG Assessment Training with regional cybersecurity experts that will help communications providers better understand CPGs and the cybersecurity risk assessment process. The Commission assumes that these resources, along with any number of other publicly available resources that the Commission has not specifically identified or that may arise in the future, will assist applicants' and licensees' employees and their existing technical contractors in identifying and implementing appropriate security controls without needing specialized cybersecurity expertise. The Commission seeks comment on this assumption.

95. The Commission proposes that applicants and licensees submit cybersecurity risk management plans to the Commission upon request. The

⁹⁴ See Center for Internet Security, *Critical Security Controls Version 8*, <https://www.cisecurity.org/controls> (last visited Oct. 22, 2024) (providing security controls grouped by priority and feasibility for different sizes and resources of businesses in Implementation Groups).

⁹⁵ The Commission notes that it has also sought comment on whether applicants for international section 214 authority and modification, assignment, transfer of control, and renewal of international section 214 authority should be required to certify in the application that they will undertake to implement and adhere to baseline cybersecurity standards based on universally recognized standards such as those provided by CISA or NIST. The Commission seeks comment on this assessment.

⁹⁶ On August 22, 2022, PSHSB advised EAS participants to promptly secure their equipment against potential internet-based risks, emphasizing the importance of updating software, changing default passwords, and implementing security measures to prevent unauthorized access. The advisory addressed a vulnerability identified by the Federal Emergency Management Agency and underscored the responsibility of EAS participants to ensure proper functioning during operational times to avoid enforcement consequences. These requirements are grounded in the guidance provided in that Public Notice.

Proposed Rulemaking, FCC 24-89, at 64-65, para. 122 (Aug. 14, 2024) (*5G Fund Second Report and Order*) (requiring 5G Fund support recipients to implement cybersecurity risk management plans that reflect the NIST CSF as a condition of receiving 5G Fund support).

Commission proposes to delegate to OIA, in coordination with the Public Safety and Homeland Security Bureau (PSHSB), the authority to request, at its discretion, submission of such cybersecurity risk management plans and to evaluate them for compliance against the rules that are adopted under this proceeding. Access to applicants' and licensees' cybersecurity risk management plans would allow the Commission to confirm whether plans are being regularly updated, review a specific plan as needed, or proactively review a sample of applicants' and licensees' plans to confirm they identify the cybersecurity risks to those applicants' and licensees' communications systems and services. The Commission would treat the cybersecurity risk management plans as presumptively confidential under the Commission's rules. The Commission seeks comment on this approach, including the types of information included in these plans that warrant confidential treatment and the reasons why that information should be considered confidential. Do providers treat this information as confidential when it is used in other contexts? What harms could befall a provider if its plan was publicly disclosed? In addition, the Commission seeks comment on whether to adopt a rule that would allow the Commission to share the plans with relevant Federal agencies, including information for which confidential treatment is requested, without the pre-notification procedures of § 0.442(d). The Commission seeks comment on whether the Commission should share the plans with Federal agencies, such as CISA and other components of the Department of Homeland Security (DHS), and give notice to the applicant or licensee. Under § 0.442, the Commission may disclose to other Federal agencies, upon the Commission's own motion or another agency's request, records that have been submitted to the Commission in confidence, subject to providing the filer notice of the proposed sharing and ten (10) days to object.⁹⁷ The Commission believes that forgoing these pre-notification procedures when sharing plans with relevant Federal agencies would more rapidly facilitate the

Federal Government's response to cyber incidents affecting the communications sector. The Commission seeks comment on this approach.

96. The Commission also proposes that applicants and licensees must preserve data and records related to their cybersecurity risk management plans, including any information that is necessary to show how the cybersecurity risk management plan is implemented, for two years from the submission of the related risk management plan certification to the Commission. The Commission seeks comment on this approach. Should the Commission require applicants and licensees to retain prior versions of their cybersecurity risk management plans for a shorter or longer period of time? If so, why?

97. The Commission believes it would promote neither public safety nor national security if applicants and licensees could escape responsibility for the cybersecurity of their systems and services by outsourcing the provision of those systems and services to third parties. Accordingly, if an applicant relies on a third-party contractor for provision of a communications system or service, the Commission proposes to require the applicant's cybersecurity risk management plan to cover the systems and services offered by the third-party contractor. The Commission proposes to hold applicants and licensees responsible for the acts, omissions, or failures of third-party contractors that impact the cybersecurity of the applicant's systems and services. In connection with the Commission's requirement to take reasonable measures to protect the confidentiality, integrity, and availability of its communications systems and services, if an applicant relies on a third-party contractor to provide equipment or services, and an unreasonable act or omission of that third-party contractor results in the applicant's failure to protect the confidentiality, integrity, or availability of its systems and services, the Commission proposes to hold the applicant responsible for that act or omission. The Commission seeks comment on this approach. The Commission also seeks comment on the extent to which applicants and licensees currently include minimum cybersecurity requirements in their contracts with third parties.

98. "*Covered List*" Certification for Applicants. To protect U.S. communications networks and the communications supply chain against national security threats, the Commission proposes to require that

applicants, as a condition of the potential grant of their application, certify that the submarine cable system will not use covered equipment or services identified on the Commission's "Covered List" that the Commission maintains pursuant to the Secure and Trusted Communications Networks Act.⁹⁸ Such equipment and services have been deemed to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons. The Commission proposes that this certification would apply to covered equipment or services purchased, rented, leased, or otherwise obtained on or after August 14, 2018 (in the case of Huawei, ZTE, Hikvision, Dahua, and Hytera), or on or after 60 days after the date that any equipment or service is placed on the Covered List. Given the national security and law enforcement risks to submarine cable systems, the Commission also proposes to adopt a rule prohibiting use of such equipment or services in the submarine cable system. The Commission seeks comment on this proposal, the financial burdens on applicants, and any alternatives to this proposal.

99. "*Covered List*" Certification for Licensees. Additionally, the Commission proposes to require that licensees certify as to whether or not they use, for the relevant submarine cable system, equipment or services identified on the "Covered List." The Commission also proposes that this certification would apply to covered equipment or services purchased, rented, leased, or otherwise obtained on or after August 14, 2018 (in the case of Huawei, ZTE, Hikvision, Dahua, and Hytera), or on or after 60 days after the date that any equipment or service is placed on the Covered List. Further, the Commission proposes requiring licensees to provide this certification within sixty (60) days of the effective date of any rule adopted in this proceeding, following approval by OMB.

100. In the event that existing licensees use such equipment or services, the Commission seeks comment on whether it should require those licensees to remove such equipment or services to ensure the security and reliability of submarine

⁹⁷ In general, under Federal law, the Commission may share information it has collected with other Federal Government agencies information it has collected pursuant to an information collection and, if it does, all provisions of law that relate to the unlawful disclosure of information apply to the employees of the agency to which the information is released "to the same extent and in the same manner" as they do to employees of the collecting agency.

⁹⁸ Pursuant to sections 2(a) and (d) of the Secure and Trusted Communications Networks Act, and §§ 1.50002 and 1.50003 of the Commission's rules, PSHSB publishes a list of communications equipment and services that have been determined by one of the sources specified in that statute to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons ("covered" equipment).

cable systems. Should the Commission require those licensees to develop plans to address the removal of such equipment and services with specified timelines? If so, should the Commission require licensees to submit their plans with the Commission? Additionally, the Commission seeks comment on whether the Commission should prohibit licensees from purchasing, obtaining, maintaining, improving, modifying, or otherwise supporting any equipment or services produced or provided by entities on the Covered List. If so, what penalties would apply for non-compliance? To what extent should the Commission's framework for requiring the recipients of reimbursement funds under section 4 of the Secure Networks Act and carriers receiving Universal Service Fund support to remove and replace equipment and services that are included on the "Covered List" from the submarine cable system inform the Commission's approach here? What would be the Commission's source of legal authority for applying a prohibition on covered equipment and services on cable landing licensees? Are there scenarios in which replacement of removed equipment and services is not necessary? Are there networks in which there is sufficient redundancy that, if removed, the covered equipment and services need not be replaced? The Commission seeks comment on the timing and deadlines for removal of covered equipment and services. The Commission specifically seeks comment on the amount of time that may be necessary to remove covered equipment and services and the financial cost to cable landing licensees. The Commission also seeks comment on whether there are other sources of information that the Commission should consider to inform its decisions on removal timing and deadlines and to understand the scope of the effort. The Commission seeks comment on these approaches and generally on what other certifications the Commission should adopt concerning the "Covered List."

101. The Commission seeks comment on whether it should rely solely on the "Covered List" or consider other lists or sources of information to identify equipment or services that should be prohibited, including but not limited to the Department of Commerce's Entity List and the Department of Defense's List of Chinese Military Companies (1260H List).⁹⁹ Are there gaps or

limitations with the "Covered List"? What alternative sources would reduce those gaps or limitations? What information or guidelines would assist applicants and licensees in providing certifications regarding the "Covered List"? Should applicants and licensees certify, in addition or as an alternative to these proposed certifications, that they will not use vendors for equipment or services from certain countries, such as any foreign country that is a "foreign adversary" as defined in the Department of Commerce's rule, 15 CFR 791.4? The Commission seeks comment generally on how best to promote the security and integrity of the communications supply chain with respect to submarine cable systems.

102. *Interrupt Traffic on Submarine Cable System Certification.* Mitigation agreements associated with submarine cable landing licenses typically include a provision requiring the licensee entering into the agreement to have the ability to physically or logically interrupt, in whole or in part, traffic to and from the United States on the submarine cable system by disabling or disconnecting circuits at the U.S. cable landing station or at other locations within the United States and to configure all necessary systems to ensure the licensee can suspend or interrupt the optical signal or all communications functionality of the licensed submarine cable system. Given the importance of submarine cables, the Commission seeks comment on whether and how the Commission should incorporate this requirement into the Commission's rules. Should the Commission incorporate this requirement as a certification or a routine condition under the Commission's rules? The Commission tentatively concludes that every submarine cable application should include an assurance from the applicant(s) that, upon any grant of the application, the licensee will be able to suspend or interrupt the optical signal or all communications' functionality. The Commission seeks comment on whether joint licensees may appoint one party to be responsible for complying with this requirement.

Release/article/3661985/dod-releases-list-of-peoples-republic-of-china-prc-military-companies-in-accord/ (releasing an update to the names of "Chinese military companies" operating directly or indirectly in the United States in accordance with the statutory requirement of section 1260H of the National Defense Authorization Act for Fiscal Year 2021 and providing the list at <https://media.defense.gov/2024/Jan/31/2003384819/-1/-1/0/1260H-LIST.PDF>).

7. Third-Party Access

103. National security and law enforcement risks can and do arise with third-party access to a submarine cable system, whether that access involves physical or logical access to the cable system. In this regard, the Commission is concerned about the risks posed by non-licensee individuals and entities with access to U.S.-licensed submarine cable systems. This includes, but is not limited to, owners of the buildings that house submarine cable systems, the cable landing station, co-tenants of the submarine cable system's location, contractors hired by the licensee to manage the cable system, including MNSPs, and other third-party entities with access to the cable system's NOC.

104. *Physical Access to Submarine Cable Systems.* The physical security of a submarine cable system, including its sturdiness and impenetrability and prevention of unauthorized access into the cable landing station, is important to the safety of the cable system,¹⁰⁰ and knowledge of who has physical access to a submarine cable system, including the cable landing station, is important for determining vulnerabilities. The Commission seeks comment on whether to require basic information about an applicant's lessors of submarine cable landing stations and/or data center housing hardware. Additionally, the Commission seeks comment on the overlap between physical and logical access to submarine cable systems. Are there aspects of the physical operation of submarine cable systems that can be controlled or managed remotely?

105. *Logical Access to the Submarine Cable Systems.* The Commission is interested in understanding and addressing the vulnerabilities posed by third-party individuals and entities with logical access to submarine cable systems.¹⁰¹ The Commission seeks comment generally on ways it can

¹⁰⁰ Communications Security, Reliability, and Interoperability Council, Working Group 4A Submarine Cable Resiliency, Final Report—Clustering of Cables and Cable Landings at 5 (Aug. 2016), https://transition.fcc.gov/bureaus/pshs/advisory/csric5/WG4A_Final_091416.pdf (highlighting the importance of protecting a cable landing station from physical threats such as "intrusion, ballistic, [and] surveillance.").

¹⁰¹ United States Government Accountability Office, CYBERSECURITY—Internet Architecture Is Considered Resilient, but Federal Agencies Continue to Address Risks, Report to the Committee on Armed Services, House of Representatives, GAO-22-104560 at 13 (Mar. 2022), <https://www.gao.gov/assets/gao-22-104560.pdf> (identifying "[m]alicious insider(s)," defined as "[a]n individual or group with authorized access . . . that has the potential to harm an information system or enterprise through destruction, disclosure, modification of data, and/or denial of service," as a threat to submarine cable systems.).

⁹⁹ See Press Release, U.S. Department of Defense, DOD Releases List of People's Republic of China (PRC) Military Companies in Accordance With Section 1260H of the National Defense Authorization Act for Fiscal Year 2021 (Jan. 31, 2024), <https://www.defense.gov/News/Releases/>

address vulnerabilities associated with such logical access.

106. *Remote Access Services.* The Commission understands submarine cable landing licensees sometimes employ third parties' services to remotely manage the submarine cable networks. Such access to a submarine cable system can pose a vulnerability, not only from the third-party itself but from any hostile actor that breaches the third-party's remote management system. On September 30, 2021, the Commission adopted the *2021 Standard Questions Order* that requires certain applicants and petitioners with reportable foreign ownership to provide answers to a set of standardized national security and law enforcement questions.¹⁰² The Standard Questions ask applicants about applicants' capabilities to "control or monitor operations . . . via Remote Access" and whether any "third-party vendors, associated companies, or Owners have Remote Access." The Commission seeks comment on the challenges posed by submarine cable landing licensees' use of remote service vendors and their services and steps the Commission could take to mitigate those challenges.

107. *Foreign-Owned Managed Network Service Providers.* The Commission proposes to require all applicants/licensees, with or without reportable foreign ownership, to report whether or not they use and/or will use foreign-owned MNSPs in the operation of the submarine cable. The Commission proposes to require this information in the initial licensing application, in subsequent submarine cable applications upon grant of a license, and as an ongoing requirement in the three-year periodic reports. The Commission seeks comment on how often to require such information in the event the Commission shortens the license term. Below, the Commission proposes and seeks comment on criteria for how the Commission proposes to define "foreign-owned." The Commission proposes to define an MNSP as any entity other than the applicant(s) or licensee(s) (*i.e.*, third-party entity) with whom the applicant(s) or licensee(s) contracts to provide, supplement, or replace certain functions for the U.S. portion of the submarine

cable system (including any cable landing station and SLTE located in the United States) that require or may require access to the network, systems, or records of the applicant(s) or licensee(s). Such functions could include, but are not limited to operations and management support; network operations and service monitoring, including intrusion testing; network performance, optimization, and reporting; installation and testing; network audits, provisioning and development; and the implementation of changes and upgrades.¹⁰³

108. The Standard Questions adopted in the *2021 Standard Questions Order*¹⁰⁴ define the term "Managed Services" (or "Enterprise Services") as "the provision of a complete, end-to-end communications solutions to customers." Specifically, the Standard Questions associated with submarine cable landing license applications require applicants to respond whether any "third-party vendors, associated companies, or Owners will have Remote Access/monitoring of the network, systems, or records to provide Managed Services," and if so, to "provide additional details, *i.e.*, third party identifying information, role, and reason for their access."

109. The Standard Questions require an applicant to submit answers directly to the Committee, and applicants without reportable foreign ownership are not routinely referred to the Committee or to other relevant executive branch agencies. Applicants whose applications are not referred to the Committee or to other executive branch agencies nevertheless may reach contractual agreements or have other arrangements with foreign-owned MNSPs, thereby providing the foreign-owned MNSPs with access to the submarine cable system and potentially allowing them to act in ways that are contrary to U.S. interests without the Commission or Committee ever being informed.

110. The Commission proposes to require all applicants for submarine cable landing licenses, regardless of reportable foreign ownership, to report in their application whether or not they use and/or will use foreign-owned

MNSPs. The Commission also proposes to require such disclosure of foreign-owned MNSP use in applications to modify, assign, transfer control of, and renew or extend a submarine cable license. The Commission notes that the Standard Questions associated with applications for assignments and transfers of control ask whether "any third-party vendors, associated companies, or Owners have Remote Access/monitoring to the network, systems, or records to provide Managed Services." The Commission proposes to direct the Office of International Affairs to draft, update as appropriate, and make available on a publicly available website, a standardized set of national security and law enforcement questions that elicit information related to MNSPs (MNSP Standard Questions) in accordance with any new rules adopted in this proceeding, following OMB approval. The Commission proposes that any applicant/licensee that indicates in the application that it uses and/or will use a foreign-owned MNSP will need to answer the MNSP Standard Questions and those applications would be routinely referred to the executive branch agencies, including the Committee. The Commission seeks comment on whether all applicants, regardless of reportable foreign ownership, should be required to answer all of the existing Standard Questions, or only those existing Standard Questions relating to MNSPs, or a new set of questions devised by the Office of International Affairs.

111. The Commission proposes and seeks comment on the specific criteria for considering an MNSP to be "foreign-owned," such that an applicant would have to report its use. The Commission proposes that an MNSP be considered "foreign-owned" if it is majority-owned and/or controlled (1) by a foreign individual or entity or (2) in the aggregate by foreign individuals or entities. The Commission seeks comment on whether it should require applicants to explain in detail the foreign individuals' or entities' involvement and management roles in the foreign-owned MNSP.¹⁰⁵ In addition, the Commission seeks comment on whether any MNSPs also possess physical access to the submarine cable system. Relatedly, the Commission seeks comment on which

¹⁰² See *2021 Standard Questions Order*, 36 FCC Rcd at 14920 (inquiring, "[w]hat, if any, capability do Applicants have to control or monitor operations over the network (*e.g.*, audit mechanisms, record access monitoring) via Remote Access" and "[w]ill any third-party vendors, associated companies, or Owners have Remote Access/monitoring to the network, systems, or records to provide Managed Services? If so, provide additional details, *i.e.*, third party identifying information, role, and reason for their access").

¹⁰³ This proposed definition is based on the definitions of "Managed Network Service Provider" articulated by the Departments of Justice, Homeland Security, and Defense in recent National Security Agreements with cable landing licensees.

¹⁰⁴ In the *2021 Standard Questions Order*, the Commission adopted a set of standardized national security and law enforcement questions (Standard Questions) that certain applicants and petitioners with reportable foreign ownership will be required to answer as part of the executive branch review process of their applications and petitions.

¹⁰⁵ *2021 Standard Questions Order*, 36 FCC Rcd at 14920, Attach. C (Requesting of applicants that they provide, for "any third-party vendors, associated companies, or Owners [that] have Remote Access/monitoring to the network, systems, or records to provide Managed Services," additional details such as "third party identifying information, role, and reason for their access.").

functions of the submarine cable system can be controlled remotely. Further, are there other functions of a submarine cable system that are managed by third-party entities, including MNSPs, that the Commission has not addressed in the *NPRM* but should consider? If submarine cables use MNSPs, should the Commission work with providers to recommend standards or best practices regarding the use of foreign-owned MNSPs to help reduce risk? What should be included in any standards?

112. The Commission generally seeks comment on its proposed definition of MNSP and the use of MNSPs and managed network services by submarine cable operators. The Commission seeks information as to whether its proposed identification of functions offered by an MNSP is sufficiently comprehensive. Are there other vulnerabilities associated with contracted services that the Commission should consider?

113. *Network Operations Centers.* The Commission is interested in logical access to and control of NOCs, the locations and facilities where network management, monitoring, maintenance, performance measurement, or other operational functions are performed for the submarine cable system. The Standard Questions require applicants with reportable foreign ownership to provide “a list of the anticipated addresses or physical locations” for “[t]he NOC (and back-up NOC, if any).” The Commission proposes to require all applicants, regardless of foreign ownership, to supply this information in generally accepted GIS formats or other formats, on a presumptively confidential basis in the initial application for a cable landing license and application for modification, assignment, transfer of control, and renewal or extension of a cable landing license, and in the periodic reports.¹⁰⁶ The Commission proposes to delegate authority to OIA, in consultation with the Office of Economics and Analytics, to determine the file formats and specific data fields in which data will ultimately be collected. Should the requirement to report the locations of NOCs also encompass other components of the submarine cable system, such as cable landing stations and/or main distribution facilities?¹⁰⁷ What is the

basis for why the information should be treated as presumptively confidential under the Commission’s rules and the FOIA? Is this information publicly available, or is it treated as confidential information by the submarine cable industry? To what extent, if any, does this information constitute privileged or confidential trade secrets or commercial or financial information? What harms to commercial interests could result from public disclosure of this information?

114. The Commission also seeks comment on whether ownership of NOCs by third parties may be encompassed by the Commission’s proposed definition of an MNSP and whether there are benefits or consequences to including or excluding such third-party owners of NOCs from the proposed definition of an MNSP.

8. Other Risks to Submarine Cable Infrastructure

115. The Commission seeks comment generally on how the Commission can take action to strengthen the security and resilience of submarine cable infrastructure, pursuant to its legal authority, including activities in coordination with its Federal partners. In particular, the Commission seeks comment on what actions it can take to mitigate risks and strengthen the security and resilience of this critical infrastructure, pursuant to its legal authority, including activities in coordination with its Federal partners. Given the role of submarine cables to the Nation’s communications networks and other vital infrastructure and assets, it is important to ensure the protection, security, and resilience of this critical infrastructure. Accordingly, damage to submarine cable infrastructure would affect other critical infrastructure sectors that rely on communications and would have a debilitating impact on the Nation’s economic and national security. The Commission’s responsibilities in securing communications networks are well established. Congress created the Commission, among other reasons, “for the purpose of the national defense, [and] for the purpose of promoting safety of life and property through the use of wire and radio communication.” Furthermore, the President’s recent National Security Memorandum, NSM–22, directs the Commission, among other things, to “assess communications sector risks and work to mitigate those risks by requiring, as appropriate, regulated entities to take specific actions to protect communications networks and infrastructure” and to “collaborate with communications sector industry members, foreign governments,

international organizations, and other stakeholders to identify best practices and impose corresponding regulations,” to the extent permitted by law and in coordination with DHS and other Federal departments and agencies.¹⁰⁸ As an initial matter, to further these efforts, the Commission seeks comment on risks to submarine cable infrastructure, including human and natural risks, and what steps the Commission can take to mitigate such threats of damage and ensure the protection of this critical infrastructure.

116. *Malicious Threats.* The Commission observes that NSM–22 addresses malicious threats to U.S. critical infrastructure, stating, “[t]he United States also faces an era of strategic competition with nation-state actors who target American critical infrastructure and tolerate or enable malicious actions conducted by non-state actors.” The Commission has reason to believe that adversaries and other malicious actors may be targeting submarine cables landing and operated in the United States and invite comments providing examples, details about geography, extent, and frequency of such targeting. What measures are implemented by the submarine cable industry to protect submarine cable infrastructure against malicious threats? How can the Commission facilitate information sharing between national security agencies and industry, consistent with NSM–22? The Commission seeks comment on any actions it can take to mitigate those threats pursuant to its legal authority, including in coordination with its Federal partners. The Commission also seeks comment on what measures are implemented by the submarine cable industry to mitigate such risks.

117. *Spatial Conflicts.* The Commission seeks comment as to whether, and to what extent, close spatial proximity between submarine cables and other marine infrastructure and activities presents risks of damage to submarine cables landing in the United States. In 2014, the Communications, Security, Reliability, and Interoperability Council (CSRIC)¹⁰⁹ issued a report examining risks to

¹⁰⁶ See 2021 Standard Questions Order, 36 FCC Rcd at 14932, Attach. D. (requiring applicants to provide “addresses or physical locations” for “[t]he NOC (and back-up NOC, if any).”).

¹⁰⁷ *GU Holdings Firmina LOA* at 5 (requiring disclosure of network management information including “locations and functions of any NOCs, data centers, Points of Presence (PoPs) and main distribution facilities” “[w]ithin 60 days of the execution of [the] LOA, and, thereafter, within 30 days upon . . . request.”).

¹⁰⁸ NSM–22 at 33 (defining critical infrastructure as “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on national security, national economic security, national public health or safety, or any combination of those matters”).

¹⁰⁹ The purpose of CSRIC, an advisory committee established under the Federal Advisory Committee Act, is to provide recommendations to the Commission regarding ways it can help to ensure security, reliability, and interoperability of communications systems.

submarine cable infrastructure, including activities that “pose direct risks to submarine cables by threatening installed cables with equipment, anchors, infrastructure installation and operation, and resource exploration, exploitation, and transport.”¹¹⁰ CSRIC identified “traditional risks” including commercial fishing,¹¹¹ anchoring,¹¹² sand and gravel dredging and beach replenishment,¹¹³ and oil and gas development,¹¹⁴ among other things.¹¹⁵ CSRIC also identified “emerging risks” such as offshore renewable energy development—namely, offshore wind projects, marine and hydrokinetic (MHK) projects, and ocean thermal energy conversion (OTEC) projects—and deep-sea mining, while noting the risks remain uncertain.¹¹⁶

¹¹⁰ CSRIC IV Report at 2 (“Although damage to submarine cables is rare, it is most often caused by human activities such as commercial fishing (in which trawl nets, clam dredges, and other bottom-contact gear ensnare cables), vessel anchoring, dredging related to sand and mineral extraction, petroleum extraction, pipeline construction and maintenance, renewable energy construction and maintenance, and other cable activity.”). CSRIC identified “traditional risks” including commercial fishing, anchoring, sand and gravel dredging and beach replenishment, and oil and gas development, among other things. CSRIC also identified “emerging risks” such as offshore renewable energy development—namely, offshore wind projects, marine and hydrokinetic (MHK) projects, and ocean thermal energy conversion (OTEC) projects—and deep-sea mining, while noting the risks remain uncertain.

¹¹¹ While the CSRIC IV Report stated, “[h]istorically, commercial fishing has accounted for more than 40 percent of all submarine cable faults worldwide,” it also noted that “it is relatively rare in the U.S. territorial sea and [outer continental shelf (OCS)], as the mitigation strategies pursued by submarine cable operators have proved very effective in the United States.”

¹¹² CSRIC IV Report at 32 (“Anchoring accounts for approximately 15 percent of cable faults worldwide”).

¹¹³ See *id.* at 32 (“These practices can be highly incompatible with submarine cables, which can be damaged by the dredging process itself and by anchors used by vessels, barges, and pipelines used to recover, transport, and pump dredged material back onto shore.”).

¹¹⁴ See *id.* at 34 (“Although the submarine cable and offshore oil and gas industries have a long history of working with each other, the renewed focus on U.S. domestic energy production and possible opening of the U.S. Atlantic OCS regions to oil and gas development (in the event the current development moratorium expires in 2017) will increase the risks to submarine cables.”).

¹¹⁵ See *id.* at 35–36 (addressing risks associated with clustering of submarine cable systems, earthquakes and tsunamis, sea floor geology, and weather conditions).

¹¹⁶ *Id.* at 36 (noting, “[b]ecause offshore renewable energy is an emerging industry, the risks remain uncertain. Consequently, submarine cable operators, offshore renewable energy developers, and regulators have yet to develop systematic risk minimization strategies and consultation and coordination mechanisms, which has resulted in some unresolved conflicts.”); *id.* at 41 (“At present, deep-sea mining present a low risk to installed cables, as the mining of particular marine minerals has not yet proved economic. Nevertheless, it is

118. Given the passage of time, the Commission seeks updated information on any new facts or circumstances that can inform the Commission’s evaluation of the equities, risks of damage, and mitigation measures associated with spatial relationships between submarine cables and other marine infrastructure and activities. What, if any, spatial conflicts today present the most significant risks of damage to submarine cables landing in the United States? To the extent other marine infrastructure and activities cross or are in close proximity to submarine cables, what spatial distance is necessary to reduce or eliminate the risk of damage to submarine cables? Are there examples of how installation or maintenance of marine infrastructure and activities near or over submarine cable infrastructure resulted in damage to submarine cables landing in the United States, or affected the maintenance or repair of such submarine cables? Where do such incidents, if any, occur geographically? What is the extent and frequency of any damage to submarine cables?

119. The Commission also seeks comment on what measures the submarine cable industry has implemented/will implement to protect submarine cable infrastructure in the event of any spatial conflicts with wind farms, or electric or other infrastructure or activities that may affect submarine cables. For example, do cable landing licensees coordinate with other industries and establish crossing agreements to mitigate risks of damage to each respective infrastructure? Do cable landing licensees consult and address these risks with Federal agencies that authorize other marine infrastructure and activities? If so, at what stage of the permitting or licensing process or deployment of such marine projects do cable landing licensees coordinate with other industries or Federal agencies?

9. Interagency Coordination and Submarine Cable Protection

120. The Commission seeks comment on what actions it can take to mitigate both the risks identified previously in the *NPRM* and any other risks and strengthen the security and resilience of submarine cable infrastructure,

very likely that improved (and cheaper technologies) and increasing demand for particular minerals (and/or a more stable supply thereof) will pose greater threats to installed submarine cables and limit routes for future cables.”); CSRIC V Report at 9 (stating, “[i]t remains to be seen whether other marine infrastructure, such as oil and gas exploration or marine renewable energy will have a significant effect on the routing of submarine cables or the selection of landing sites for those cables.”).

pursuant to its legal authority, including activities in coordination with its Federal partners. Should the Commission play a more active role in coordinating with other agencies that have jurisdiction over other marine infrastructure that may impact submarine cables, or other agencies that regulate or oversee the installation and protection of submarine cables? In particular, the Commission has previously recognized that “interagency coordination is very important to protect submarine cable infrastructure.”¹¹⁷ With regard to spatial conflicts, in addition to submarine cables, CSRIC addressed how various Federal agencies regulate a number of other marine infrastructure and activities, including offshore renewable energy projects,¹¹⁸ oil and natural gas development,¹¹⁹ dredging and coastal replenishment,¹²⁰ and other matters.¹²¹ The Commission asks

¹¹⁷ 2016 *Submarine Cable Outage Report and Order*, 81 FR 52354 (August 8, 2016), 31 FCC at 7976, para. 80 (“To this end, the International Bureau, in coordination with the Public Safety and Homeland Security Bureau, will continue to lead interagency coordination efforts to help increase transparency and information sharing among the government agencies, cable licensees, and other stakeholders and promote improved interagency coordination processes to mitigate threats to undersea cables and facilitate new projects to improve geographic diversity.”).

¹¹⁸ For example, the Federal Energy Regulatory Commission (FERC), among other things, licenses non-Federal hydropower projects, which includes marine and hydrokinetic (MHK) projects. FERC, *Hydrokinetic Projects* (last updated Aug. 15, 2024), <https://www.ferc.gov/licensing/hydrokinetic-projects> (defining hydrokinetic projects as “[p]rojects that generate electricity from waves or directly from the flow of water in ocean currents, tides, or inland waterways”). The Outer Continental Shelf Lands Act of 1953, as amended (OCSLA), authorizes the Bureau of Ocean Energy Management (BOEM) to grant leases and prescribe regulations that govern mineral and renewable energy development on the U.S. outer continental shelf (OCS). BOEM, among other things, issues leases, easements and rights of way on the OCS for projects that generate electricity from offshore wind, wave and currents and for renewable energy transmission projects.

¹¹⁹ For example, under the OCSLA, BOEM authorizes leases, easements and rights of way for oil and natural gas development and other marine minerals such as sand and gravel for coastal restoration activity.

¹²⁰ CSRIC IV Report at 32–33 (stating that “[t]he Army Corps of Engineers and the Bureau of Ocean Energy Management of the U.S. Department of the Interior (‘BOEM’) frequently authorize sand and gravel dredging in the U.S. territorial sea and OCS.”).

¹²¹ For example, the National Marine Sanctuaries Act allows the National Oceanic and Atmospheric Administration (NOAA) to identify, designate and protect areas of the marine and Great Lakes environment with special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or aesthetic qualities as national marine sanctuaries. If a submarine cable system will traverse a national marine sanctuary, the cable

commenters whether interagency consultation, information-sharing, and other coordination could help to mitigate risks of damage to submarine cable infrastructure that arise from its spatial relationship to other marine infrastructure and activities. In addition, the Commission seeks comment on whether coordination with states that regulate marine infrastructure and activities could help to mitigate risks of damage to submarine cable infrastructure. What are examples of how the Commission could coordinate with relevant agencies to protect submarine cable infrastructure while taking into consideration the U.S. government's equities in other critical marine infrastructure and resources? For example, do Federal statutes provide any source of authority for the Commission to take regulatory and operational actions to mitigate or reduce risks of damage to submarine cables in marine areas subject to U.S. jurisdiction, including in coordination with other Federal or state agencies?¹²²

10. Streamlining Procedures To Expedite Cable Processing

121. The Commission seeks comment on ways to modify its streamlining procedures to expedite submarine cable processing while ensuring national security and law enforcement concerns are addressed. The Commission seeks comment on actions or measures the Commission or Committee can take to expedite the review and licensing process. The Commission originally adopted streamlining procedures for processing applications for submarine cable landing licenses in the *2001 Cable Report and Order*. The intent was to adopt rules that “are designed to facilitate the expansion of capacity and facilities-based competition in the submarine cable market . . . [and] to enable submarine cable applicants and licensees to respond to the demands of the market with minimal regulatory oversight and delay, saving time and resources for both industry and

government, while preserving the Commission's ability to guard against anti-competitive behavior.” The Commission assessed that this framework would result in a reduction of costs for deploying submarine cables and ultimately benefit U.S. consumers. It created a procedure and competitive safeguards that were aligned with those adopted for section 214 authorizations, whereby applications qualifying for streamlining generally would be acted on in a 45-day period. In addition to adopting specific criteria for streamlining eligibility, the Commission also sought to ensure that those entities having a significant ability to affect the operation of a cable system would be applicants for a cable landing license and thus would become licensees upon any grant of an application so that they are subject to the conditions and responsibilities that are associated with a cable landing license, and otherwise provided that “entities that do not own or control a landing station in the United States or have a five percent or greater interest in the proposed cable system generally will not be required to become licensees.”¹²³ The Commission also allowed for post-transaction notifications of *pro forma* assignments or transfers of control in cable landing licenses. Over time, the Commission modified these rules to address changes in Commission policy and to assist in the expeditious review of applications.¹²⁴

122. In 2020, the Commission adopted rules that sought to codify the

¹²³ See also *2001 Cable Report and Order*, 16 FCC Rcd at 22194, para. 54 (“Specifically, we conclude that only the following entities must be required to be applicants for a cable landing license: an entity that (1) owns or control a U.S. landing station or (2) owns or controls a five percent or greater interest in the cable system and will use the U.S. points of the cable system.”). The 2001 proceeding focused on capacity expansion and facilities-based competition and, although it adopted safeguards against anti-competitive conduct associated with market power in foreign markets where U.S.-licensed cable systems land and operate, to the detriment of competition in U.S. markets, it did not otherwise address specific national security concerns.

¹²⁴ In 2014, the Commission adopted rules that eliminated the effective competitive opportunities (ECO) test that was previously adopted in 1995 “as a condition to entry into the U.S. international telecommunications services market by foreign carriers that possess market power on the foreign end of a U.S.-international route on which they seek to provide service pursuant to section 214 of the Communications Act of 1934, as amended[.]” The Commission determined that it was no longer necessary to apply the ECO test to non-World Trade Organization (WTO) members, or otherwise, to protect competition and found that a market based approach, where the applicant or notification filer from a non-WTO Member country must demonstrate whether or not it has market power in the country where the cable lands, would reduce regulatory burdens and provide for an expeditious review of foreign entry to benefit U.S. consumers.

timeframes set forth under Executive Order 13913 and Commission procedures for the referral of applications for cable landing licenses or assignment or transfer of control of submarine cable landing licenses, among other types of applications, to the executive branch agencies including the Committee, for their feedback on any national security, law enforcement, foreign policy, and/or trade policy issues associated with the foreign ownership of applicants.¹²⁵ The Commission codified its policy that it would continue referring applications to the executive branch agencies where the applicant has reportable foreign ownership, *i.e.* “when an applicant has a 10% or greater direct or indirect foreign investor[.]” The Commission further noted that it “retains discretion to determine which applications it will refer to the [executive branch] agencies [including the Committee] for review.”

123. Eligibility for streamlining.

Under the Commission's rules, each applicant for a cable landing license seeking streamlining must request such processing in its application, follow the procedure set out under 47 CFR 1.767(i) and (j), and provide the following information and certifications:

- Certifying that it is not a foreign carrier and it is not affiliated with a foreign carrier in any of the cable's destination markets;
- Demonstrating pursuant to § 63.12(c)(1)(i) through (iii) that any such foreign carrier or affiliated foreign carrier lacks market power; or
- Certifying that the destination market where the applicant is, or has an affiliation with, a foreign carrier is a World Trade Organization (WTO) Member and the applicant agrees to accept and abide by the reporting requirements set out in § 1.767(l). An application that includes an applicant that is, or is affiliated with, a carrier with market power in a cable's non-WTO Member destination country is not eligible for streamlining.
- Certifying that for applications for a license to construct and operate a submarine cable system or to modify the construction of a previously approved submarine cable system the applicant is not required to submit a consistency certification to any state pursuant to

owner must also obtain a permit from NOAA's Office of National Marine Sanctuaries under the National Marine Sanctuaries Act.

¹²² The Commission notes that the national laws of countries such as Australia and New Zealand authorize the establishment of submarine cable protection zones within specific geographic areas. Telecommunications Act 1997, Schedule 3A—Protection of submarine cables; Submarine Cables and Pipelines Protection Act 1996, Part 2—Protection and enforcement, 12(1) (“Protected areas”). Additionally, the national laws and regulations of some countries establish minimum spatial distance requirements with regard to submarine cables. See, e.g., CSRIC IV Report at 50–51 (identifying “foreign governments [that] have established default or minimum separation distances to protect submarine cables”).

¹²⁵ In the *Executive Branch Review Report and Order*, the Commission adopted an additional requirement that entities seeking streamlining must demonstrate eligibility by further certifying that all ten percent or greater direct or indirect equity and/or voting interests, or a controlling interest, in the applicant are U.S. citizens or entities organized in the United States. The Commission also adopted timeframes for the executive branch agencies to complete their review consistent with Executive Order 13913.

section 1456(c)(3)(A) of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1456.

- Certifying that all ten percent or greater direct or indirect equity and/or voting interests, or a controlling interest, in the applicant are U.S. citizens or entities organized in the United States.

124. The rules provide that, for applications that are eligible for streamlined processing, the Commission will take action upon such application within 45 days after release of the public notice announcing the application was acceptable for filing and eligible for streamlining. The Commission will publish a public notice indicating if an application is ineligible for streamlined processing. The rules also provide that the Commission will take action upon a non-streamlined application within 90 days or provide public notice of additional time, which may be further extended, if an application raises questions of extraordinary complexity. Applications that involve foreign ownership or control of the applicants and may present national security, law enforcement, foreign policy, and/or trade policy issues are referred to the executive branch agencies for their review and feedback. Since the beginning of 2016, on average, more than 10 submarine cable applications per year are referred to the executive branch agencies, including the Committee, for review of national security, law enforcement, foreign policy, and/or trade policy concerns.¹²⁶ For the five-year period from 2016 through June 2020, the pre-Committee agencies took on average of 367 days to complete review after receiving all answers to preliminary questions.¹²⁷ From July 2020 to the November 2024, the Committee has taken on average 237 days to complete review of submarine cable applications.¹²⁸ The average time for review by the Committee once an application starts the review clock has dropped significantly from the average time for review by the executive branch agencies prior to the establishment of the Committee, but the Commission

understands that this process can be improved.

125. The Commission seeks comment on measures it can take to provide a streamlining process that is effective and beneficial to both industry and government, while ensuring national security review. The Commission understands that applying for a cable landing license can be a lengthy and complex process that requires considerable advanced planning on the part of submarine cable owners and operators. The Commission understands that submarine cable systems can take years to plan, finance, license, construct, test, and prepare for operation. The Commission seeks to identify mechanisms to reduce the time it takes to review and take action on a submarine cable application in the current environment in which hostile threats and malicious actors pose significant risks to critical infrastructure. For example, if an applicant for a cable landing license is a frequent filer with the Commission because it has numerous submarine cable projects, are there mechanisms the Commission can adopt to reduce the time it takes to review and act on an application for a cable landing license from such filer? What additional steps can the Commission take to streamline its review of an application? Are there specific certifications or other filings that applicants can provide to the Committee in order to expedite the review of a referred application? Should the Commission revisit the Standard Questions associated with submarine cable applications? Should the Commission create a program that would distinguish the review of applicants' ownership and cable management qualifications, barring any significant changes in ownership as of its prior review, from the investigation of specific risk factors associated with each cable system's route, landing stations, and equipment? How should the related risk factors associated with resiliency, trusted supply chains, and national competitiveness be assessed while minimizing the time it takes to review applications? Should the Commission identify classes of risk (such as a nexus to a country of concern)? In order to speed the deployment of submarine cables that connect points solely within the United States and its territories and possessions, should the Commission consider streamlining review of applications that connect domestically unless there is a nexus to a country of concern or foreign adversary? The Commission seeks comment on this

question as well as on other mechanisms that may reduce the time it takes to process a submarine cable application while providing for assessment of national security and other risks and ensuring that any grant of an application is in the public interest. Should the Commission work with applicants and stakeholders to share risk information and threat alerts with trusted providers on a regular basis, consistent with National Security Memorandum 22? What would be the benefits of doing so?

11. Other Changes to Current Requirements

126. The Commission seeks to improve and formalize its current application requirements set forth in § 1.767(a) of the rules. The Commission believes modifications to the rules would, among other things, reduce uncertainty for applicants by clarifying application requirements and address any gaps in the Commission's rules that impact the national security of the United States. The Commission also proposes to adopt new and updated information requirements and certification requirements. The Commission proposes specific requirements for other types of applications, including applications to modify, assign, transfer control of, or renew or extend cable landing licenses, requests for special temporary authority, and *pro forma* assignment and transfer of control notifications, among other matters as applicable. In this regard, and to further improve the clarity of the rules, the Commission proposes to create a new subpart in part 1 of the rules to address each type of application. The Commission seeks comment generally on whether there are specific rules applicable to submarine cable applications and notifications where the benefits do not outweigh the burdens and whether the Commission should eliminate or modify such rules.

127. *Contact Information.* The Commission's rules currently require applicants for cable landing licenses and for assignments and transfers of control of such licenses to provide "[t]he name, address, and telephone number(s) of the applicant" and "[t]he name, title, post office address, and telephone number of the officer and any other contact point" in the applications. Additionally, the rules require that, while an application is pending for purposes of § 1.65 of the rules, the applicant is responsible for the continuing accuracy and completeness of all information submitted and that "the applicant agrees to inform the Commission and the Committee of any

¹²⁶ Since the beginning of 2016 through the end of 2020, a total of 84 submarine cable applications, including initial applications for cable landing license and application for modification, assignment, transfer of control, and renewals or extension of a cable landing license were referred to the executive branch agencies for review of national security, law enforcement, foreign policy, and/or trade policy concerns.

¹²⁷ From 2016 to June 2020, the Commission referred 52 submarine cable applications to the executive branch agencies.

¹²⁸ From July 2020 to November 2024 the Commission has referred 32 submarine cable applications to the executive branch agencies.

substantial and significant changes while an application is pending.” The rules also require that, after the application is no longer pending for purposes of § 1.65 of the rules, “the applicant must notify the Commission and the Committee of any changes in the . . . licensee information and/or contact information promptly, and in any event within thirty (30) days.” The Commission proposes to amend the submarine cable rules to expressly apply these requirements to applications for modification and renewal or extension of cable landing licenses. The Commission also proposes to require applicants for cable landing licenses and for modification, assignment, transfer of control, and renewal or extension of licenses to provide an email address on behalf of the applicant and an email address on behalf of the officer and any other contact point, to whom correspondence regarding the application can be addressed.

128. *Renewal Applications.* To provide regulatory certainty, the Commission proposes to adopt rules for cable landing licensees that seek to renew or extend the term of their license. Under the Commission’s rules, a cable landing license expires “twenty-five (25) years from the in-service date, unless renewed or extended upon proper application.” Although § 1.767(e) of the rules requires that an application must be filed with respect to each submarine cable system for which a renewal or extension of an existing license is requested,¹²⁹ the rules do not set out specific requirements for such applications. In addition, the rules do not expressly address the Commission’s longstanding policy of considering national security, law enforcement, foreign policy, and/or trade policy considerations in its review of such applications.

129. The Commission proposes, as a baseline, to require applicants seeking to renew or extend a cable landing license to provide in the application the same information and certifications required in an application for a new cable landing license under §§ 1.767(a) and 63.18(h), (o), (p), and (q) of the rules, as well as any new requirements adopted in this proceeding. Specifically, the current application rules for a new

cable landing license require important information and attestations concerning an applicant’s contact information, the submarine cable (including the landing locations), and whether the cable will be operated on a common carrier or non-common carrier basis, among other things. The Commission proposes to adopt rules applying these provisions of §§ 1.767(a) and 63.18(h), (o), (p), and (q) to applications to renew or extend a cable landing license (collectively, “renewal applications”). To the extent the Commission adopts any new or modified information and certification requirements in this proceeding with respect to applications for a new cable landing license, the Commission proposes to similarly apply those requirements to renewal applications and thus harmonize the application requirements. The Commission further proposes to codify the Commission’s longstanding practice that applicants must demonstrate how grant of the renewal application will serve the public interest, convenience, and necessity. The Commission seeks comment on these approaches.

130. *Renewal Streamlined Processing Procedures.* The Commission seeks comment on whether the Commission should adopt streamlined processing for renewal applications in certain situations. For instance, § 1.767(i) of the rules provide that, “[t]he Commission will take action upon an application eligible for streamlined processing, as specified in paragraph (k) of this section, within forty-five (45) days after release of the public notice announcing the application as acceptable for filing and eligible for streamlined processing.” In current practice, once filed, Commission staff review the renewal application for compliance with the Commission’s rules and place the application on an Accepted for Filing public notice once it is acceptable for filing. Should the Commission adopt similar streamlined processing procedures for renewal applications in certain situations, subject to the State Department’s approval of any proposed grant of a renewal application? Specifically, the Commission seeks comment on whether the Commission should place a renewal application on streamlined Accepted for Filing public notice and grant such application within forty-five (45) days after release of the public notice if: (1) the Commission does not refer the application to the executive branch agencies because the applicant does not have reportable foreign ownership and the application does not raise other national security, law enforcement, or

other considerations warranting executive branch review; (2) the application does not raise other public interest considerations, including regulatory compliance; (3) the executive branch agencies do not separately request during the comment period that the Commission defer action and remove the application from streamlined processing; (4) no objections to the application are timely raised by an opposing party; and (5) any proposed grant of a renewal application is approved by the State Department.

131. *Licenses Pending Renewal.* As with title III licensees pursuant to section 307(c) of the Act, and consistent with the Administrative Procedure Act, the Commission proposes to adopt a rule that an applicant that has timely applied for renewal or extension of its cable landing license may continue operating the submarine cable system while its renewal application is pending review.¹³⁰ The Commission proposes that the Commission may deny the renewal application, for instance, if an applicant fails to provide any information that is required by the rules or is reasonably requested by staff in its review of the renewal application. The Commission tentatively concludes that this proposal is consistent with the Administrative Procedure Act, and seeks comment on this tentative conclusion. The Commission also proposes to amend § 1.767(g)(15) by providing that, upon expiration, all rights granted under the license shall be terminated if the licensee has not timely filed a renewal application.¹³¹ Should the Commission further amend the rule by expressly requiring the filing of a renewal application before the cable landing license expires? Alternatively, to the extent a licensee fails to timely file a renewal application, should the Commission allow the licensee to continue operating the submarine cable following the expiration of a license if the licensee files a request for an STA, either prior to or after such expiration and pending the filing of an application to renew or extend the cable landing license? Or should the Commission require the filing of a waiver demonstrating good cause to allow a late

¹²⁹ Section 1.767(e) of the rules states that “[a] separate application shall be filed with respect to each individual cable system for which a license is requested or a modification of the cable system, renewal, or extension of an existing license is requested. Applicants for common carrier cable landing licenses shall also separately file an international section 214 authorization for overseas cable construction.”

¹³⁰ See 5 U.S.C. 558(c) (“When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.”); *id.* 551(8) (“license” defined to mean “the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission”).

¹³¹ 47 CFR 1.767(g)(15) (stating that, “[u]pon expiration, all rights granted under the license shall be terminated”).

filing of a renewal application? In any instance where a licensee fails to timely file a request for an STA or a renewal application and seeks to continue operating the submarine cable, the Commission proposes that it shall reserve the right to take enforcement action for unauthorized operations following expiration of the license and the filing of a request for an STA or renewal application. The Commission seeks comment on these approaches.

132. *Modification Applications.* The Commission proposes to adopt rules for cable landing licensees that seek to modify a cable landing license. Additionally, the Commission seeks comment on whether it should amend the rules by clarifying the types of facts and circumstances that warrant the filing of an application to modify a cable landing license. Section 1.767 of the rules addresses certain cases where a modification application is required, including situations where a licensee seeks to add a new licensee to the cable landing license, or relinquish its interest in a cable landing license, or add a new landing point that is not included in the grant of authority for the submarine cable system.¹³² The Commission proposes to codify the Commission's practice in a new paragraph of the rules that will address requirements related to modifying a cable landing license, including the current requirement that licensees must obtain prior Commission approval of certain changes to a license such as the addition or removal of a licensee and the addition of a new landing point. The Commission also proposes that licensees must obtain prior approval to remove or otherwise change the location of a landing point previously authorized by the Commission. Further, the Commission proposes that licenses must obtain prior approval to construct or add a new connection, such as a segment or a branching unit, to an FCC-licensed submarine cable system.

133. Additionally, the Commission proposes to codify its longstanding practice by specifying in the rules the required contents of a modification

application. The Commission proposes to require that applicants seeking to modify a cable landing license must include in the application a narrative description of the modification(s) that is being requested, including relevant facts and circumstances. The Commission proposes to adopt application requirements and certifications from §§ 1.767(a) and 63.18(h), (o), (p), and (q) of the rules that are tailored to the type of modification requested, such as a modification to (1) add a cable landing station, a segment, or other material change to the cable system; (2) add a new licensee to the cable landing license; (3) remove a licensee from the cable landing license; or (4) add, modify, or remove a condition on the cable landing license. For instance, the Commission proposes that it would require information about the change to the submarine cable system, specifically the location of the new landing point, the ownership and control of the landing point, and other information, whereas, for a modification to add a licensee to a cable landing license, the Commission would seek information about the applicant and its ownership, among other information. What other information should the Commission require from an applicant that seeks to modify a cable landing license by adding or removing a licensee, adding or removing a landing point, or adding, modifying, or removing a condition on a cable landing license? To the extent the Commission adopts any new or modified information and certification requirements in this proceeding with respect to applications for a new cable landing license, the Commission proposes to similarly apply those requirements to modification applications. The Commission further proposes to codify longstanding practice that applicants must demonstrate how grant of the modification application will serve the public interest, convenience, and necessity. The Commission seeks comment on these approaches.

134. Over the years, Commission staff have received questions as to whether a modification application must be filed for the construction or addition of new segments or branching units to FCC-licensed submarine cable systems, which may not always involve the addition of new landing points. The Commission understands that many cable systems are constructed with branching units to allow new connections in the future. These connections are often to new landings or sometimes to other cable systems. The Commission proposes to adopt a

specific rule prescribing that if a new connection to a branching unit is to be made after the Commission has issued a license, the licensee must file an application to modify the license before constructing, landing, and operating the new connection. The Commission sets forth two examples where a modification application would be required of a licensee under the Commission's proposed rule.

135. *Adding a Segment Connecting Two FCC-Licensed Cables.* In this example, there are two separately owned and FCC-licensed submarine cable systems that connect two separate points in the United States to two separate foreign countries. The licensees of the cable systems (Company A and Company B, respectively) both seek to install a new segment in the deep waters that will connect to each other's cable via a branching unit. There would be no new landing points in the United States, no new foreign landing points, and no change in the ownership of either cable. Company A would hold capacity, through an IRU, on Company B's cable to reach Company B's U.S. landing point (via the new segment), but would not have access to Company B's foreign landing point. Company B would not have access to Company A's U.S. or foreign landing points. Under the Commission's proposed rule, the licensees would be required to obtain prior approval for the new connection by such segment of the two separately owned and FCC-licensed submarine cable systems in deep waters by filing a modification application with the Commission.

136. *Adding a New Foreign Landing Point.* In this example, Company D is the licensee of an FCC-licensed submarine cable system that connects a U.S. landing point to a foreign landing point in Country D. A portion of the cable system is deployed in waters near another foreign country, Country C. Company C from Country C has constructed a cable landing station on its shores and deployed a submarine cable with the intent to connect its cable to Company D's cable system through a branching unit. Company D will not own any portion of Company C's cable system and will not use Company C's landing point in Country C. In turn, Company C will not own any portion of Company D's cable system, including the portion connecting a U.S. landing point to the landing point in Country D. Company C plans to purchase from Company D capacity on the portion of Company D's cable system from the new branching unit (*i.e.*, located in the waters near Country C) to the landing point in Country D. Under the

¹³² See 47 CFR 1.767(a)(5) ("The applicant initially may file a general geographic description of the landing points; however, grant of the application will be conditioned on the Commission's final approval of a more specific description of the landing points, including all information required by this paragraph, to be filed by the applicant no later than ninety (90) days prior to construction."); 47 CFR 1.767 (g)(8) ("Unless the licensee has notified the Commission in the application of the precise locations at which the cable will land, as required by paragraph (a)(5) of this section, the licensee shall notify the Commission no later than ninety (90) days prior to commencing construction at that landing location.").

Commission's proposed rule, Company D, as the FCC licensee, would be required to obtain prior approval for the new connection of its cable to Company C's cable system by such branching unit by filing a modification application with the Commission.

137. *Assignment and Transfer of Control Applications.* The Commission proposes to amend § 1.767(a)(11) of the rules to incorporate changes consistent with the approach the Commission proposes in the *NPRM*. The rules currently require, as a condition of a cable landing license, that the license and rights granted in the license shall not be transferred or assigned without prior approval by the Commission.¹³³ Applicants seeking authority to assign or transfer control of an interest in a submarine cable system are required to file an application that contains information in accordance with § 1.767(a)(11) of the rules.¹³⁴ As an initial matter, the Commission proposes to amend § 1.767(a)(11)(i) of the rules to clarify that applicants seeking to assign or transfer control of a cable landing license must include the percentage of voting and ownership interests being assigned or transferred "including in the U.S. portion of the cable system, which includes all U.S. cable landing station(s)." Currently, § 1.767(a)(11)(i) refers more narrowly to "a U.S. cable landing station" by stating that applicants must provide, on a segment specific basis, "the percentage of voting and ownership interests being transferred or assigned in the cable system, including in a U.S. cable landing station." The Commission believes its proposed change to expressly state "including in the U.S. portion of the cable system" (which includes all U.S. cable landing station(s))" (emphasis added) would improve the clarity of the rule and is also consistent with the approaches on which the Commission seeks comment in the *NPRM*, including a definition of a submarine cable system and the Commission's proposed amendments to the application requirements for new cable landing licenses. Additionally, the

Commission proposes to amend § 1.767(a)(11)(i) to codify the long-standing requirement that applicants must demonstrate that grant of the transaction will serve the public interest, convenience, and necessity. To the extent the Commission adopts any new or modified information and certification requirements in this proceeding with respect to applications for a new cable landing license, the Commission proposes to similarly apply those requirements to assignment and transfer of control applications. The Commission seeks comment on these approaches and whether it should adopt other changes to the rules to improve clarity or ensure consistency with the Commission's overall objectives in this proceeding.

138. *Pro Forma Assignment and Transfer of Control Post-Transaction Notifications.* The Commission proposes to amend the rules applicable to *pro forma* assignments and transfers of control of cable landing licenses by clarifying what information must be provided in such notifications. To improve the organization and clarity of the rules applicable to *pro forma* assignment and transfer of control notifications, the Commission proposes to create a new paragraph that would address the specific requirements. The Commission proposes to eliminate the distinction in § 1.767(g) that applies the routine conditions—including the *pro forma* condition under § 1.767(g)(7)—only "to each licensee of a cable landing license granted on or after March 15, 2002,"¹³⁵ and to apply the routine conditions to all cable landing licensees.¹³⁶ Section 1.767(g)(7) of the rules requires, as a condition of a cable

landing license, that "[a] *pro forma* assignee or person or company that is the subject of a *pro forma* transfer of control must notify the Commission no later than thirty (30) days after the assignment or transfer of control is consummated," and such notification "must certify that the assignment or transfer of control was *pro forma*, as defined in § 63.24 of this chapter and, together with all previous *pro forma* transactions, does not result in a change of the licensee's ultimate control." As part of the Commission's proposed reorganization of the rules, the Commission proposes to move the text of § 1.767(g)(7) that specifically addresses the information requirements of *pro forma* assignment and transfer of control notifications into the new paragraph.¹³⁷ With respect to § 1.767(g)(7), the Commission proposes to retain the outstanding text of the routine condition, while adding a statement that the *pro forma* assignment and transfer of control notifications must be filed in accordance with the requirements set forth in the new paragraph applicable to *pro forma* transactions. The Commission proposes to incorporate into this new paragraph the text of § 63.24(d), to which § 1.767(g)(7) currently refers, and further clarify references contained therein to other parts of the Commission's rules.¹³⁸

139. Upon receiving a *pro forma* assignment or transfer of control notification, Commission practice involves reviewing the notification for

¹³⁷ Specifically, the Commission proposes to move to the new paragraph the text of § 1.767(g)(7) that states the notification must certify that the assignment or transfer of control was *pro forma*, as defined in 47 CFR 63.24, and, together with all previous *pro forma* transactions, does not result in a change of the licensee's ultimate control. The licensee may file a single notification for an assignment or transfer of control of multiple licenses issued in the name of the licensee if each license is identified by the file number under which it was granted.

¹³⁸ See 47 CFR 63.24(d) (providing that transfers of control or assignments that do not result in a change in the actual controlling party are considered non-substantial or *pro forma*. Whether there has been a change in the actual controlling party must be determined on a case-by-case basis with reference to the factors listed in note 1 to § 63.24(d). The types of transactions listed in note 2 to § 63.24(d) shall be considered presumptively *pro forma* and prior approval from the Commission need not be sought.). By incorporating the text of § 63.24(d) into a new § 1.767(a), the Commission proposes to specify that "note 1 to this paragraph (d)" and "note 2 to this paragraph (d)" refer to those respective notes in § 63.24(d) of the rules. The Commission's proposed approach is limited to the new paragraph that it proposes to adopt in § 1.767(a). The Commission does not propose amendments to § 63.24(d) in the *NPRM*. In the *Evolving Risks NPRM*, the Commission proposed, among other administrative changes, the conversion of certain Notes into respective paragraphs for consistency with the Office of Federal Register requirements, including notes 1 and 2 of § 63.24(d).

¹³³ A *pro forma* assignee or person or company that is the subject of a *pro forma* transfer of control of a cable landing license is not required to seek prior approval for the *pro forma* transaction to the extent the cable landing license was granted on or after March 15, 2002, or modified to incorporate § 1.767(g)(7) of the routine conditions. 47 CFR 1.767(g) ("Except as otherwise ordered by the Commission, the following rules apply to each licensee of a cable landing license granted on or after March 15, 2002 . . ."). A *pro forma* assignee or person or company that is the subject of a *pro forma* transfer of control must notify the Commission no later than thirty (30) days after the assignment or transfer of control is consummated.

¹³⁴ See 47 CFR 1.767(a)(11)(i).

¹³⁵ 47 CFR 1.767(g) ("Routine conditions. Except as otherwise ordered by the Commission, the following rules apply to each licensee of a cable landing license granted on or after March 15, 2002 . . .").

¹³⁶ In the 2001 *Cable Report and Order*, the Commission determined that "[t]he rules we adopt today carve out a limited exception to this condition for *pro forma* transactions for all cable landing licenses that the Commission grants after the effective date of this Report and Order," and "[f]or cable landing licenses granted prior to the effective date of this Report and Order, a licensee may file an application with the Commission seeking a modification of its license to incorporate this limited exception to the prior approval requirement currently set forth in the applicable license condition." As discussed below, the Commission believes this distinction in § 1.767(g) between cable landing licenses granted prior to and on or after March 15, 2002 is no longer meaningful given that licenses granted prior to March 15, 2002, including those that have not been modified to incorporate the exception to § 1.767(g)(6) as applied to *pro forma* transactions, either have expired or are nearing the expiration of their 25-year term. Where a renewal of a cable landing license is granted, it is Commission practice to apply the routine conditions of § 1.767(g)(6) to the terms of the new license.

compliance with the rules, including whether it contains information required under § 1.767(a)(11)(i) and whether the assignment or transfer of control was in fact *pro forma* and, accordingly, issuing an “Actions Taken” public notice. To reduce regulatory uncertainty, the Commission proposes to codify existing Commission practice by clarifying that the requirements under § 1.767(a)(11)(i) are not only applicable to substantial assignments and transfers of control, but also apply to *pro forma* assignment and transfer of control notifications. Therefore, a *pro forma* assignee or person or company that is the subject of a *pro forma* transfer of control must also submit information consistent with such requirements.¹³⁹ Accordingly, the Commission proposes that the new aforementioned paragraph will incorporate the requirements set out in § 1.767(a)(11)(i) by requiring that *pro forma* assignment and transfer of control notifications shall (1) provide information as required under § 1.767(a)(1) through (3) of the rules for both the assignor/transferor and the assignee/transferee; (2) provide information as required under § 1.767(a)(8) and (9) of the rules for only the assignee/transferee; (3) include both the pre-transaction and post-transaction ownership diagram of the licensee as required under § 1.767(a)(8)(i) of the rules; (4) include a narrative describing the means by which the *pro forma* assignment or transfer of control occurred, and (5) specify, on a segment specific basis, the percentage of voting and ownership interests that were assigned or transferred in the cable system, including in the *U.S. portion of the cable system* (which includes all U.S. cable landing station(s)). The Commission reserves the right to request additional information concerning the transaction to aid it in making its public interest determination. Additionally, the Commission proposes to make administrative changes to § 1.767(a)(11) by changing “transferor/assignor” and “transferee/assignee” to instead reflect “assignor/transferor” and “assignee/transferee,” consistent with the overall structure of § 1.767(a)(11). The Commission tentatively finds that these approaches are consistent with the Commission’s longstanding practice. The Commission seeks comment on these proposals and whether there are additional ways that the Commission should clarify the rules applicable to *pro forma* assignment and transfer of control notifications.

140. *Requests for an STA.* To provide clarity in the rules and reduce

regulatory uncertainty, the Commission proposes to adopt a framework for applicants requesting an STA to allow, at the applicant’s own risk, the construction, testing, or operation of a submarine cable. Generally, the Commission may receive requests for an STA from applicants: (1) seeking to commence construction of or commercial service on a cable system while the cable landing license application is pending Commission approval; (2) seeking to continue operating a cable system following the expiration of a license and pending the filing of an application to renew or extend the cable landing license; (3) who are operating a cable system without first obtaining a license; (4) that consummated a transaction without prior Commission consent; or (5) seeking to provide emergency service arising from a need occasioned by conditions unforeseen by, and beyond the control of, the licensee(s), among other examples. It is the Commission’s current practice to place a request for an STA on Accepted for Filing public notice and to send a courtesy copy of such public notice to the Committee for STA requests where the applicant has reportable foreign ownership. The Commission may consult with the Committee on a particular request for an STA, where appropriate, prior to releasing the public notice. Any grant of a request for an STA does not prejudice action by the Commission on any underlying application, including enforcement action, as is set forth in public notices issued in association with the request.¹⁴⁰

141. The Commission proposes to adopt rules based on its current practice. The Commission proposes to require that any person or entity seeking an STA with respect to the construction, testing, or operation of a submarine cable must expeditiously file all requisite applications related to the request for an STA—including any application(s) for a cable landing license

or modification, assignment, transfer of control, or renewal or extension of such license—before or immediately upon submitting the request for an STA. The Commission proposes to require that applicants requesting an STA must identify the file number(s) of any pending application(s) associated with the request for an STA. The Commission seeks comment on whether it should impose any other requirements related to filing a request for an STA.

142. The Commission proposes to adopt rules requiring that applicants requesting an STA related to the construction, testing, or operation of a submarine cable must provide the following information in its request: (1) applicant and contact information as required under § 1.767(a)(1) through (3) of the rules; (2) a description of the request for an STA, the reason why applicants seek an STA, and the justification for such request; (3) the name of the cable system for which applicants request an STA; (4) the name(s) and citizenship(s) or place(s) of organization of each applicant requesting an STA with respect to the submarine cable, including the licensees that jointly hold a cable landing license; (5) a statement as to whether or not any individual or entity directly or indirectly owns 5% or more of the equity interests and/or voting interests, or a controlling interest, of any applicant requesting an STA (or 10% or more to the extent the Commission retain the current ownership reporting threshold); (6) the type of request for an STA, such as a new request for an STA, a request to extend or renew an STA, or other type; (7) whether or not the request for an STA is associated with an application(s) pending with the Commission, and if so, identification of the related file number(s); (8) the date by which applicants seek grant of the request for an STA; (9) the duration for which applicants seek an STA.

143. In addition to these proposed requirements, the Commission seeks comment on whether it should require applicants requesting an STA to provide any information required by § 63.25 of the Commission’s rules. While § 63.25 addresses requirements relating to temporary or emergency service by international carriers, it has been the Commission’s long-standing practice to rely on § 63.25 to review and act on requests for STAs involving submarine cables.¹⁴¹ The Commission seeks

¹⁴⁰ See, e.g., File No. SCL–STA–20220318–00011, *Non-Streamlined Submarine Cable Landing License Applications Accepted for Filing*, Public Notice, Report No. SCL–00371NS (IB Apr. 22, 2022) (releasing an “Accepted for Filing” public notice and stating that the applicant “acknowledges that grant of such STA will not prejudice action by the Commission on the underlying application, and that the STA is subject to cancellation or modification upon notice without a hearing”); File No. SCL–STA–20220318–00011, *Actions Taken Under Cable Landing License Act*, Public Notice, Report No. SCL–00374, 37 FCC Rcd 6065 (IB 2022) (granting the request for an STA and stating that the applicant “acknowledges that grant of the STA will not prejudice action by the Commission on the underlying application and that the STA is subject to cancellation or modification upon notice without a hearing.”).

¹⁴¹ Section 63.25(a)(1) defines “[t]emporary service” as “a period not exceeding 6 months.” Section 63.25(a)(2) defines “[e]mergency service” as “service for which there is an immediate need occasioned by conditions unforeseen by, and

¹³⁹ 47 CFR 1.767(a)(11)(i).

comment on whether it should continue to rely on § 63.25 instead of adopting new rules specifically for submarine cables. To the extent the Commission integrates the provisions of § 63.25 into the proposed framework, should the Commission require applicants to comply with the requirements set out in § 63.25 to the extent they are applicable? The Commission seeks comment on whether certain requirements in § 63.25 are inapplicable in the submarine cable context.¹⁴²

144. The Commission also proposes to require applicants requesting an STA related to the construction, testing, or operation of a submarine cable to provide certain certifications in such request. Specifically, the Commission proposes to adopt in the Commission's rules the following certification requirements: (1) applicants must provide the same certifications required in an application for a new cable landing license, including the certification required in § 63.18(o) of the rules,¹⁴³ as well as any new certification requirements adopted in this proceeding; (2) applicants must acknowledge that any grant of the request for an STA does not prejudice action by the Commission on any underlying application(s); (3) applicants must acknowledge that any grant of the

beyond the control of the carrier." Section 63.25(c) provides that an application may be filed to request continuing authority to provide temporary or emergency service.

¹⁴² See, e.g., 47 CFR 63.25(c) (providing that any carrier may request continuing authority "to provide temporary or emergency service by the construction or installation of facilities where the estimated construction, installation, and acquisition costs do not exceed \$35,000 or an annual rental of not more than \$7,000 provided that such project does not involve a major action under the Commission's environmental rules"); *id.* (requiring that any carrier to which continuing authority has been granted must file, following the end of each 6-month period covered by such authority, certain information with the Commission, including "[t]he type of facility constructed, installed, or leased," "[t]he route kilometers thereof (excluding leased facilities)," "[t]he terminal communities served and the airline kilometers between terminal communities in the proposed project," "[t]he cost thereof, including construction, installation, or lease," and "[w]here appropriate, the name of the lessor company, and the dates of commencement and termination of the lease").

¹⁴³ See 47 CFR 63.18(o) (requiring "[a] certification pursuant to §§ 1.2001 through 1.2003 of this chapter that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. 853a."); see 47 CFR 1.2002(b) (explaining the meaning of "party to the application" for purposes of this section); *Id.* 1.2002(c) ("The provisions of paragraphs (a) and (b) of this section are not applicable to the Amateur Radio Service, the Citizens Band Radio Service, the Radio Control Radio Service, to users in the Public Mobile Services and the Private Radio Services that are not individually licensed by the Commission, or to Federal, State or local governmental entities or subdivisions thereof.").

request for an STA is subject to revocation/cancellation or modification by the Commission on its own motion without a hearing; and (4) applicants must acknowledge that any grant of the request for an STA does not preclude enforcement action for non-compliance with the Cable Landing License Act, the Communications Act, or the Commission's rules. In addition, the Commission proposes to codify the Commission's long-standing practice of requiring applicants requesting an STA to demonstrate that grant of such request would serve the public interest, convenience, and necessity. The Commission seeks comment on these proposed requirements. Should the Commission require applicants requesting an STA to provide additional information or certifications for the Commission's assessment?

145. *Amendments.* The Commission proposes to codify the Commission's longstanding practice to set forth in the rules that any submarine cable application may be amended as a matter of right prior to the date of any final action taken by the Commission or designation for hearing. The Commission also proposes to require that amendments to applications shall be signed and submitted in the same manner as was the original application. Further, the Commission proposes to require that if a petition to deny or other formal objection has been filed in response to the application, the amendment shall be served on the parties.

12. Routine Conditions Applicable to All Licensees

146. Below, the Commission proposes to amend the routine conditions that are attached to cable landing licenses under § 1.767(g) of the rules, which provide a set of public, standard requirements and procedures to ensure that licensees consistently certify that they will comply with the conditions imposed on the license following grant of an application. The routine conditions provide the Commission with important information about licensee status and updated points of contact for the submarine cables licensed by the Commission, and other updated information for purposes of assessing any national security, law enforcement, and other concerns.

147. *Eliminate 2002 Distinction.* The Commission proposes to eliminate the distinction in § 1.767(g) that applies the routine conditions only "to each licensee of a cable landing license

granted on or after March 15, 2002."¹⁴⁴ The Commission believes that this distinction is no longer meaningful given that cable landing licenses granted prior to March 15, 2002, either have expired or are nearing the expiration of their 25-year term. Further, to the extent the Commission grants applications to renew the license of a submarine cable, the Commission's current practice is to issue a new cable landing license based on the rules that were effective as of March 15, 2002, instead of renewing the terms of the license that were in effect prior to this date. Therefore, the Commission proposes to amend § 1.767(g) by eliminating the text "granted on or after March 15, 2002" and to apply the routine conditions, as they may be amended in this proceeding, "to each licensee of a cable landing license" irrespective of the date of grant. The Commission seeks comment on this proposal.

148. *Points of Contact.* The Commission proposes to amend its rules by adding a new routine condition requiring cable landing licensees to notify the Commission of any changes to their contact information within thirty (30) days of such change, consistent with the information requirements on which the Commission seeks comment in this proceeding. It is essential for the Commission to maintain updated contact information for the appropriate points of contact to whom any matters concerning a licensed submarine cable may be addressed. Specifically, the Commission proposes that cable landing licensees must inform the Commission of any changes to the contact information provided in their most recent submarine cable application—including the application for a new cable landing license or any modification, assignment, transfer of control, or renewal or extension of the license—and the most recent three-year periodic report. The Commission seeks comment on this proposal.

149. *Notification of Changes to the Name of the Licensee or Submarine Cable System.* The Commission proposes to amend its rules by adding a new routine condition requiring licensees to notify the Commission of any changes to the name of the licensee (including the name under which it is doing business) or the name of its submarine cable within thirty (30) days of such change. If there are multiple licensees of the submarine cable, the Commission proposes that the lead

¹⁴⁴ 47 CFR 1.767(g) ("Routine conditions. Except as otherwise ordered by the Commission, the following rules apply to each licensee of a cable landing license granted on or after March 15, 2002").

licensee must file the notification with the Commission within the 30-day timeframe. It is important for the Commission to maintain updated information that is critical to identifying the licensees and the licensed submarine cable system. The Commission seeks comment on this proposal.

150. *Covered List Equipment.* The Commission proposes to amend its rules by adding a new routine condition prohibiting licensees from using, for the relevant submarine cable system, equipment or services identified on the “Covered List.” The Commission also proposes that this prohibition would apply to covered equipment or services purchased, rented, leased, or otherwise obtained on or after August 14, 2018 (in the case of Huawei, ZTE, Hikvision, Dahua, and Hytera), or on or after 60 days after the date that any equipment or service is placed on the Covered List.

151. *Commencement of Service Requirement.* Currently, an entity can obtain a cable landing license and then not construct, land, or operate the cable pursuant to the license. This may occur because business plans change or the entity goes out of business, and it has resulted in the retention of cable landing licenses in the Commission’s records where the license likely was not used to construct or operate the cable. Section 1.767(g)(15) of the rules requires that “the licensee must notify the Commission within thirty (30) of the date the cable is placed into service.” In addition, § 1.767(g)(15) sets forth that “[t]he cable landing license shall expire twenty-five (25) years from the in-service date, unless renewed or extended upon proper application.” However, there currently is no rule requiring licensees to notify the Commission that they have not utilized the licenses and, as a result, there are a few licenses associated with submarine cable systems that likely were not built, but are reflected as current licenses in ICFS. The Commission notes that it has requirements for other licensees of regulated services where the licensee must begin providing service within a set period of time or its license is cancelled.¹⁴⁵ The Commission proposes

to adopt similar requirements for cable landing licensees. This proposed requirement would provide the Commission with more accurate information as to which license grants were not utilized to construct and operate submarine cables and improve the administration of the Commission’s rules.

152. The Commission tentatively concludes that cable landing licensees should retain their license only if they construct and operate the submarine cable under that license. Consequently, the Commission proposes to adopt a rule requiring a cable landing licensee to commence commercial service on the cable under its license within three years following the grant. The Commission proposes that if a cable landing licensee seeks a request for a waiver of the three-year time period, the licensee must identify the projected in-service date and reasons for the delay and demonstrate good cause for grant of a waiver.¹⁴⁶ The Commission also seeks comment on whether the Commission should instead allow a licensee to request an extension of the three-year time period rather than requesting a waiver. The Commission proposes that if a cable landing licensee does not notify the Commission of the commencement of service or file a request for a waiver within three years following the grant of the license, such failure to meet this condition will result in automatic cancellation of the license. Other Commission rules have similar automatic cancellations. The Commission seeks comment on this proposal, including whether three years after license grant is sufficient time to commence commercial operation or if another time period may be appropriate. The Commission’s records in ICFS indicate that most licensees of operating submarine cables commenced service within this timeframe.

13. Foreign Carrier Affiliation Notifications

153. The Commission proposes to amend § 1.768(e)(4) of the rules to require that licensees must include in a notification of a foreign carrier affiliation voting interests, in addition to the equity interests, and a diagram of individuals or entities with a 10% or greater direct or indirect ownership in

if the licensee fails to meet applicable construction or coverage requirements.”).

¹⁴⁶ Under the “good cause” standard, waiver is appropriate only if both (1) special circumstances warrant a deviation from the general rule, and (2) such deviation better serves the public interest. See also *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969) (“An applicant for waiver faces a high hurdle even at the starting gate.”).

the licensee. Currently, a licensee is required to include, among other things, in a foreign carrier affiliation notification “[t]he name, address, citizenship, and principal business of any person or entity that directly or indirectly owns at least ten percent (10%) of the equity of the licensee, and the percentage of equity owned by each of those entities (to the nearest one percent (1%)).” The Commission proposes revisions to § 1.768(e)(4) that would be consistent with the ownership reporting requirements of other submarine cable applications and notifications. Specifically, the Commission proposes to amend § 1.768(e)(4) to require that licensees must provide the name, address, citizenship, and principal businesses of any individual or entity that directly or indirectly owns 10% or more of the equity interests and/or voting interests, or a controlling interest, of the licensee, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent). Where no individual or entity directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the licensee, the Commission proposes that the licensee must provide a statement to that effect. The Commission further proposes to amend § 1.768(e)(4) by integrating the provisions set out in § 63.18(h)(1)(i) and (ii) of the rules, which address calculation of indirect equity interests and voting interests, respectively, and are applicable to other submarine cable applications and notifications.

154. Additionally, the Commission proposes to amend § 1.768(e) by requiring that licensees must provide an ownership diagram that illustrates the licensee’s vertical ownership structure, including individuals or entities with a 10% or greater direct or indirect ownership (equity and voting) interests, or a controlling interest, in the licensee. To the extent the Commission adopts a 5% ownership reporting threshold as a requirement of applications for a cable landing license and modification, assignment, transfer of control, and renewal or extension of the license, as discussed above, the Commission proposes that it amend § 1.768(e)(4) by similarly adopting a 5% ownership reporting threshold and thus harmonize the requirements. The Commission seeks comment on this proposal.

14. Other Changes to the Rules

155. The Commission proposes to amend § 1.767 of the rules by eliminating certain provisions that the Commission tentatively concludes are

¹⁴⁵ 47 CFR 1.946(c) (requiring, with regard to a licensee in the Wireless Radio Services, “[i]f a licensee fails to commence service or operations by the expiration of its construction period or to meet its coverage or substantial service obligations by the expiration of its coverage period, its authorization terminates automatically (in whole or in part as set forth in the service rules), without specific Commission action, on the date the construction or coverage period expires”); see also 47 CFR 1.955(a)(2) (“Authorizations automatically terminate (in whole or in part as set forth in the service rules), without specific Commission action,

no longer applicable or consistent with its current rules or practice. Specifically, the Commission proposes to eliminate § 1.767(c), which states that original files relating to submarine cable landing licenses and applications for licenses since June 30, 1934, are kept by the Commission. Such applications for licenses (including all documents and exhibits filed with and made a part thereof, with the exception of any maps showing the exact location of the submarine cable or cables to be licensed) and the licenses issued pursuant thereto, with the exception of such maps, shall, unless otherwise ordered by the Commission, be open to public inspection in the offices of the Commission in Washington, DC. Additionally, the Commission proposes to eliminate § 1.767(d), which states that original files relating to licenses and applications for licenses for the landing operation of cables prior to June 30, 1934, were kept by the Department of State, and such files prior to 1930 have been transferred to the Executive and Foreign Affairs Branch of the General Records Office of the National Archives. Requests for inspection of these files should, however, be addressed to the Federal Communications Commission, Washington, DC 20554; and the Commission will obtain such files for a temporary period in order to permit inspection at the offices of the Commission. The Commission notes that the requirements set forth in § 1.767(c) and (d) are not required under the Cable Landing License Act or section 5 of Executive Order 10530. Furthermore, the Commission does not implement these recordkeeping practices with respect to other Commission records. The Commission tentatively finds that it should maintain consistent recordkeeping practices with respect to its records, including records relating to cable landing licenses and applications for cable landing licenses. In addition, the Commission tentatively concludes that the requirements under § 1.767(c) and (d) are inconsistent with the electronic filing requirements set out in § 1.767(n)(1) of the rules, which states that, “[w]ith the exception of submarine cable outage reports, and subject to the availability of electronic forms, all applications and notifications described in this section must be filed electronically through the International Communications Filing System (ICFS).” The Commission seeks comment on these proposals.

156. The Commission also proposes to eliminate § 1.767(f), which requires that “[a]pplicants shall disclose to any interested member of the public, upon

written request, accurate information concerning the location and timing for the construction of a submarine cable system authorized under this section. This disclosure shall be made within 30 days of receipt of the request.” The Commission tentatively finds that this requirement under § 1.767(f) is inconsistent with § 0.457(c)(1)(i) of the rules, which provides that “[m]aps showing the exact location of submarine cables” should be withheld from public inspection. Further, this requirement is inconsistent with the Commission’s proposal in the *NPRM* to provide confidential treatment for the exact addresses and specific geographic coordinates of cable landing stations, beach manholes, and other sensitive locations associated with a submarine cable system. The Commission seeks comment on this proposal.

15. Other Administrative Modifications

157. *New Subpart FF.* The Commission proposes to reorganize the submarine cable rules codified in §§ 1.767 and 1.768 by relocating those rules from subpart E of part 1 to a new subpart in part 1. Specifically, the Commission proposes to redesignate those rules under a new subpart FF. Currently, subpart E addresses “Complaints, Applications, Tariffs, and Reports Involving Common Carriers” and the submarine cables are identified in that subpart as a specific type of application under title II of the Communications Act. In light of changes in the submarine cable industry, the Commission believes this designation of submarine cable applications is no longer applicable. Additionally, the Commission tentatively concludes that reorganizing the submarine cable rules into a separate subpart will provide clarity for applicants seeking to file any type of submarine application with the Commission. To the extent the Commission amends any rule provisions currently set forth under §§ 1.767 and 1.768, the Commission proposes to codify such changes under subpart FF. Further, the Commission proposes to improve the clarity and structure of § 1.767 by reorganizing existing rules and implementing any new rules adopted in this proceeding into specific paragraphs by topic.

158. *Other Administrative Changes.* Throughout the proposed rules, the Commission has proposed various ministerial, non-substantive changes not individually discussed in the *NPRM*. These changes include, among other things, the conversion of Notes into respective paragraphs for consistency with the Office of Federal Register

requirements. The Commission seeks comment on whether to require applicants file a copy of a submarine cable application with CISA, DHS. The Commission also seeks comment on whether it should add certain existing requirements in the submarine cable subpart rather than a cross reference to other rules.

C. Three-Year Periodic Reporting Requirement

159. Below, the Commission discusses the information it proposes to require that all licensees to file in the three-year periodic reports. The Commission proposes to codify, as a routine condition a requirement that all cable landing licensees must provide to the Commission updated information about their ownership, points of contact, description of the submarine cable system, and other critical information every three years.¹⁴⁷ Specifically, the Commission proposes that all licensees must provide in their periodic reports updated information and certifications identical to what is required in an application, including new information and certification requirements that the Commission may adopt in this proceeding. The Commission also seeks comment on whether to require additional information as part of the periodic reporting requirement. The Commission seeks comment on the nature and extent of the potential burdens of this proposed reporting requirement.

160. *Reports Must Provide Current Information.* The Commission generally proposes to require cable landing licensees to provide in the periodic reports updates every three years. The information will be updated from the time they submitted their application for the cable landing license or any modification, assignment, transfer of control, or renewal or extension of the license or the last periodic report, whichever is most recent, consistent with the application requirements. The Commission proposes that these periodic reports must contain information that is current as of thirty (30) days prior to the date of the submission. To the extent that certain information has not changed since last filed in an application for the cable landing license or the modification, substantial assignment, transfer of control, and renewal or extension of the license or last periodic report, should the Commission allow the cable landing

¹⁴⁷ As needed, the Commission proposes that Commission staff may require licensees to submit information required as part of the periodic filing prior to the three-year reporting deadline.

licensee to include a certification attesting that its current information is identical to the information contained in such application?

161. *Submarine Cable Infrastructure Information.* The Commission proposes to require licensees to provide additional detailed information concerning the submarine cable infrastructure in their periodic reports. The Commission proposes among other things that licensees must provide updated submarine cable system information including the length of the cable by segment and in total, the location of branching units, the location, address, and county or county equivalent of U.S. and non-U.S. cable landing points, the number of optical fiber pairs in the cable, and the design capacity of the system. The Commission also proposes to modify requirement for applicants and licensees to provide the geographic coordinates of cable landing stations as well as beach manholes, to the extent they differ from cable landing station coordinates.

162. *Current and Future Service Offerings.* The Commission proposes to require licensees to submit as part of the periodic report information about the capacity services they currently offer or plan to offer through the submarine cable system. The service includes the capacity it currently owns, the amount of capacity it intends to sell and the capacity management services. The Commission also proposes to require applicants, licensees, transferees, and assignees (as appropriate) to disclose current and expected future service offerings as part of their applications for modification, assignment, transfer of control, and renewal or extension of submarine cable landing licenses.

163. *Regulatory Compliance Certifications.* The Commission proposes to require cable landing licensees to certify in the report whether or not they are in compliance with the Cable Landing License Act, the Communications Act, the Commission's rules, and other laws. Specifically, the Commission proposes to require each licensee to certify in its report whether or not the licensee has violated the Cable Landing License Act of 1921, the Communications Act of 1934, or Commission rules, including making false statements or misrepresentations to the Commission; whether the applicant has been convicted of a felony; and whether there is an adjudicated determination that the applicant has violated U.S. antitrust or other competition laws, has been found to have engaged in fraudulent conduct before another government agency, or has engaged in other non-FCC

misconduct the Commission has found to be relevant in assessing the character qualifications of a licensee or authorization holder. The Commission also seeks comment on whether the Commission should require cable landing licensees to disclose any pending FCC investigations, including any pending Notice of Apparent Liability, and any adjudicated findings of non-FCC misconduct. In addition, the Commission seeks comment on whether the Commission should require cable landing licensees to disclose any violations of the Communications Act, Commission rules, or U.S. antitrust or other competition law, or any other non-FCC misconduct only where there has been adjudication or notification of a violation by an agency or court.

164. *Cybersecurity Certifications.* The Commission proposes to require cable landing licensees to provide in the report cybersecurity certifications. Among other things, the Commission proposes that licensees certify in the report that they have created, updated, and implemented cybersecurity risk management plans. The Commission also proposes to require these applicants and licensees to certify that they take reasonable measures to protect the confidentiality, integrity, and availability of their systems and services that could affect their provision of communications services.

165. *“Covered List” Certification.* The Commission proposes to require cable landing licensees to make the “covered list” certifications described above. The Commission proposes to require that licensees, in their periodic reports, certify that they have not purchased and/or used, and will not purchase and/or use, equipment or services produced or provided by entities (and their subsidiaries and affiliates) identified on the Commission's “Covered List” deemed pursuant to the Secure and Trusted Communications Networks Act¹⁴⁸ to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons. The Commission proposes that this certification would apply to covered equipment or services purchased, rented, leased, or otherwise obtained on or after August 14, 2018 (in the case of Huawei, ZTE, Hikvision, Dahua, and Hytera), or on or after 60

¹⁴⁸ Pursuant to sections 2(a) and (d) of the Secure and Trusted Communications Networks Act, and §§ 1.50002 and 1.50003 of the Commission's rules, PSHSB publishes a list of communications equipment and services that have been determined by one of the sources specified in that statute to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons (“covered” equipment).

days after the date that any equipment or service is placed on the Covered List. This periodic reporting certification would ensure licensees continue to comply with the rule and the licensees' routine condition that protects against national security, law enforcement, and other risks.

166. *Foreign-Owned MNSPs.* The Commission proposes to require cable landing licensees, with or without reportable foreign ownership, to report whether or not they use and/or will use foreign-owned MNSPs in the operation of the submarine cable, as described above.

167. *Licensee Information and Points of Contact.* The Commission proposes to require cable landing licensees to include in their periodic reports updated information concerning: (1) the name, address, telephone number, and email address of the licensee, and (2) the name, title, address, telephone number, email address, of the officer and any other contact point, such as legal counsel, to whom correspondence concerning the cable landing license is to be addressed. The Commission further proposes to require cable landing licensees to provide any updated information concerning the Government, State, or Territory under the laws of which the licensee is organized.

168. In addition to the proposals above, the Commission seeks comment on whether to require other information as part of the periodic reporting requirement. The Commission also seeks comment on the nature and extent of the potential burdens of this proposed reporting requirement.

169. *Ownership of the Submarine Cable System.* The Commission seeks comment on whether, as part of the periodic reporting requirement, the cable landing licensee should provide information identifying any individuals or entities that hold an ownership interest in the submarine cable system that does not meet the threshold eligibility requirements requiring them to be licensees of the cable, including the proposed eligibility requirements on which the Commission seeks comment in this proceeding. To the extent the Commission requires this information, should the Commission also require the cable landing licensee to provide additional information about those other owners of the submarine cable, such as (1) their citizenship(s) and place(s) of organization and (2) identification of any individuals and entities that hold a certain threshold of direct and/or indirect equity and/or voting interests (e.g., 10% or greater), or a controlling interest, in those other owners of the

submarine cable? Would information concerning other owners of the submarine cable system that are not licensees better ensure that the Commission can more fully account for evolving national security, law enforcement, foreign policy, and/or trade policy risks to submarine cable infrastructure? Should the criteria for identification of any individuals and entities that hold a certain threshold of direct and/or indirect equity and/or voting interests in those other owners of the submarine cable be set at 5% or greater instead? Should the Commission inquire about U.S. citizens' other non-U.S. citizenships, as in other Commission proceedings?

170. *Ownership of Licensees.* The Commission seeks comment on whether the cable landing licensee should provide updated ownership information. For example, if the Commission adopts a 5% reportable ownership threshold, licensees would be required to provide updated ownership as required by the rules. The Commission seeks comment on whether an ongoing reporting requirement every three years should be broader and include additional information about ownership, control, and/or influence by foreign governments or foreign state-owned entities. If so, how should the Commission define "influence"?

171. *Other Information.* The Commission seeks comment on what other information it should require generally in the periodic reports so that the Commission can address evolving national security, law enforcement, foreign policy, and/or trade policy risks. The Commission seeks comment on the types of ongoing information that the Commission should refer to the executive branch agencies for review. For example, should the Commission require cable landing licensees to periodically notify the Commission of any criminal convictions involving the licensee? The Commission notes that a similar requirement applies to broadcast licensees.¹⁴⁹

¹⁴⁹ See 47 CFR 1.65(c) ("All broadcast permittees and licensees must report annually to the Commission any adverse finding or adverse final action taken by any court or administrative body that involves conduct bearing on the permittee's or licensee's character qualifications and that would be reportable in connection with an application for renewal as reflected in the renewal form . . ."); see *Policy Regarding Character Qualifications in Broadcast Licensing, Amendment of Part 1, the Rules of Practice and Procedure, Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Applicants, Permittees, and Licensees, and the Report of Information Regarding Character Qualifications*, MD Docket No. 81–500, Policy Statement and Order, 5 FCC Rcd 3252, para. 4 (1990) ("[E]vidence of any conviction for

172. *Application Fees.* The Commission seeks comment on whether to require cable landing licensees to pay a fee when submitting the three-year periodic reports that the Commission proposes in the *NPRM*. Section 8(a) of the Communications Act states that "[t]he Commission shall assess and collect application fees at such rates as the Commission shall establish in a schedule of application fees to recover the costs of the Commission to process applications."¹⁵⁰ The Commission has adopted a schedule of fees based on the cost of processing applications, with cost determined based on direct labor costs.¹⁵¹ The Commission uses time and staff compensation estimates to establish the direct labor costs of application fees, which are, in turn, based on applications processed by Commission staff found to be typical in terms of the amount of time spent on processing each type of application. The Commission has broadly construed the term "applications" to apply to a wide range of submissions for which filing fees are required. For example, the Commission notes that the Commission applies an application fee for the Biennial Ownership Report as applied

misconduct constituting a felony will be relevant to [the Commission's] evaluation of an applicant's or licensee's character.").

¹⁵⁰ The Commission has the authority to assess application fees under section 8 of the Communications Act and has assessed application fees since 1986. In 2018, Congress revised the Commission's application fee authority by amending section 8 and adding section 9A to the Communications Act. In doing so, Congress modified section 8 of the Communications Act to change the application fee program from a statutory schedule of application fees to a requirement that the Commission update and amend the existing schedule of application fees by rule to recover its costs to process applications. Section 8(c) of the Act also requires the Commission to, by rule, amend the application fee schedule if the Commission determines that the schedule requires amendment to ensure that: (1) such fees reflect increases or decreases in the costs of processing applications at the Commission or (2) such schedule reflects the consolidation or addition of new categories of applications. In order to implement the RAY BAUM'S Act, the Commission sought comment on and adopted a new streamlined schedule of application fees that aligns with the types of applications received by the Commission in 2020. *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, MD Docket No. 20–270, Report and Order, 86 FR 15026 (March 19, 2021), 35 FCC Rcd 15089 (2020) (*2020 Application Fee Report and Order*) (the *2020 Notice of Proposed Rulemaking* (85 FR 65566, October 15, 2000) and the *2020 Application Fee Report and Order* collectively explain the statutory changes and the methodology for adopting and maintaining the new schedule of application fees and discussing how it will be maintained) (collectively *2020 Application Fee Proceeding*).

¹⁵¹ In reviewing any particular methodology, it is important to note that the agency is not required to calculate its costs with "scientific precision." Instead, reasonable approximations will suffice.

to Full Power TV Stations, Commercial AM Radio Stations, and Commercial FM Radio Stations.¹⁵²

173. The Commission anticipates that staff review of the periodic reports will require a significant investment of labor hours. The Commission also envisions a substantive filing comprising not only certifications but substantive updates of the infrastructure used in the cable system including locations of dry plants, the services being offered by the licensees, ownership of the cable and ownership of the licensees. Such submissions must be carefully reviewed by Commission staff to determine if they are complete and provide the required information, including specific descriptions of the cable system and services. The review will also need to determine the significance of any changes to the information previously filed with the Commission and whether the changes had been properly and timely reported to the Commission and appropriately sought approval when necessary, such as changes in ownership. The review will also require a determination as to whether the information provided in the report provides a basis for referring the license to the Committee for review for national security or law enforcement concerns. Such review would require staff resources, including analysts to review each filing, attorneys to perform compliance assessments, specialists to process the GIS location data and to review the cybersecurity certifications, and a supervisory attorney to oversee the process and coordinate the referral to the Committee, other Federal agencies or other bureaus and offices within the Commission. The total amount of staff hours could be approximately two hours of review by an analyst, two hours of review by a GIS specialist, 20 hours of review by an attorney and 5 hours of supervisory attorney review. The Commission therefore seeks comment on adding a new category of fees in § 1.1107 of the rules, and to set that application fee based on the Commission's final cost estimate.

174. The Commission seeks comment on whether any fee adopted for the periodic reports should be consistent with the fee for applications for a renewal of a cable landing license because the periodic report, similar to a renewal application, will require the licensee(s) to update information about

¹⁵² The fee is calculated based on the number of stations for which the report is filed. It is currently \$95 per station.

the cable system.¹⁵³ The Commission seeks comment on whether the new fee should be added to the established fee category of “International Service” and follow the fee calculation methodology adopted by the Commission in the *2020 Application Fee Report and Order*.¹⁵⁴ Currently, the fee for an application for a renewal of cable landing license is \$2,725.¹⁵⁵ The Commission seeks comment on whether a fee of \$2,725 is appropriate for review of the periodic reports. The Commission seeks comment on whether there are other filings that commenters consider analogous to the proposed periodic report. And if so, would the Commission’s processes for those filings suggest that the Commission adopt a different fee here? The Commission generally seeks comment on what fee calculation methodology should be adopted to determine a fee amount, if any, for the three-year periodic reports for cable landing licensees. In so doing, the Commission reminds commenters that fees collected pursuant to its section 8 authority are deposited in the general fund of the U.S. Treasury. Thus, while the determination of the fee amount will be based on cost, the collected fees are not used to fund Commission activities. In crafting comments, the Commission asks that commenters explain whether their proposals are supported by the statute.

D. Improving the Quality of the Circuit Capacity Data

175. The Commission receives two types of annual circuit capacity reports regarding U.S.-international submarine cables.¹⁵⁶ First, licensees of a submarine

cable between the United States and any foreign point must report the capacity of the submarine cable as of December 31 of the reporting period (*i.e.*, available capacity) and two years from the reporting period (*i.e.*, planned capacity). Second, cable landing licensees and common carriers must report their capacity on submarine cables between the United States and any foreign point as of December 31 of the reporting period.¹⁵⁷ The Commission has found that the data from the circuit capacity reports are necessary for the Commission to fulfill its statutory obligations and serve a vital public interest role for other Federal agencies.¹⁵⁸ The Committee regularly requests this data for its work on national security and law enforcement issues,¹⁵⁹ as has DHS for its national security and homeland security functions.¹⁶⁰ The Commission has honored these requests for access to the data that has been filed on a business confidential basis after giving the filers an opportunity to comment.

176. In light of the Commission’s goal in this proceeding to strengthen the Commission’s ability to assess national

the Commission. *R* The requirement was subsequently incorporated into the Commission’s rules and extended to all facilities-based international common carriers and to cable landing licensees. Pursuant to § 43.82 of the rules, authority is delegated to the Chief of the Office of International Affairs to prepare instructions and reporting requirements for the filing of these reports prepared and published as a Filing Manual.

¹⁵⁷ Any U.S. international common carrier or cable landing licensee that owned or leased capacity on a submarine cable between the United States and any foreign point on December 31 of the reporting period is required to file capacity amounts for the following categories: (1) owned capacity; (2) net indefeasible rights-of-use (IRUs); (3) net inter-carrier leaseholds (ICLs); (4) net capacity held (*i.e.*, the total of categories (1) through (3)); (5) activated capacity; and (6) non-activated capacity.

¹⁵⁸ *2017 Part 43.62 Report and Order*, 82 FR 55323 (November 21, 2017), 32 FCC Rcd at 8118, para. 5 (“The circuit capacity data provide information on ownership of submarine cable capacity that is used for national security and public safety purposes.”).

¹⁵⁹ *See, e.g.*, Letter from David Plotinsky, Acting Chief, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Denise Coca, Chief, Telecommunications and Analysis Division, International Bureau, FCC (Jul. 19, 2021) (on file in IB Docket No. 21–439) (requesting access to circuit capacity data for the 2015 to 2020 reporting periods, including data for which confidential treatment has been requested).

¹⁶⁰ *See* Letter from Bryan S. Ware, Assistant Director, Cybersecurity Division, Cybersecurity and Infrastructure Security Agency, DHS, and Scott Glabe, Assistant Secretary for Trade and Economic Security Office of Strategy, Policy, and Plans, DHS, to Denise Coca, Chief, Telecommunications and Analysis Division, International Bureau, FCC (Mar. 5, 2020) at 1 (DHS March 5, 2020 Letter) (on file in IB Docket No. 19–32) (requesting access to circuit capacity data for the 2015 to 2019 reporting periods, including data for which confidential treatment has been requested).

security, law enforcement, and other concerns relating to submarine cable infrastructure and its ownership and operation, the Commission seeks comment on how the Commission could improve the collection of circuit capacity data. The Commission also seeks comment on streamlining the process for sharing the confidential data provided in the reports with other Federal agencies for national security, law enforcement, and emergency preparedness purposes. Below the Commission discusses and seeks comment on how to improve the quality and usefulness of the data and provide greater clarity on the reporting requirements to Filing Entities.¹⁶¹

1. Cable Operators Report

a. Who Should File a Cable Operator Report

177. Section 43.82 of the Commission’s rules requires the licensee or licensees to report the available and planned capacity of the cable. The current Filing Manual requires that, “[w]here there are multiple licensees for a cable, only one cable landing licensee may file the Cable Operator Report for that cable. The licensees shall determine which licensee will file the capacity data for that submarine cable.” This requirement is based on a rule that the Commission initially adopted in the *2013 Part 43 Second Report and Order* (78 FR 15615, March 12, 2013).¹⁶² Subsequently, in the *2017 Part 43.62 Report and Order*, the Commission removed this requirement from the rules, noting the concerns raised in the proceeding “that allowing only one licensee to file the Cable Capacity Report for a consortium cable requires licensees to share information about their capacity and planned upgrades that may be competitively sensitive.” The Commission directed the International Bureau “to consult with stakeholders on appropriate changes to the Filing Manual to allow for more than one licensee to file a cable operator report for a submarine cable if appropriate.”¹⁶³

¹⁶¹ For purposes of this section, the Commission uses the term “Filing Entities” to refer to a person or entity that is required to file information with the Commission pursuant to § 43.82.

¹⁶² *2013 Part 43 Second Report and Order*, 28 FCC Rcd at 629–630, Appx. C, para. 5 (adopting a requirement under § 43.62 of the rules that “[o]nly one cable landing licensee shall file the capacity data for each submarine cable. For cables with more than one licensee, the licensees shall determine which licensee will file the reports”).

¹⁶³ *2017 Part 43.62 Report and Order*, 32 FCC Rcd at 8132, para. 34 (“We agree that the consortium cable reporting requirement raises issues requiring modification of the Commission’s rules”).

¹⁵³ Section 8(c)(2) of the Act does not mandate that the Commission update its fee schedule to reflect “the consolidation or addition of new categories of applications” within any particular timeframe. Rather, the Commission has determined that if the application fee schedule may require an amendment pursuant to section 8(c), the Commission will initiate a rulemaking to seek comment on any proposed amendment(s) to the application fee schedule. The Commission does so here.

¹⁵⁴ *2020 Application Fee Report and Order*, 35 FCC Rcd 15089, 15092, para. 11 (adopting the methodology proposed in the *2020 Application Fee Notice of Proposed Rulemaking* to “base the application fees on an estimate of direct labor costs where possible,” as modified therein); *id.* at 15132, para. 137 (“We adopt the proposed cost-based cable landing license fees in the [2020 Application Fee Notice of Proposed Rulemaking] with one change to reduce the cost of a pro forma assignment or transfer of control.”); *2020 Application Fee Notice of Proposed Rulemaking*, 36 FCC Rcd 1618, 1654–55, para. 140.

¹⁵⁵ This fee rate became effective on March 2, 2023.

¹⁵⁶ The requirement to file submarine cable circuit capacity data dates back to the 1970s when it was included as a condition in many of the international section 214 authorizations granted by

178. The Commission seeks comment on whether the Filing Manual should be revised to allow more than one licensee of a submarine cable to file a cable operator report for a submarine cable that has multiple licensees. The Commission seeks comment on whether and how it can retain the single-filer requirement set out in the Filing Manual while addressing any cable landing licensee concerns about sharing of competitively sensitive information with other joint licensees. As the Commission has previously stated, the data are critical for analyzing international transport markets and for national security, defense, and public safety responsibilities.¹⁶⁴ The Commission also notes that it has found there are no alternative reliable third party commercial sources for the reported data.¹⁶⁵ The Commission contemplates that requiring each joint licensee to submit a cable operator report capturing its own available capacity and planned capacity on the cable may not produce reliable information about the overall cable capacity given that joint licensees may report their data inconsistently. Such an approach may also be duplicative of how those licensees report their owned capacity on that cable in the capacity holder report.¹⁶⁶ Given the important public interest benefits of the cable operator reports, is it in the public interest to retain the current requirement in the Filing Manual that only one licensee of a submarine cable may file the cable operator report for that cable?

179. To the extent commenters propose alternative methods, the Commission requests detailed explanation of how such methods would ensure the dataset fully accounts

for the available capacity and planned capacity of each submarine cable. Are there alternative methods that would enable the Commission and the Committee to obtain reliable and accurate data about the capacity of submarine cables, while responding to any concerns of joint licensees about sharing competitively sensitive information? Should the Commission allow joint licensees of a submarine cable to separately report the available and planned capacity of fiber pairs if they each own and operate their own fiber pair on the cable? Should the Commission also require each licensee to identify in the report all other licensees, if any, on whose behalf it submits the capacity information for the cable?¹⁶⁷

b. What Data Should Be Reported in a Cable Operator Report

180. Section 43.82 requires licensees to report “the capacity of the submarine cable” and “the planned capacity of the submarine cable.” While § 43.82 does not define the term “capacity of the submarine cable,” in the *2013 Part 43 Second Report and Order*, the Commission explained that cable landing licensees will be required to report the “available capacity” and “planned capacity” of an international submarine cable. The Commission stated that “[a]vailable capacity is all of the capacity currently available on the cable using equipment currently used on the cable” and that “[p]lanned capacity is the intended capacity of the international submarine cable two years out from the reporting date (December 31 of the reporting period plus two years) based on the plans of the cable operators for upgrades to the technology used with the cable.” On December 28, 2018, the International Bureau released a revised Filing Manual which, among other things, clarified the definition of “available capacity” to ensure that the cable operator reports capture all of the capacity of the cable.¹⁶⁸ Specifically, the

revised Filing Manual defined the term “available capacity” as “also known as design capacity,” noting that “[a]vailable capacity, also known as design capacity, is all of the capacity (both lit and unlit capacity) on the cable as of the reporting date (December 31 of the reporting period).”¹⁶⁹

181. Based on Commission staff review of the annual cable operator data and questions that staff receive from Filing Entities, the Commission believes that clarifying the term “available capacity” would improve the consistency of data submitted in the cable operator reports. The Commission seeks comment on whether the Commission should use a different definition of “available capacity” than set out in the Filing Manual. If so, how should the Commission define “available capacity”? Should the definition be codified in the rules or is it appropriate to define the term in the Filing Manual? Would adopting a definition in the rule rather than the Filing Manual better ensure that Filing Entities use a consistent method of reporting the capacity of a submarine cable?

182. The Commission seeks comment on whether it should continue to use the definition in the Filing Manual, where “available capacity” of a submarine cable is also referred to as “design capacity.” Alternatively, the Commission seeks comment on whether to distinguish between “available capacity” and “design capacity” to the extent this distinction is consistent with current developments in the submarine cable market and technology. The Commission seeks comment on whether the “design capacity” of a submarine cable is more appropriately understood as the maximum theoretical capacity based on equipment currently used on the cable, or as the maximum theoretical capacity based on the current plans of a cable operator to upgrade the technology used with the cable.

183. The Commission assesses regulatory fees on submarine cables based on the lit capacity of the cable.¹⁷⁰ The Commission seeks comment on whether the Commission should collect information though the circuit capacity reports on the lit capacity of each

received from Filing Entities this year, the revised Filing Manual also clarifies the definition of ‘available capacity’ in the submarine cable operator reports.”

¹⁶⁹ The current Filing Manual contains this definition of “available capacity” for purposes of the cable operator report.

¹⁷⁰ See *2024 Regulatory Fee Second Report and Order* at para. 87(7) (regulatory fees for submarine cable are assessed on a per cable landing license basis based on lit circuit capacity as of December 31 of the relevant fiscal year).

¹⁶⁴ See also *id.* at 8130, para. 29, n.111 (stating, among other things, “[t]he data on submarine cable capacity by region that the Commission collects and makes available provide potential entrants or new investors with an accurate industry overview showing where cable capacity connecting the United States to foreign points is presently deployed [and] provide potential new entrants, investors, and other small business entities with business planning data for assessing potential market demand”).

¹⁶⁵ In the *2017 Part 43.62 Report and Order*, the Commission stated, “[a]lthough certain cable capacity data may be available through other sources, those sources are not as reliable as information that has been submitted to a federal agency and verified by officials in the company.” *Id.*, 32 FCC Rcd at para. 29 (“For example, TeleGeography’s submarine cable reports include capacity information, but the data are not verified by company officials.”).

¹⁶⁶ Moreover, discrepancies in the data indicate that aggregation of data from the capacity holder reports, such as aggregation of owned capacity by cable, would not be an adequate or reliable substitute for the available capacity data that are collected in the cable operator reports.

¹⁶⁷ The Filing Manual currently advises that “[i]f a Filing Entity is filing a Cable Operator Report on behalf of other cable landing licensees on the cable, the Filing Entity should email the International Bureau with the list of licensees for which it is filing data.”

¹⁶⁸ In 2017, the Commission streamlined the international reporting requirements and eliminated the traffic and revenue reports and the requirement to file terrestrial and satellite circuit data, but retained the requirement to file submarine cable operator and capacity holder reports under a newly codified § 43.82. The rule changes went into effect in April 2018. By Public Notice, the International Bureau released a revised Filing Manual that included only the instructions for filing the § 43.82 circuit capacity reports, in light of the elimination of the traffic and revenue reports and terrestrial and satellite data, and also stated, “[b]ased on questions

licensed and operating cable system that can be used to determine tiers for assessing regulatory fees for submarine cable operators and the fee amount for each tier.¹⁷¹

184. The Commission seeks comment as to how Filing Entities are measuring available capacity, given that the current and potential capacity of fiber optic submarine cables depends on the equipment currently used on a submarine cable and developments in the latest technology. The capacity of fiber optic submarine cables in the current market can change significantly (e.g., by orders of magnitude) and quickly (e.g., in a matter of days), depending on the latest technology and the equipment that is attached on those cables. The Commission seeks comment on whether it needs to update its circuit capacity rules and reporting requirements to reflect the current dynamics of the submarine cable market.

185. The Commission also seeks comment on how and to what degree the initial design capacity of a submarine cable is subject to change over time due to planned upgrades. How frequently do cable operators upgrade or plan to upgrade equipment on a submarine cable, such as SLTEs, and how does this implementation affect assessment of current and future capacity on the cable? Should the Commission reconsider the definition in the Filing Manual and instead define “available capacity” of a submarine cable as all of the capacity (both lit and unlit capacity) on the cable based on equipment currently used on the cable? If so, should the Commission include an additional category in the cable operator report for reporting “design capacity,” separate from reporting “available capacity” and “planned capacity”? Or should the Commission require Filing Entities to report “design capacity,” “current equipped capacity,” and “planned capacity” in the cable operator report? The Commission also seeks comment on whether the concept of “design capacity” is similar to or distinct from the “planned capacity” data collected by the Commission.¹⁷² The Commission asks commenters to provide detailed comments, including

any relevant facts and circumstances related to the technology, the market, or other factors, that can inform these proposed definitions and the assessment of whether to revise the reporting methodology in the cable operator report.

2. Capacity Holders Report

a. Who Should File a Capacity Holder Report

186. Section 43.82 requires cable landing licensees and common carriers to report their capacity on international cables. Because this reporting requirement only applies to licensees and common carriers, there exists a gap in the Commission’s knowledge of the entities that hold capacity on a particular cable as other entities that hold capacity on that cable are not required to report their capacity. This is borne out by the Commission’s circuit capacity data. According to the annual capacity holder data, there is substantial capacity leased or purchased from cable landing licensees and common carriers that is not accounted for in the data.¹⁷³ The Commission seeks comment on the scope of this issue, whether this raises national security concerns, and whether the Commission should and under what authority require other entities to report their capacity.

187. The Commission seeks comment on whether it should require all entities that hold capacity on cables landing in the United States to file capacity holder reports. Would requiring the filing of circuit capacity data by all entities that hold capacity on submarine cables—including capacity held through ownership in a cable, an IRU, an ICL, or on a fiber or spectrum basis—reduce the gap in the data and provide the Commission and its Federal partners with greater insight into the ownership and use of capacity on submarine cables? Are there certain entities, such as the U.S. Government, that should be exempt from reporting their capacity holdings? If the Commission requires other entities to report their capacity, should there be a threshold for the

reporting requirement (e.g., 1 Gbps)? Alternatively, or in addition to requiring all holders of capacity on submarine cables landing in the United States to annually file data regarding their capacity holdings, the Commission seeks comment on whether it should require cable landing licensees and common carriers to include in their annual capacity holder reports a list of customers to whom they sold or leased capacity as of December 31 of the reporting period. To the extent the Commission adopts these approaches, the Commission proposes to share with its Federal partners the information that is collected pursuant to such requirements, including any information for which confidential treatment is requested, through the procedures the Commission proposes in the *NPRM* with respect to sharing annual circuit capacity data with the Committee and DHS. The Commission seeks comment on these approaches and on the potential burdens on affected entities. The Commission seeks comment as to which of these approaches would be less burdensome, and whether any such information requirements could be designed to minimize the burdens on potential new filers, including small entities. The Commission also seeks comment generally on the potential benefits associated with any collection of information under these approaches.

188. The Commission seeks comment on whether the Commission has legal authority pursuant to the Cable Landing License Act, the Communications Act, or any other sources of authority, to require capacity holders not already subject to § 43.82, to submit data regarding their capacity on submarine cables landing in the United States. The Commission has long determined that it has authority to require the filing of circuit capacity data from cable landing licensees and common carriers pursuant to the Cable Landing License Act and Executive Order 10530 and section 214 of the Communications Act.¹⁷⁴ While the Commission adopted the circuit capacity reporting requirements for a specific class of non-common carriers in the *2013 Part 43 Second Report and Order*, the Commission noted that the provisions of the Cable Landing License Act “do not distinguish between common carriage and non-common carriage of services over licensed cables.” The Commission seeks comment on whether the Commission’s authority to require the filing of circuit

¹⁷¹ The Commission uses “lit capacity” for assessing regulatory fees because “that is the amount of capacity that submarine cable operators are able to provide services over and the regulatory fee is in part recovering the costs related to the regulation and oversight of such services.”

¹⁷² The Filing Manual states that “[p]lanned capacity is the entire intended capacity (both lit and unlit capacity) of the cable two years out from the reporting date (December 31 of the reporting period plus two years) based on current plans to upgrade the capacity of the cable.”

¹⁷³ For example, the capacity holder data for the 2022 reporting period reflect total net IRUs of – 315,566.7 Gbps and total net ICLs of – 120,988.1 Gbps, including net IRUs of – 92,977.3 Gbps and net ICLs of – 45,232.2 Gbps in the Americas region, net IRUs of – 192,593.3 Gbps and net ICLs of – 63,050.1 Gbps in the Atlantic region, and net IRUs of – 29,996.1 Gbps and net ICLs of – 12,705.8 Gbps in the Pacific region. In addition, the capacity holder data for the 2021 reporting period reflect total net IRUs of – 248,551.6 Gbps and total net ICLs of – 120,477.4 Gbps, including net IRUs of – 78,865.1 Gbps and net ICLs of – 38,099.7 Gbps in the Americas region, net IRUs of – 161,244.7 Gbps and net ICLs of – 54,614.6 Gbps in the Atlantic region, and net IRUs of – 8,441.8 Gbps and net ICLs of – 27,763.1 Gbps in the Pacific region.

¹⁷⁴ See *2017 Part 43.62 Report and Order*, 32 FCC Rcd at 8130, para. 30; *2013 Part 43 Second Report and Order*, 28 FCC Rcd at 606, para. 104.

capacity data extends to any and all entities—beyond cable landing licensees and title II common carriers—holding capacity on submarine cables landing in the United States.¹⁷⁵ The Commission seeks comment on whether this information is necessary for the Commission to make informed decisions on matters within its jurisdiction and to carry out its statutory duties. This includes, for example, assessing whether to grant or deny applications for cable landing licenses or revoke licenses in the interest of national security or competition. Further, the Commission seeks comment on whether the Commission could rely on ancillary authority in conjunction with other primary sources of legal authority in adopting such a requirement.¹⁷⁶

189. *BIAS Providers.* In the *2024 Open internet Order*, the Commission reclassified BIAS as a telecommunications service under title II of the Communications Act. In that Order, the Commission waived the current rules implementing section 214(a) through (d) of the Communications Act with respect to BIAS to the extent they are otherwise applicable, including § 43.82,¹⁷⁷ stating that it “expects to release a Further Notice of Proposed Rulemaking at a future time to examine whether any section 214 rules specifically tailored to BIAS, including for small providers, are warranted.” Although the *2024 Open internet Order* was stayed by the Sixth Circuit pending judicial review, the Commission seeks comment on whether and to what extent the Commission should depart from the regulatory framework contemplated by that Order insofar as the Order becomes operative after judicial review. Given that all title II common carriers are required to file annual circuit capacity reports under § 43.82(a)(2) of the rules, the Commission seeks comment generally on whether the Commission should consider retaining or removing the waiver of § 43.82 of the rules as applied

to BIAS providers, subject to judicial review of that Order. Do the important public interest benefits of the circuit capacity data collection warrant the collection of capacity holder data from entities providing *only* BIAS? The Commission seeks comment, for example, on whether such information would provide the Commission and its Federal partners important insight into the ownership and use of submarine cable capacity for national security and public safety purposes.

190. Further, if the Commission were to eliminate the waiver, should the Commission adopt the same requirements applicable to all other reporting entities or tailored requirements as applied to entities providing only BIAS? For example, should a transition period be provided for entities providing only BIAS to submit an initial capacity holder report? What potential burdens, if any, would be imposed on such BIAS providers if they were required to file data regarding their submarine cable capacity, including capacity held through ownership in a cable, an IRU, an inter-carrier lease (ICL), or on a fiber or spectrum basis? To the extent the Commission adopts any changes to § 43.82 of the rules and the current reporting requirements as addressed in the *NPRM*, the Commission seeks comment on whether those changes should similarly be applied to entities providing only BIAS as well as the potential burdens, if any, that would be imposed upon such BIAS providers.

b. What Data Should Be Filed in a Capacity Holder Report

191. Section 43.82 does not specify the data to be reported in the capacity holder report. The Commission, however, stated in the *2013 Part 43 Second Report and Order* that cable landing licensees and common carriers should report their available capacity on a cable “by the type of ownership interest they have in the capacity—ownership in the cable, an indefeasible right of use (IRU) or an inter-carrier lease (ICL).” The Commission further explained that available capacity consists of the sum of (1) capacity that a Filing Entity owns; (2) the net of IRUs leased from other capacity holders less IRUs leased to other capacity holders; and (3) the net of ICLs leased from other capacity holders less ICLs leased to other capacity holders. These requirements are reflected in the Filing Manual.¹⁷⁸

¹⁷⁸ Each Filing Entity is required to calculate its available capacity as the sum of (1) cable ownership; (2) the net of IRUs leased from other

192. As discussed above in the context of cable operator reports, the Commission seeks comment on how the Commission should define “available capacity.” The Commission also seeks comment on whether it should require Filing Entities to use the same definition of “available capacity” when reporting their owned capacity in their capacity holder reports. To assess the accuracy of reported data, the Commission’s current practice is to compare the total available capacity reported in the cable operator reports with the total owned capacity reported in the capacity holder reports by region.¹⁷⁹ Should the Commission ensure that these data continue to be consistent and comparable for purposes of the Commission’s assessment and use of the data for national security and public safety purposes?¹⁸⁰ The Commission also seeks comment on whether any approach the Commission may adopt with regard to defining the “available capacity” of a submarine cable should similarly be applied to other data submitted in the capacity holder report, including the net amount of IRUs,¹⁸¹ net amount of ICLs,¹⁸² and net capacity, and whether the net capacity is activated (*i.e.*, lit) or non-activated (*i.e.*, unlit). Overall, would requiring Filing Entities to apply the approach used to define “available

entities less IRUs leased to other entities; and (3) the net of ICLs leased from other entities less ICLs leased to other entities.

¹⁷⁹ Ideally, the Commission expects that the total available capacity reported in the cable operator report for a given cable (filed on behalf of the licensee or joint licensees) should match the aggregated owned capacity reported in all of the capacity holder reports on that cable. Thus, the Commission expects that the total available capacity and the total owned capacity by region should also match, though there may be discrepancies between these figures. For example, some amount of capacity may be owned by non-reporting entities, such as entities that own capacity on a cable through an ownership interest in the submarine cable system but are not required to be a licensee under § 1.767(h) of the Commission’s rules and are otherwise not common carriers.

¹⁸⁰ For instance, if the Commission adopts a definition in the rules that “[a]vailable capacity, also known as design capacity, is all of the capacity (both lit and unlit capacity) on the cable as of the reporting date (December 31 of the reporting period),” should the Commission clarify that Filing Entities must report their owned capacity using a similar methodology? On the other hand, if the Commission distinguishes between “available capacity” and “design capacity” and create separate categories for reporting these data in the cable operator report, how should Filing Entities report their owned capacity on a submarine cable in the capacity holder report?

¹⁸¹ See Filing Manual at 11 (“Indefeasible Right of Use (IRU) refers to an arrangement in which the holder has made an upfront payment for the full length of the lease, such as 5, 10, 20 years, or the remaining useful life of the asset.”).

¹⁸² See *id.* at 11 (“Inter-Carrier Lease (ICL), for § 43.82 reporting purposes, refers to a lease of bare capacity between one entity and another.”).

¹⁷⁵ In this document, the Commission addresses separately whether to apply the circuit capacity reporting requirements to entities that provide only broadband internet access service (BIAS).

¹⁷⁶ To exercise ancillary authority “two conditions [must be] satisfied: (1) the Commission’s general jurisdictional grant under Title I [of the Communications Act] covers the regulated subject and (2) the regulations are reasonably ancillary to the Commission’s effective performance of its statutorily mandated responsibilities.”

¹⁷⁷ *2024 Open internet Order* at *133, para. 344 (“We find that the public interest is served by this waiver as it will ensure that consumers can continue to receive the broadband internet access services to which they presently subscribe and avoid any disruption to, or uncertainty for, BIAS consumers and BIAS providers”).

capacity” of a submarine cable to similarly report their capacity holdings assist the Commission’s efforts to verify the accuracy and consistency of the data reported in the cable operator reports and capacity holder reports?

193. The Commission seeks comment on whether the capacity holder report should be revised to capture new developments in the provisioning of capacity in the submarine cable market. In the *2017 Part 43.62 Report and Order*, the Commission noted the comments raised in the proceeding, “that in addition to sales through IRUs and ICLs, capacity is now sold on a fiber pair or spectrum basis.”¹⁸³ The Commission seeks detailed comments on any new facts or circumstances which may inform the Commission’s understanding of how capacity is owned, sold, or leased in the submarine cable market, and how to capture this information in the capacity holder report if appropriate. In particular, information about capacity held on a submarine cable is relevant to Commission and other Federal Government agency assessments of the impact on communications during national security or public safety emergencies, including where a cable is rendered inoperable, and to factor the information into emergency response efforts. Currently, to what extent is submarine cable capacity sold or leased through IRUs, short-term leases, or other means such as on a fiber pair or spectrum basis? How is submarine cable capacity sold or leased by fiber pair or spectrum? Does the licensee of a submarine cable sell or lease capacity by fiber pair or spectrum to other entities, or do entities other than the licensee of a cable also sell or lease capacity by fiber pair or spectrum? Where a cable landing licensee sells or leases capacity by fiber pair to other entities, how does the licensee maintain *de jure* and *de facto* control of the U.S. portion of the submarine cable system as required by the Commission’s rules? Is there additional information related to these and other types of capacity holdings that would enhance the Commission’s understanding of the ownership and use of capacity or assist the Commission in the protection, restoration, and resiliency of submarine cable

infrastructure during national security or public safety emergencies?

194. To the extent the Commission revises the capacity holder report to include additional categories of capacity holdings, how should such information be reported? For instance, if the Commission includes additional categories for reporting capacity that is sold, purchased, or leased by fiber pair or spectrum, how should Filing Entities calculate the net capacity they hold on the submarine cable?¹⁸⁴ Should Filing Entities report those capacity holdings as an amount in Gbps? Should the Commission require Filing Entities to annually report all whole fiber pairs that they own (including for their own use or which they have leased out) or manage on submarine cables landing in the United States? Do national security, law enforcement, or other concerns warrant that the Commission obtain updated information each year confirming who currently owns and/or manages the fiber pairs on such submarine cables, especially if the entity that manages the fiber pair of a particular cable is not the licensee whose original application was subject to review by the Committee? The Commission also seeks comment on what it means for an entity to “manage” a fiber pair to the extent the role and capabilities differ from solely having ownership of a fiber pair. To the extent the manager of a fiber pair is neither a cable landing licensee nor a common carrier subject to § 43.82 of the rules, should the Commission require that the licensee of a submarine cable landing in the United States identify the entities that own and/or manage each fiber pair on the cable? Should the Commission require Filing Entities to identify the U.S. and foreign landing points of any fiber pair that they sell or lease to other entities for use of capacity? Should any or all of this information be provided in the cable operator report, capacity holder report, or a separate report?

3. Reporting of Capacity on Domestic Cables

195. The requirement to file circuit capacity reports applies only to U.S.-international cables, and not to domestic cables (cables that do not connect the United States with foreign points).¹⁸⁵ However, the national

security environment has changed significantly since the Commission adopted this approach in 2013. In light of evolving national security, law enforcement, and other risks, the Commission seeks comment on whether the distinction between U.S.-international submarine cables and domestic submarine cables for purposes of reporting circuit capacity information is justified. The Commission seeks comment on whether the lack of information on domestic cables creates a critical gap in the Commission’s insight into the ownership and use of capacity on submarine cables regulated by the Commission. For example, would collecting capacity information regarding domestic submarine cables allow the Commission and the Committee to identify whether any entities associated with a “foreign adversary” country, as defined in the Department of Commerce’s rule, hold capacity on those cables? Would this information enhance the Commission’s ability to use the circuit capacity data to assist in the protection, restoration, and resiliency of submarine cable infrastructure during national security or public safety emergencies, even where there is no foreign ownership, especially given the role that domestic submarine cables also have in providing connectivity among the continental United States and Alaska, Hawaii, Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands?

196. If the Commission finds that circuit capacity reports should be filed for domestic cables, the Commission seeks comment on whether it should require Filing Entities to include in the cable operator report and the capacity holder report the same capacity information that the Commission collects for U.S.-international submarine cables, with respect to submarine cables that do not have a foreign landing point and connect (1) Alaska, Hawaii, or the U.S. territories or possessions with the continental United States or with each other, and (2) points within the continental United States, Alaska, Hawaii, or a territory or possession in which the cable is laid within international waters. Alternatively, should Filing Entities be required to provide more limited or tailored capacity information relating to domestic submarine cables in a separate report? The Commission seeks comment on these approaches and on potential

holder report with respect to submarine cables that only connect points within the United States, such as cables connecting the Hawaiian Islands or Alaska to the conterminous United States.

¹⁸³ The Commission directed the International Bureau “to consult with stakeholders and to review and revise as needed the categories of ownership interests reported in the cable capacity holder reports to reflect changes in industry’s provisioning of capacity, while ensuring that the capacity holder data are accurately captured by the Commission’s reporting requirements.”

¹⁸⁴ In this document, the Commission also seeks comment on whether holding capacity on the cable system should be defined to include the leasing, purchasing, selling, buying, or swapping of a fiber (spectrum, capacity, partial fiber pair, or a full fiber pair, among others) for transmission of voice, data, and internet over the cable system to interconnect with a U.S. terrestrial network.

¹⁸⁵ Licensees and common carriers are not required to file a cable operator report or capacity

burdens on licensees and common carriers if the Commission requires that they include capacity data for domestic submarine cables in cable operator reports and capacity holder reports.

4. Other Issues With Reporting of Circuit Capacity Data

a. Reporting of Submarine Line Terminal Equipment

197. As discussed above, the SLTE is among the most important equipment associated with the submarine cable system for national security and law enforcement purposes. Given the importance of this equipment and who controls and operate the SLTE, the Commission seeks comment on whether the Commission should require all Filing Entities to identify in the annual capacity holder report whether they control or operate their own SLTE on any of the U.S. or foreign ends of a submarine cable landing in the United States. In addition, should the Commission require all Filing Entities to file a notification of any installation of their own SLTE on the U.S. or foreign ends of a submarine cable landing in the United States, within a certain time period following such installation (such as 30 days)? If the Commission were to extend the circuit capacity reporting requirements to new entities not currently subject to § 43.82, as addressed herein, should the Commission require such entities to similarly identify in the annual capacity holder report, or in a separate report, whether they control or operate their own SLTE and to provide notification of any installation of their own SLTE within a certain time period (such as 30 days)? To the extent the Commission adopts these approaches, the Commission proposes to share with its Federal partners the information that is collected pursuant to such requirements, including any information for which confidential treatment is requested, through the procedures. The Commission seeks comment on these approaches and what potential burdens, if any would be imposed by requiring such information.

b. Which Corporate Entity May File Reports

198. The Filing Manual requires affiliated entities to file separate circuit capacity reports to the extent that they are considered to be separate legal entities, unless the Commission has authorized such affiliated entities to submit a consolidated FCC Form 499–A filing.¹⁸⁶ The Commission chose to use

this standard for administrative convenience because common carriers are familiar with this requirement. This requirement originated when the Filing Manual covered not only the Circuit Capacity Reports but also the International Traffic and Revenue Reports, which were filed by common carriers and interconnected Voice over internet Protocol (VoIP) providers, which also had to file FCC Form 499 reports. The Filing Manual retained this requirement even after the Commission eliminated the International Traffic and Revenue Reports and the Filing Manual now only covers the circuit capacity reports.¹⁸⁷

199. The Commission seeks comment on whether to allow any subsidiary, parent entity, or affiliate of a Filing Entity to file the annual circuit capacity reports on behalf of the Filing Entity, so long as the subsidiary, parent entity, or affiliate identifies the Filing Entity in the reports. Specifically, should the Filing Manual be revised to allow any subsidiary, parent entity, or affiliate to file the annual circuit capacity reports on behalf of a Filing Entity? Is there any reason to parallel the filing procedure applicable to FCC Form 499–A filings? To what extent do current Filing Entities comprise of telecommunications carriers or other providers that are required to submit FCC Form 499–A filings?¹⁸⁸

200. The Commission seeks comment generally on whether it is common practice for cable landing licensees and common carriers to maintain, track, or consolidate their capacity information with affiliated entities in the ordinary course of business. In such cases, the Commission seeks comment on what

to the extent that they are considered to be separate legal entities where they have separate articles of incorporation, articles of formation, or similar legal documents,” but where the Commission has authorized them “to make a consolidated FCC Form 499–A filing, the affiliated companies similarly shall make a consolidated section 43.82 filing.”

¹⁸⁷ Previously, any person or entity that holds an international section 214 authorization to provide International Telecommunications Services (ITS) and/or any person or entity that is engaged in the provision of Interconnected Voice over internet Protocol (VoIP) Services through the Public Switched Telephone Network (PSTN) between the United States and any foreign point was required to file an annual Traffic and Revenue Report.

¹⁸⁸ The Communications Act requires that the Commission establish mechanisms to fund universal service, interstate telecommunications relay services, the administration of the North American Numbering Plan, and the shared costs of local number portability administration. To accomplish these congressionally-directed objectives, the Commission requires telecommunications carriers and certain other providers of telecommunications (including Voice over internet Protocol (VoIP) service providers) to report each year on the FCC Form 499–A the revenues they receive from offering service.

potential burdens, if any, would be imposed upon Filing Entities if the Commission were to require all affiliated entities to file their own annual circuit capacity reports instead of submitting consolidated reports. If a subsidiary, parent entity, or affiliate files the annual circuit capacity reports on behalf of a Filing Entity, how can the Commission improve the efficiency of its current practice, which involves informal inquiries by Commission staff, to confirm whether the Filing Entity has complied with its reporting obligations?¹⁸⁹ To the extent a subsidiary, parent entity, or affiliate of a Filing Entity submits the circuit capacity reports on the of a Filing Entity’s behalf, the Commission tentatively concludes that the Filing Entity shall be held accountable for any defects in the certification as to the accuracy and completeness of information filed in the circuit capacity reports.¹⁹⁰ Should the Commission codify such a requirement in the rules? Should the Commission also codify the requirement in the Filing Manual that an officer of the Filing Entity must certify the accuracy and completeness of the Filing Entity’s § 43.82 information? If a subsidiary, parent entity, or affiliate files the annual circuit capacity reports on behalf of a Filing Entity, should an officer of the Filing Entity submit a separate attachment certifying that the information in the reports is accurate and complete? The Commission seeks comment on whether and why an alternative approach may be more desirable, and how the Commission could implement any alternative approach while retaining the ability to enforce compliance against a Filing Entity.

c. Compliance

201. The Commission proposes to set forth in the rules that filing false or inaccurate certifications or failure to file timely and complete annual circuit capacity reports in accordance with the Commission’s rules and the Filing Manual shall constitute grounds for enforcement action, including but not limited to a forfeiture, revocation, or termination of the cable landing license

¹⁸⁹ The Filing Manual advises that “[i]f a Filing Entity is filing a consolidated section 43.82 report or filing on behalf of an affiliated entity or entities, we ask the Filing Entity to email the International Bureau with the list of entities for which it is filing data.” The Commission seeks comment on any alternative, more efficient methods that it can use to confirm that an entity has complied with its reporting obligations.

¹⁹⁰ Filing Manual at 5, para. 21 (“Filing Entities must certify on the Registration Form the accuracy and completeness of the data filed in the accompanying Circuit Capacity Report.”).

¹⁸⁶ The Filing Manual states that affiliated companies “must file separate section 43.82 reports

or international section 214 authorization, pursuant to the Communications Act and any other applicable law. Although the Filing Manual addresses consequences for failure to file timely § 43.82 reports¹⁹¹ or submission of inaccurate or untruthful information,¹⁹² the Commission tentatively concludes that addressing the issue of compliance in the rules would ensure greater compliance overall with the reporting requirements. The Commission seeks comment on this proposal. The Commission also seeks comment on whether to allow any exceptions to the reporting requirements of § 43.82 and whether the Commission should revise the rules or the Filing Manual accordingly. For example, should the Commission revise § 43.82(a)(2) of the rules or the Filing Manual to set out an exception to the reporting requirements where a licensee that holds no capacity in its licensed submarine cable—for example, where a joint licensee only owns and/or controls a landing station(s) in the United States and holds no capacity at the landing station(s) or other portion of the cable—or any other cables landing in the United States need not file a capacity holder report? Should the Commission require such licensees to file an annual certification attesting to the continuing applicability of such an exception?

5. Sharing the Circuit Capacity Data With Federal Agencies

202. The Commission seeks comment on adopting a rule which would allow the Commission to share with other Federal Government agencies the circuit capacity data filed on a confidential basis without the pre-notification requirements of § 0.442(d) of the Commission's rules. Since 2019, the Commission has annually issued a public notice to announce its intent to share the annual circuit capacity data with DHS and subsequently the Committee pursuant to the procedures set out in § 0.442 of the Commission's rules, and no party has opposed such disclosure of the circuit capacity data for which confidential treatment was requested.¹⁹³ Under this approach, the

Commission would be able to share the confidential data with Federal agencies that have a legitimate need for the data consistent with their functions without the delay attendant to providing parties an opportunity to object to the sharing. The sharing of confidential circuit capacity data would, however, continue to be subject to the requirement that each of the other Federal agencies comply with the confidentiality protections applicable both to the Commission and the other agency's relating to the unlawful disclosure of information, and the Commission would provide notice to the parties whose information is being shared.

203. *Federal Agencies' Need for the Information.* The Commission may share information that has been submitted to it in confidence with other Federal agencies when they have a legitimate need for the information and the public interest will be served by sharing the information. The Commission has found that the data provided in the Circuit Capacity Reports "are essential for [the Commission's] national security and public safety responsibilities in regulating communications" submarine cables and that "circuit capacity data are important to the Commission's contributions to the national security and defense of the United States." The data are also useful for Federal agencies in fulfilling their other duties and responsibilities. The Commission contemplates that such sharing would include cable operator data, capacity holder data, and the names and contact information (including addresses, email addresses, telephone numbers, and fax numbers) of individual points of contact identified in the circuit capacity reports, as well as any additional information that is collected pursuant to any new requirements adopted in this proceeding or in a revised Filing Manual.¹⁹⁴ The Commission seeks comment on whether to make clear in § 43.82 that sharing of the annual circuit capacity data with

"[b]ecause the purpose of the disclosure is national security, law enforcement and emergency response, the Commission should only share confidential information contained in C&W Networks' circuit capacity reports with DHS and other federal agencies charged with national security, law enforcement and emergency response, including those agencies forming part of the new Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector. The Commission, however, should not share this information other agencies that fall outside of that scope.").

¹⁹⁴ To the extent required, the Commission will ensure that any new disclosures are fully covered by applicable Privacy Act SORNs. *Cf.* IB–1, 86 FR 43238 ("Information filed with a request for confidentiality may be disclosed to other Federal government agencies pursuant to 47 CFR 0.442.").

other Federal Government agencies is subject to the requirements of the confidentiality protections contained in the Commission's regulations¹⁹⁵ and 44 U.S.C. 3510, and, in the case of the Committee, section 8 of Executive Order 13913¹⁹⁶ that require the Committee to keep the information confidential.

204. In addition, the Commission tentatively finds that several agencies have a special need for the information contained in the Circuit Capacity Reports. First, the Commission tentatively finds that Executive Order 13913 provides a basis to share annual circuit capacity data with the Committee by establishing that the members and advisors of the Committee have a legitimate need for such information.¹⁹⁷ The policy of Executive Order 13913 is to ensure the "[t]he security, integrity, and availability of the United States telecommunications networks [that] are vital to United States national security and law enforcement interests."¹⁹⁸ Further, in this regard, Executive Order 13913 authorizes the Committee to review not only license applications but also existing licenses. The Department of Justice (DOJ), in its capacity as Chair of the Committee, has stated in formal requests for access to the annual circuit capacity data that this information "will enhance and improve the Committee's ability to execute its mission to assess risk to the national security and law enforcement interests of the United States."¹⁹⁹ In the context of reviews within the scope of Executive Order 13913, the Committee's important role in reviewing applications and licenses for risks to national security and law enforcement interests

¹⁹⁵ The Commission's regulations provide that confidential proprietary and commercially sensitive information will be withheld from public disclosure, subject to the public's right to seek disclosure under the Freedom of Information Act and implementing regulations.

¹⁹⁶ Executive Order 13913, section 8.

¹⁹⁷ See 47 CFR 0.442(b)(2) ("Information submitted to the Commission in confidence pursuant to § 0.457(c)(2) and (3), (d) and (g) or § 0.459, or any other statute, rule or order, may be disclosed to other agencies of the Federal government upon request or upon the Commission's own motion, provided . . . The other agency has established a legitimate need for the information . . .").

¹⁹⁸ Under section 8 of Executive Order 13913, the Committee "may seek information from applicants, licensees, and any other entity as needed" in furtherance of its reviews and assessments of applications and licenses.

¹⁹⁹ DOJ has explained that having circuit capacity information "provides a clearer picture of how [submarine cables] are being used, which better enables the Committee to evaluate international data flows on various cables (and related issues such as internet topography)" and that "[w]ith this data, the Committee has another tool to assess data-security risk . . . [thus providing] additional context to the Committee's risk-based analyses."

¹⁹¹ *Id.* at 3, para. 10 ("Failure to file the Circuit Capacity Report on time is a violation of the Commission's rules and could result in the imposition of forfeitures or other penalties.").

¹⁹² *Id.* ("Inaccurate or untruthful information contained in section 43.82 reports may lead to prosecution under section 220(e) of the Communications Act or the criminal provisions of Title 18 of the United States Code.").

¹⁹³ See also Letter from Ulises R. Pin, Counsel to ARCOS–1 USA Inc. et al, Morgan, Lewis & Bockius LLP, to Marlene H. Dortch, Secretary, FCC (Jul. 2, 2020) (on file in IB Docket No. 20–194) (stating,

establishes its legitimate need for the information. The Commission seeks comment on this tentative conclusion.

205. The Commission's established policy in the *2017 Part 43.62 Report and Order* also provides a basis to share annual circuit capacity data with DHS by establishing that DHS has a legitimate need for such information. In that Report and Order, the Commission specifically noted that DHS "finds this information to be critical to its national and homeland security functions" and "[DHS] states that this information, when combined with other data sources, is used to protect and preserve national security and for its emergency response purposes." DHS has stated in formal requests for access to the annual circuit capacity data that "[t]his information, when combined with other data sources, will be used to protect and preserve national security and for the Department's emergency response purposes." DHS has also stated that the data will "enhance its efforts and inform its analysis and decision-making that protect the resilience of the Nation's critical infrastructure."

206. Finally, the Commission tentatively finds that Executive Order 10530 provides a basis for the Commission to share annual circuit capacity data with the State Department. Executive Order 10530, which delegates the President's authority to license submarine cables to the Commission, requires the Commission to obtain approval from the State Department for any such action.²⁰⁰ The Commission's approach contemplates sharing the annual circuit capacity data with the State Department in light of the agency's legitimate need for the information in furtherance of its functions related to approving (or disapproving) Commission actions on submarine cable licenses. The Commission seeks comment on this tentative conclusion.

E. Costs and Benefits

207. The Commission seeks comment on the potential benefits and costs of the proposals discussed throughout the *NPRM*. The rule changes identified in the *NPRM* would advance U.S. national security, law enforcement, foreign policy, and trade policy interests. These proposals are designed to update and formalize the submarine cable rules and to enable the Commission to better identify and address national security and law enforcement risks.

208. Among the proposals, in the *NPRM*, the Commission proposes to codify the Commission's rules and legal requirements under the Cable Landing License Act, adopt a process to withhold or revoke a cable landing license, and adopt a three-year periodic review process for cable landing licenses for national security and law enforcement concerns. The Commission also seeks comment on shortening current 25-year submarine cable license term or adopting a shorter license term in combination with periodic reporting. The Commission proposes to adopt a presumption that certain entities and their current and future affiliates and subsidiaries shall not be qualified to become a new submarine cable landing licensee if their international section 214 authority was previously denied or revoked on national security or law enforcement grounds. The Commission proposes several certifications, including a certification that applicants have created, updated, and implemented cybersecurity risk management plans and that the submarine cable system will not use covered equipment or services identified on the Commission's "Covered List" that the Commission maintains pursuant to the Secure and Trusted Communications Networks Act. The Commission also proposes that all submarine cable landing licensees certify as to whether or not they use, for the relevant submarine cable system, equipment or services identified on the "Covered List" within sixty (60) days of the effective date of any rule adopted in this proceeding. The Commission proposes, among other things, to require (1) applicants/licensees, with or without reportable foreign ownership, to report whether or not they use and/or will use foreign-owned MNSPs and (2) any applicant/licensee that indicates it uses and/or will use a foreign-owned MNSP will answer the Standard Questions and those applications would be routinely referred to the relevant executive branch agencies. The Commission also proposes to adopt a rule allowing the sharing of critical submarine cable data filed in the applications and confidential circuit capacity data with Federal agencies without undertaking the procedures required under § 0.442 of the rules.

209. The benefits of the proposed rules will ensure the Commission fulfills its national security and public interest responsibilities under the Cable Landing License Act. Similar to the Commission's work in other related proceedings, the Commission expects that the resulting changes would

improve the Commission's oversight of submarine cable licenses and ensure that a submarine cable license and the licensees continue to serve the public interest, as the Act intended. As the Commission stated there, "[t]hese benefits cannot be achieved with ad hoc reviews alone." By adopting a periodic reporting requirement for submarine cable licenses, this process will help ensure that the Commission and the executive branch agencies review submarine cable licenses on a continuing basis and have the necessary information to address evolving national security, law enforcement, foreign policy, and/or trade policy risks. While the Commission tentatively finds that a three-year periodic reporting requirement is a critical component of protecting U.S. national security, law enforcement, foreign policy, and trade policy interests against evolving threats, the Commission acknowledges that such a process or other proposals in the *NPRM* may create economic burdens for submarine cable landing licensees.

210. Broadly, concerning benefits, the Commission seeks to ensure the safety and reliability of the submarine cable systems while adopting processes to expedite and streamline the Commission's rules. Submarine cables carry an estimated 99% of intercontinental data traffic²⁰¹ and the Commission's efforts will enable the industry to continue to deploy submarine cables ensuring reliable communications in a competitive marketplace, fulfilling its public interest duties. Importantly, the Commission has previously found that "a foreign adversary's access to American communications networks could result in hostile actions to disrupt and surveil the Commission's communications networks, impacting [the] nation's economy generally and online commerce specifically, and result in the breach of confidential data." Given that the Commission's national gross domestic product was over \$26 trillion in 2023, the digital economy accounted for \$3.7 trillion of the Commission's economy in 2021, and the volume of international trade for the United States (exports and imports) was \$6.9 trillion in 2023, even a temporary disruption in international submarine cable communications could cause billions of dollars in economic losses. The harms would be significant, causing disruption

²⁰⁰ Executive Order 10530, section 5(a) ("Provided, That no such license shall be granted or revoked by the Commission except after obtaining approval of the Secretary of State").

²⁰¹ According to a report by the Congressional Research Service, "undersea telecommunication cable network carries about 95% of intercontinental global internet traffic, and 99% of transoceanic digital communications." According to an article on TeleGeography's website, submarine cables account for over 99% of intercontinental data traffic.

to business import and export trade, multinational corporation operations, international financial flows, online commerce, residential and government communications, and online access to information, including emergency services. A 2012 report by the Asia-Pacific Economic Cooperation (APEC) stated that submarine cables carried over \$10 trillion in financial transactions globally each day. Assuming the United States' share is approximately equal to its share of global gross domestic product (GDP), it would account for nearly \$2.6 trillion per day. The Commission seeks comment on the expected benefits of the proposals in the *NPRM*.

211. The Commission's estimate of costs should include all the expected ongoing costs that would be incurred as a result of the rules proposed in the *NPRM*. The Commission notes that the annual aggregate cost of the proposed rules described above could vary, depending on the rules adopted and whether applications and license reviews are referred to the Committee. The Commission tentatively concludes that the benefits of establishing the proposed licensing process—which include the safety and reliability of the submarine cable systems and the protection of national security and law enforcement interests—will be in excess of these costs.

212. The Commission bases its cost estimate on the Commission's records, as described above, that indicate there are currently 84 submarine cable systems owned by approximately 145 unique licensees. Furthermore, the Commission estimates that every year, there are approximately eight (8) cable landing license applications for new cables.²⁰² The Commission also estimates that there are approximately 23 applications every year for modification, assignment, transfer, or control.²⁰³ Based on these groups, the Commission estimates that 35 applications are submitted annually.²⁰⁴

²⁰² Based on internal staff analysis, there were 24 cable landing license applications for new cables between January 1, 2022, and October 20, 2024, which produces an annual average of eight cable landing license applications.

²⁰³ Based on internal staff analysis, there were 67 applications for modification, assignment, or transfer of control between January 1, 2022, and October 20, 2024, which produces an annual average of approximately 23 applications. The Commission conservatively assumes that the cost for an application for modification, assignment, transfer, or control is equivalent to the cost for a new application.

²⁰⁴ For the purposes of renewal of existing licenses, the Commission assumes a uniform distribution of license renewal applications over the entirety of the 25-year license term, thereby projecting that there will be 4 applications

213. The Commission's cost estimate assumes that approximately 105 licensees will undergo the application process each year for the estimated 35 cable systems. The Commission bases this on the conservative assumption that each submarine cable landing license application will have an average of three licensees.²⁰⁵ The Commission estimates that the costs to applicants related to applying for licenses would include, among other tasks, providing responses to standard questions, reporting on current and future service offerings, reporting on the use of foreign-owned MNSPs, providing information on the submarine cable infrastructure, and providing information pertaining to reportable foreign ownership. In addition to the requirements, the Commission estimates that applicants will incur an additional cost associated with the Commission's proposal to certify compliance to baseline cybersecurity standards, including implementing the cybersecurity risk management plans. The Commission expects that the amount of work associated with preparing a new license application likely will be similar to the work associated with preparing a renewal application.²⁰⁶ Additionally, the licensees would be required to provide the Commission with updated information every three years.

214. The Commission has estimated that the preparation of a new or renewal application for each submarine cable system by an average of three licensees will require 80 hours of work by attorneys²⁰⁷ and 80 hours of work by support staff, at a cost of \$27,200 per application.²⁰⁸ To this cost, the

submitted annually for existing submarine cable systems ($84 / 25 = 3.36$ rounded up to 4 applications per year). Annual number of applications submitted would therefore be approximately 35 ($23 + 8 + 4$).

²⁰⁵ Based on the Commission's records, there are 237 total licensees for 84 cable systems, which produces an average of 2.8 licensees per application, which the Commission conservatively rounds up to 3 licensees per cable system.

²⁰⁶ This is based on the Commission's proposal to require applicants seeking to renew or extend a cable landing license to provide in the application the same information and certifications required in an application for a new cable landing license.

²⁰⁷ The Commission's cost data on wages for attorneys are based on the Commission's estimates of labor costs as represented in previous Paperwork Reduction Act (PRA) statements.

²⁰⁸ Consistent with the Commission's calculations in the PRA statements, the Commission estimates the median hourly wage for attorneys as \$300 for outside counsel. The Commission assumes that this wage reasonably represents an average for all attorney labor, across a range of authorization holders with different sizes and business models, used to comply with the rules proposed in the *NPRM*. Also, consistent with the Commission's calculations in PRA statements, the Commission estimates the median hourly wage for support staff (paralegals and legal assistants) as \$40. Thus, 80

Commission adds the cost of cybersecurity certification required for all new and renewal application, and which the Commission estimate to be \$9,100.²⁰⁹ The Commission also estimates that the 3-year periodic reporting review will require twelve hours of attorney and twelve hours of support staff time, at a cost of \$4,100, which the Commission multiplies by one-third to calculate the annual estimated cost of \$1,370.²¹⁰ The Commission then multiplies the sum of these costs by 35 to produce a total estimate of approximately \$1.32 million per year for the 25-year period, as a baseline estimate of the annual application and license review costs.²¹¹ The Commission anticipates that later rounds of the three-year periodic reporting review will cause significantly lower costs, since much of the information will not have changed between reviews.

215. The Commission seeks comment on the estimates provided here, which are based on the Commission's

hours of work by attorneys would cost \$24,000 and 80 hours of work by support staff would cost \$3,200, for a total of \$27,200 per application.

²⁰⁹ Previously, the Commission had estimated a cost of drafting a cybersecurity risk management plan and submitting a certification as \$820. Specifically, the Commission estimated that compliance would take 10 hours of labor from a General and Operations Manager compensated at \$82 per hour ($\$820 = \$82 \times 10$). The Commission updates this estimate to account for a baseline increase in compensation for General and Operations Managers from \$55 to approximately \$62.18 per hour, which when accounting for a benefits estimate of 45% becomes \$90.16 ($= \$62.18 \times 1.45$). Several commenters in that proceeding argued that the proposed cost of creating, updating, implementing and certifying cybersecurity risk management plans is too low. For example, NPR estimates that the Commission's estimate is "off by a factor of 10 or more." In light of this record, the Commission updates the Commission's estimate to \$9,100 to be consistent with the record in that proceeding ($= (100 \text{ hours per applicant}) \times (\$62.18 \text{ mean hourly wage}) \times (1 + 45\% \text{ benefit mark-up})$, which the Commission rounds up to \$9,100). To account for benefits, the Commission marks up wages by 45%, which results in total hourly compensation of $\$62.18 \times 145\% = \$90.16$. According to the Bureau of Labor Statistics, as of June 2023, civilian wages and salaries averaged \$29.86/hour and benefits averaged \$13.39/hour. Total compensation therefore averaged $\$29.86 + \$13.39$, rounded to \$43.26. Using these figures, benefits constitute a markup of $\$13.39 / \$29.86 \sim 45\%$.

²¹⁰ Twelve hours of work by attorneys would cost \$3,600 ($12 \text{ hours} \times \$300 \text{ per hour}$) and twelve hours of work by support staff would cost \$480 ($12 \text{ hours} \times \$40 \text{ per hour}$), which sums to \$4,080, which the Commission rounds up to \$4,100. The Commission then calculates the annual cost by dividing the three-year cost by 3 to produce an estimate of $\$1,370 (\$4,100 / 3 = \$1,366.67)$, rounded up to \$1,370.

²¹¹ $\$27,200 + \$9,100 + \$1,370 = \$37,670$. Multiplying by 35 applications per year, the Commission has, $\$1,318,450 (= \$37,670 \times 35)$, which the Commission rounds up to \$1,319,000 per year.

experience and calculations of the likely costs of past submarine cable application processing and cybersecurity reviews. The Commission seeks comment on the additional costs that applicants will incur from the new reporting requirements detailed above. The Commission also seeks comment on the expected costs incurred by applicants, licensees, and Government agencies for applications and periodic reporting reviews that are referred to the Committee for additional review. The Commission seeks comment on the potential burdens on licensees, including on small entities.²¹² The Commission notes that some proposals may lower industry costs by streamlining or simplifying the application process. Also, some national security requirements might financially benefit companies that had not yet fully secured their networks from harm and thus were vulnerable to costly disruptions. Indeed, some of these requirements could be considered the minimum security needed in today's communications environment, and thus should already have been implemented by all submarine cables operators. Do the Commission's assumptions represent a reasonable estimate of total costs of the proposals in the *NPRM*? Any suggestions for alternative approaches should include clear explanations of the cost estimates, as well as estimates as to whether the benefits under any proposed alternatives would increase or decrease compared to the benefits described above.

F. Digital Equity and Inclusion

216. Finally, the Commission, as part of its continuing effort to advance digital equity for all,²¹³ including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations²¹⁴ and benefits (if any)

²¹² For example, the Commission seeks comment on the costs and benefits of requiring all applicants, including those without reportable foreign ownership, to provide information on foreign-owned MNSPs.

²¹³ Section 1 of the Communications Act of 1934 as amended provides that the FCC "regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex."

²¹⁴ The term "equity" is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied

that may be associated with the proposals and issues discussed herein. Specifically, the Commission seeks comment on how its proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority.

II. Procedural Issues

217. *Ex Parte Rules*. This proceeding shall be treated as a "permit-but disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize

such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

themselves with the Commission's *ex parte* rules.

218. *Regulatory Flexibility Act*. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of rule and policy changes in the *NPRM* on small entities. Written public comments are requested on the IRFA. Comments must be filed by the deadlines for comments in the **DATES** section of this document and must have a separate and distinct heading designating them as responses to IRFA.

Technical Appendix

219. This technical appendix provides additional information about submarine cable systems, including definitions and an image that depicts the key parts of a submarine cable system.

220. *Submarine Cable System*. A submarine cable is an electrically powered cable that is laid beneath water and establishes communication transmission links between two or more land-based terminal cable landing stations. The cable consists of a wet (underwater) segment, a dry (not submerged under water) segment, and ancillary equipment required to support the operation and maintenance of the cable.

221. *Wet Segment*. The wet (underwater) segment of a submarine cable system typically extends from a beach manhole on one landmass to a beach manhole on another landmass. The underwater portion of the cable can consist of one or several segments, and is equipped with amplification devices (repeaters, etc.) and branching units built into the cable that allow interconnection to more than one destination country.

222. *Wet Segment Ancillary Components*. The repeaters (technically amplifiers), which are tied into the cable, amplify the optical signal to ensure it remains powerful enough for detection at the receiving or terminal landing station. The branching unit (BU) is used to split off the optical signal from the main cable segment(s) and send traffic to another location or country via a cable that connects the BU to a cable landing station.

223. *Dry Segment*. The dry (not submerged under water) segment of a submarine cable system typically extends from the beach manhole to

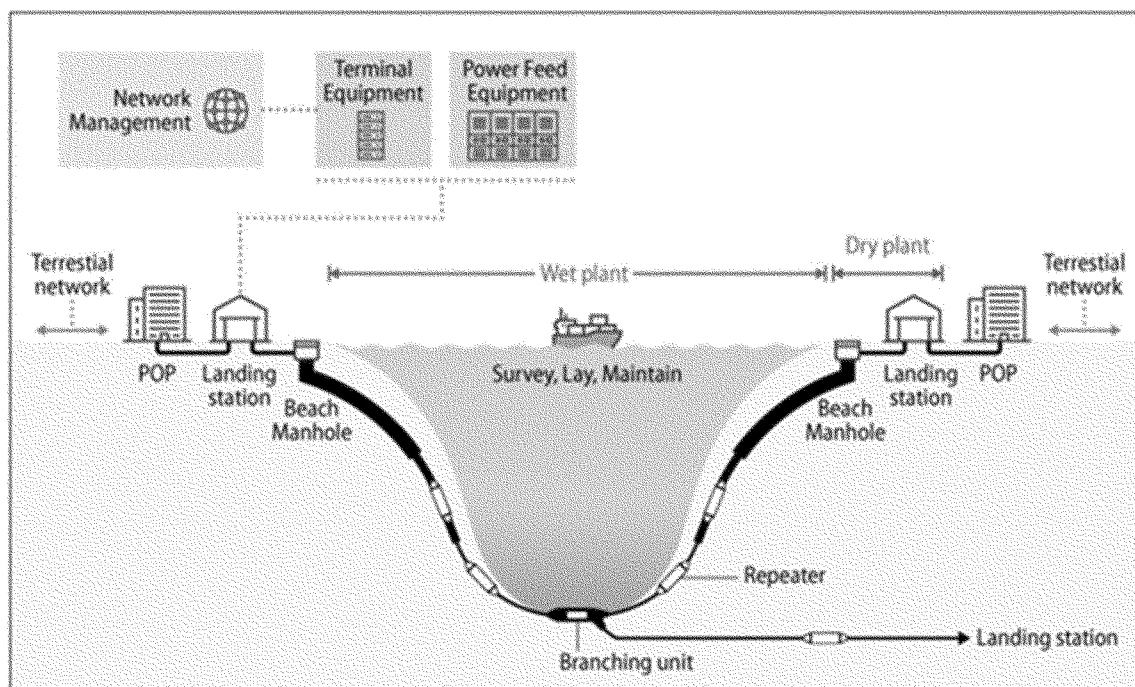
cable landing station(s) that contain the Power Feed Equipment (PFE) and equipment (such as the Submarine Line Terminal Equipment (SLTE)) to convert submarine signals to terrestrial signals, and may include ancillary equipment or infrastructure such as equipment to operate or maintain the cable system.

224. *Dry Segment Ancillary Components.* The dry segment includes the optical fiber and power land cables that are separated at and extend from the beach manhole, a structure buried on the beach where the submarine cable first lands, and are then routed to the terminal cable landing station that may

be located near the coast where the submarine cable reaches the shore, or may be located further inland.²¹⁵ The submarine cable landing station houses equipment to terminate cable traffic and equipment to power the submarine cable. The equipment used to convert submarine signals to terrestrial signals and interconnect with the U.S. terrestrial network is the SLTE, and the equipment used to power the cable, the PFE, is either located in or close to the terminal landing station. There might be multiple SLTEs within a cable landing station for a given submarine cable

system.²¹⁶ A data center can serve as a cable landing station, and PoPs and IXPs²¹⁷ can be located within a cable landing station or data center.

225. For illustrative purposes, the image below depicts the key parts of a submarine cable system and depicts, in a basic manner, a submarine cable system. The Commission understands that not every submarine cable system may replicate the image below. For example, there may be numerous cable landing stations located further inland from the coastal landing submarine cable station.²¹⁸



Source: Created by CRS.

Initial Regulatory Flexibility Analysis

226. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the

NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or

summaries thereof) will be published in the **Federal Register**.

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

227. In the *NPRM*, the Commission undertakes the first major comprehensive review of its submarine cable rules since it last adopted submarine cable rules in 2001. Over the last two decades, there have been

²¹⁵ Traditionally, cable landing stations “have been historically close to network hubs to facilitate efficient connectivity to population centers, but now the focus is on being close to hyperscale data centers” that might be located farther inland and require substantial backhaul facilities to interconnect to the data station. PoPs and/or Internet Exchange Points (IXPs) can be, and are typically located in data centers or other facilities with the necessary infrastructure to support internet traffic exchange. This infrastructure may include

routers, switches, and other networking equipment, as well as power and cooling systems.

²¹⁶ Over the last decade, technological changes and the manner in which the dry segment submarine cable components are sold has permitted “multiple cable systems owners to use different SLTE on their own fiber pairs.”

²¹⁷ What is an internet exchange point? | How do IXPs work?, Cloudflare, <https://www.cloudflare.com/learning/cdn/glossary/internet-exchange-point-ixp/> (last visited, Oct. 4,

2024), (“An internet exchange point (IXP) is a physical location through which internet infrastructure companies such as Internet Service Providers (ISPs) and [Content Delivery Networks or] CDNs connect with each other.”).

²¹⁸ Although not reflected in the graphic, the CRS Report recognizes that submarine terminal facilities could be “hundreds of miles from the seashore” with cable operators often using a longer fiber link with repeaters to connect to the cable landing station.

substantial changes in technology, consumer expectations, international submarine cable traffic patterns, and investment in and construction of submarine cable infrastructure as well as significant evolution in national security and law enforcement threat environments. The proposed rules on which the Commission seeks comment in this proceeding are intended for the Commission to determine how best to improve and streamline the submarine cable rules to facilitate deployment of submarine cables while at the same time ensuring the security, resilience, and protection of this critical infrastructure.

228. Specifically, in the *NPRM*, the Commission takes a number of actions to (1) codify the Commission's legal jurisdiction and other legal requirements in the Commission's rules to provide regulatory certainty to submarine cable owners and operators; (2) improve the Commission's oversight of submarine cable landing licensees and information regarding a submarine cable system and its licensees during the 25-year license term; (3) update application requirements for national security purposes and ensuring the Commission has targeted and granular information regarding the ownership, control, and use of a submarine cable system; (4) adopt new compliance certifications to protect against national security, law enforcement, and other risks; (5) protect submarine cable infrastructure, including activities in coordination with its Federal partners; (6) update submarine cable rules and certain targeted requirements to protect submarine cable systems from national security and law enforcement risks; (7) streamline procedures to expedite the submarine cable review processes; and (8) improve the quality of the Circuit Capacity data and facilitating the sharing of such information with other Federal agencies. The Commission believes its proposed actions in this proceeding will improve Commission review and oversight of submarine cable landing licenses and ensure each licensee continues to serve the public interest in an evolving national security and law enforcement landscape.

B. Legal Basis

229. The proposed action is authorized pursuant to sections 1, 4(i), 4(j), 201–255, 303(r), 403, and 413 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–255, 303(r), 403, and 413, and the Cable Landing License Act of 1921, 47 U.S.C. 34–39, and Executive Order 10530, section 5(a) (May 12, 1954), reprinted as amended in 3 U.S.C. 301.

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

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

231. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments “primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks.” Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as “wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services.” By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.

232. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

233. *Competitive Local Exchange Carriers (CLECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local service providers. Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

234. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 127 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 109 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

235. *Wired Broadband Internet Access Service Providers (Wired ISPs).* Providers of wired broadband internet access service include various types of providers except dial-up internet access providers. Wireline service that terminates at an end user location or mobile device and enables the end user

to receive information from and/or send information to the internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules. Wired broadband internet services fall in the Wired Telecommunications Carriers industry. The SBA small business size standard for this industry classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees.

236. *Internet Service Providers (Non-Broadband)*. Internet Access Service Providers using client-supplied telecommunications connections (e.g., dial-up ISPs) as well as VoIP service providers using client-supplied telecommunications connections fall in the industry classification of All Other Telecommunications. The SBA small business size standard for this industry classifies firms with annual receipts of \$40 million or less as small. For this industry, U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than \$25 million. Consequently, under the SBA size standard a majority of firms in this industry can be considered small.

237. *Small Businesses, Small Organizations, Small Governmental Jurisdictions*. The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

238. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2022, there were approximately 530,109 small exempt organizations in the U.S. reporting revenues of \$50,000

or less according to the registration and tax data for exempt organizations available from the IRS.

239. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." U.S. Census Bureau data from the 2022 Census of Governments indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,845 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts) with enrollment populations of less than 50,000. Accordingly, based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 entities fall into the category of "small governmental jurisdictions."

240. Additionally, according to Commission data on internet access services as of June 30, 2019, nationwide there were approximately 2,747 providers of connections over 200 kbps in at least one direction using various wireline technologies. The Commission does not collect data on the number of employees for providers of these services, therefore, at this time the Commission is not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, in light of the general data on fixed technology service providers in the Commission's 2022 *Communications Marketplace Report*, the Commission believes that the majority of wireline internet access service providers can be considered small entities.²¹⁹

241. *All Other Telecommunications*. This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet

services (e.g. dial-up ISPs) or VoIP services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of \$40 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than \$25 million. Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

242. *Internet Publishing and Broadcasting and Web Search Portals*. This industry comprises establishments primarily engaged in (1) publishing and/or broadcasting content on the internet exclusively or (2) operating websites that use a search engine to generate and maintain extensive databases of internet addresses and content in an easily searchable format (and known as web search portals). The publishing and broadcasting establishments in this industry do not provide traditional (non-internet) versions of the content that they publish or broadcast. They provide textual, audio, and/or video content of general or specific interest on the internet exclusively. Establishments known as web search portals often provide additional internet services, such as email, connections to other websites, auctions, news, and other limited content, and serve as a home base for internet users. The SBA small business size standard for this industry classifies firms having 1,000 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were firms that 5,117 operated for the entire year. Of this total, 5,002 firms operated with fewer than 250 employees. Thus, under this size standard the majority of firms in this industry can be considered small.

243. *Computer Infrastructure Providers, Data Processing, Web Hosting, and Related Services*. This industry comprises establishments primarily engaged in providing computing infrastructure, data processing services, web hosting services (except software publishing), and related services, including streaming support services (except streaming distribution services). Cloud storage services, computer data storage services, computing platform infrastructure provision, Infrastructure as a service (IaaS), optical scanning services, and Platform as a service (PaaS) are included in this industry. Data processing establishments provide complete processing and specialized

²¹⁹ See Communications Marketplace Report, GN Docket No. 22–203, 2022 WL 18110553 at 10, paras. 26–27, Figs. II.A.5–7. (2022) (2022 *Communications Marketplace Report*).

reports from data supplied by clients or provide automated data processing and data entry services. The SBA small business size standard for this industry classifies firms with annual receipts of \$40 million or less as small. U.S. Census Bureau data for 2017 indicate that 9,058 firms in this industry were operational for the entire year. Of this total, 8,345 firms had revenue of less than \$25 million. Thus, under the SBA size standard the majority of firms in this industry are small.

244. Neither the Commission nor the SBA has developed a size standard specifically for applicants or licensees of submarine cable systems under the Cable Landing License Act. The proposals outlined in the *NPRM* apply to entities applying for an initial cable landing license; applicants/cable landing licensees for modification, assignment, transfer of control, and renewal or extension of such license; cable landing licensees that will be required to submit periodic reports; and cable landing licensees and common carriers that are required to annually report their capacity on international cables pursuant to § 43.82 of the rules. The proposals, however, may affect other entities as well, including users of submarine cable service such as Internet Service Providers (ISPs) that lease capacity or purchase indefeasible rights of use (IRUs) on submarine cable systems. The Commission, therefore, encourages these entities to comment on the proposals in the *NPRM*.

245. The proposals are intended to improve and streamline the submarine cable rules to facilitate efficient deployment of submarine cables while at the same time ensuring the security, resilience, and protection of this critical infrastructure. The Commission is not certain, however, as to the number of small entities that will be affected by the proposals. The Commission bases its cost estimate on the Commission's records, as described below, that indicate there are currently 84 submarine cable systems owned by approximately 145 licensees. In 2022, of all entities that filed § 43.82 Circuit Capacity Reports, 43 were Submarine Cable Operator Reports and 102 were Submarine Cable Capacity Holder Reports. Based on this information, the Commission estimates that there could be 50 or fewer applicants that might be a small entity.

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

246. In the *NPRM*, the rules that the Commission proposes would impose new and/or additional reporting,

recordkeeping, and other compliance obligations on small and other entities. The Commission's comprehensive review of its submarine cable rules identified a need to update the existing rules to advance U.S. national security, law enforcement, foreign policy, and trade policy interests. These proposals are designed to update and formalize the submarine cable rules to better protect submarine cables and provide the Commission with important information on a more regular and timely basis for the Commission to better identify and address national security, law enforcement, and other risks.

247. The scope of the proposals in the *NPRM* is broad and wide ranging. The Commission proposes to codify in the rules the Commission's longstanding practices and legal requirements under the Cable Landing License Act that are applicable to small and other applicants seeking a submarine cable landing license or modification, assignment, transfer of control, or renewal or extension of their license, including proposed rules that would require these applicants, among other things, to comply with a general license requirement, to demonstrate how grant of an application will serve the public interest, convenience and necessity, and to certify whether or not they are in compliance with the Cable Landing License Act, the Communications Act, the Commission's rules, and other laws. The Commission proposes and seeks comment on adopting a procedural framework that the Commission may use to consider whether withholding a grant of a cable landing license or revocation of a cable landing license is warranted. The Commission also proposes to adopt a three-year periodic reporting requirement for cable landing licenses, which would require small and other licensees to provide certain information to the Commission every three years. The Commission seeks comment on shortening the current 25-year submarine cable license term or adopting a shorter license term in combination with periodic reporting.

248. The Commission's proposed three-year periodic reporting requirement would require licensees to provide updated information, including (1) information that is current as of thirty (30) days prior to the date of the submission of the report; (2) information concerning the submarine cable infrastructure; (3) information about the capacity services they currently offer or plan to offer through the submarine cable system; (4) certification as to whether or not they are in compliance with the Cable Landing License Act, the

Communications Act, the Commission's rules, and other laws; (5) cybersecurity certifications, including a certification that they have created, updated, and implemented cybersecurity risk management plans; (6) certification that they have not purchased and/or used, and will not purchase and/or use, equipment or services produced or provided by entities (and their subsidiaries and affiliates) identified on the Commission's "Covered List"; (7) whether or not they use and/or will use foreign-owned MNSPs in the operation of the submarine cable; and (8) updated licensee information and points of contact. The Commission seeks comment on whether, as part of the periodic reporting requirement, cable landing licensees should provide (1) information identifying any individuals or entities that hold an ownership interest in the submarine cable system that does not meet the threshold eligibility requirements requiring them to be licensees of the cable; (2) updated ownership information; and (3) other information.

249. As part of the licensing application process, the Commission proposes several new compliance certifications for small and other applicants that would trigger reporting and recordkeeping requirements, including (1) certification that an applicant is in compliance with the Commission's rules and regulations, the Communications Act of 1934, as amended (the Act), and all other applicable laws; (2) certification that an applicant has created, updated, and implemented cybersecurity risk management plans as well as certification that the applicant take reasonable measures to protect the confidentiality, integrity, and availability of their systems and services that could affect their provision of communications services; and (3) as a condition of the potential grant of their application, a certification that the submarine cable system will not use covered equipment or services identified on the Commission's "Covered List" that the Commission maintains pursuant to the Secure and Trusted Communications Networks Act. The Commission also proposes that all submarine cable landing licensees certify as to whether or not they use, for the relevant submarine cable system, equipment or services identified on the "Covered List" within 60 days of the release of any Report and Order in this proceeding. Additionally, the Commission proposes to amend its rules by adding a new routine condition and a certification requirement in the

proposed periodic reports prohibiting licensees from using, for the relevant submarine cable system, equipment or services identified on the “Covered List.” The Commission also seeks comment on whether to require a certification by all applicants/licensees that they have the ability to promptly and effectively interrupt, in whole or in part, traffic to and from the United States on the submarine cable system. The Commission proposes to require applicants and licensees to certify in the applications and the periodic reports whether or not they are in compliance with the Cable Landing License Act, the Communications Act, the Commission’s rules, and other laws.

250. The cybersecurity certification will require small and other applicants and licensees to describe how the applicant or licensee employs its organizational resources and processes to ensure the confidentiality, integrity, and availability of its systems and services, and must be signed by an applicant’s Chief Executive Officer (CEO), Chief Financial Officer (CFO), Chief Technology Officer (CTO), or a similarly situated senior officer responsible for governance of the organization’s security practices. Small and other applicants and licensees will be allowed to structure their cybersecurity risk management plan in a manner that best fits its organization, as long as the plan demonstrates that the applicant and licensee is taking affirmative steps to analyze security risks and improve its security posture. Further, small and other applicants and licensees will not be required to submit their cybersecurity risk management plans but instead, if adopted, must maintain data and records related to their cybersecurity risk management plans for two years from the submission of the related risk management plan certification to the Commission, including any information that is necessary to show how the cybersecurity risk management plan is implemented. However, upon Commission request, small and other licensees must file their cybersecurity risk management plan with the Commission.

251. Other reporting requirements in the *NPRM* the Commission targets to protect submarine cable systems from national security and law enforcement risks includes the Commission’s (1) proposal whether to require applicants to disclose their use of foreign-owned MNSPs and if so, it will answer the Standard Questions and those applications would be routinely referred to the relevant executive branch agencies; (2) proposal to require all

applicants to provide a list of the anticipated addresses or physical locations for the Network Operations Center (NOC) on a presumptively confidential basis in their applications and periodic reports; and (3) the Commission’s request for comments on whether to require applicants to submit basic information about an applicant’s lessors of submarine cable landing stations and/or data centers housing hardware. The Commission also proposes to adopt a presumption that any entity whose application for international section 214 authority that was previously denied or whose domestic or international section 214 authority was previously revoked in view of national security and law enforcement concerns, and its current and future affiliates and subsidiaries, shall not be qualified to become a new submarine cable landing licensee. Additionally, the Commission proposes to expand the information reporting requirements under § 1.767(a)(4) of the Commission’s rules to require small and other applicants for a cable landing license or modification, assignment, transfer of control, or renewal or extension of a license to provide additional detailed information concerning the submarine cable infrastructure.

252. One of the Commission’s goals in this proceeding is also to improve the collection of circuit capacity data which includes data from cable landing licensees and common carriers who must report their capacity on submarine cables between the United States and any foreign point as of December 31 of the current reporting period. The Commission’s annual capacity holder data indicates that there is substantial capacity leased or purchased from cable landing licensees and common carriers that is not accounted for in the circuit capacity data collected by the Commission, because entities that hold capacity on a particular cable in such arrangements are not required to report their capacity. To address this information gap, the Commission seeks comments on whether to require all entities that hold capacity on cables landing in the United States to file capacity holder reports, and in the alternative, or additionally, should cable landing licensees and common carriers be required to include in their annual capacity holder reports a list of customers to whom they sold or leased capacity as of December 31 of the reporting period. Given that all title II common carriers are required to file annual circuit capacity reports under § 43.82(a)(2) of the rules, the

Commission seeks comment generally on whether the Commission should consider retaining or removing the waiver of § 43.82 of the rules as applied to BIAS providers, subject to judicial review of that *2024 Open Internet Order*.

253. The Commission includes cost estimates in the *NPRM* that estimate of all of the expected ongoing costs the industry would incur if the proposed rules were adopted. Annually, the Commission estimates the annual aggregate cost of implementation of the proposed rules should not exceed approximately \$1.32 million for the 84 submarine cable systems currently owned by approximately 145 licensees. At this time however, the record does not include sufficient cost information to allow the Commission to quantify the costs of compliance for small entities, including whether it will be necessary for small entities to hire professionals to comply with the proposed rules if adopted.

254. The Commission also estimates that every year, there are approximately 8 cable landing license applications for new cables, and 23 applications every year for modification, assignment, transfer, or control. The Commission therefore estimates that 35 applications are submitted annually. The Commission’s cost estimate assumes that approximately 105 licensees will undergo the application process each year for the estimated 35 cable systems. The Commission bases this on the conservative assumption that each submarine cable landing license application will have an average of three licensees. The Commission calculates that the costs to applicants related to applying for licenses would include, among other tasks, providing responses to standard questions, reports on current and future service offerings, reports on foreign-owned MNSPs and information pertaining to reportable foreign ownership. Additionally, the Commission calculates applicants will incur additional costs associated with the Commission’s proposal for them to certify compliance to baseline cybersecurity standards, including implementing the cybersecurity risk management plans. The Commission anticipates the amount of work associated with preparing a new license application likely will be similar to the work associated with preparing a renewal application. Licensees would also be required to provide updated information to the Commission every three years.

255. Preparation of a new or renewal application for each submarine cable system by an average of three licensees

will require 80 hours of work by attorneys and 80 hours of work by support staff, at a total cost of \$27,200 per application. To this cost the Commission adds the cost of the cybersecurity certification required for all new and renewal application, and which the Commission estimates to be \$9,100. The Commission also estimates that the 3-year periodic reporting will require twelve hours of attorney and twelve hours of support staff time, at a cost of \$4,100, which the Commission multiplies by one-third to calculate the annual estimated cost of \$1,370. The Commission then multiplies the sum of these costs by 35 resulting in a total estimate of approximately \$1.32 million per year for the 25-year licensing period, as a baseline estimate of the annual application and license review costs. The Commission anticipates that later rounds of the three-year periodic reporting review will cause significantly lower costs, since much of the information will not have changed between reviews. The Commission seeks comment on these cost estimates in the *NPRM*, and in particular on the costs (and burdens) that may be incurred by small entities. Small entities are encouraged to bring to the Commission's attention any specific concerns they may have with the cost estimate and the proposals outlined in the *NPRM*. In addition, the Commission seeks comment on the Commission's tentative conclusion that the benefits of the proposed update and modernization of the submarine cable licensing and oversight process which includes the safety and reliability of the submarine cable infrastructure, and the protection of national security and law enforcement interests—will far exceed these estimated costs.

256. The Commission is especially interested in estimates that address alternative means to provide the same benefits, in terms of advancing national security, law enforcement, foreign policy, and trade policy interests, at lower costs. The Commission expects the information it receives in comments including, where requested, cost and benefit analyses, to help identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result if the proposals and associated requirements discussed in the *NPRM* are adopted.

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

257. The RFA requires an agency to describe any significant, specifically

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

258. As described in the *NPRM*, the Commission considers and seeks comment on the potential impact and burdens the proposed rules would generally have on submarine cable applicants, licensees, and common carriers that hold capacity on U.S.-international cables, some of whom may be small entities. As part of the Commission's proposals, the Commission discusses alternative options that could potentially reduce the impacts and burdens with respect to small entities and more generally for entities subject to the Commission's submarine cable rules.

259. Notably, the Commission proposes to require licensees to provide in periodic reports certain information to the Commission every three years. In discussing this proposal, the Commission expressly solicits information on the impact of the Commission's proposed three-year periodic reporting requirement on small entities, and the Commission considers and discusses alternatives. To decrease some of the administrative burden of this requirement for such entities, the Commission proposes that any new periodic report would reflect only updated information since the last report three years prior or other substantive filing, which may be the initial license application, a modification, a transfer of control, or an assignment. If there have not been any changes since a licensee's last periodic report or other substantive filing, the Commission asks whether the Commission should only require a licensee provide a periodic statement that its license remains in compliance with the Commission's rules and with its most recent periodic report, or other substantive filing. The Commission also proposes that each periodic report would be submitted through a filing in the Commission's existing International Communications Filing System (ICFS), or any successor system, minimizing administrative burdens associated with paper filings. Along these lines, the

Commission proposes to adopt a schedule that prioritizes the filing and review of reports based on whether the cable's licensee(s) currently have reportable foreign ownership and the length of the time since the Commission's most recent review of the authorization. The proposal structures the timing of the submission of periodic reports to minimize burdens on licensees, the Commission and the executive branch staff while ensuring that the Commission receives the information it needs to protect this critical infrastructure. Submarine cable systems would be assigned to one of four categories with each category having a different submission deadline—submission deadlines for each category would be separated by six months.

260. The Commission also considers the burdens on small entities in seeking comment on whether shortening the current 25-year submarine cable license term or adopting a shorter license term in combination with periodic reporting would similarly account for evolving national security, law enforcement, and other risks. In this regard, to ensure the Commission addresses burdens on licensees, including small entities, the Commission seeks comment on an appropriate time frame to better account for evolving risks while minimizing burdens on licensees, recognizing the significant capital expenditures and long lead times in planning and constructing submarine cable systems. The Commission also seeks comment on the economic impact of shortening the 25-year license term. The Commission asks whether a 5-year or 10-year license term would alter investment incentives in new submarine cable infrastructure and if a shortened license term would impact the upgrade and maintenance of existing submarine cable systems. The Commission identifies various licensing term alternatives based on approaches it has adopted for other industry licensees. For example, for Miscellaneous Wireless Communications Services (WCS), the license term varies according to spectrum band, resulting in different license periods such as 10, 12, or 15 years. In the satellite industry the Commission's licensing terms likewise vary. Space stations licensed under part 25 of the Commission's rules have a 15-year license term, small satellites have a 6-year license term, and certain SDARS and DBS space stations have an 8-year license term. In the broadcasting industry, each license granted for the operation of a broadcasting station is limited to a term not to exceed eight

years. Additionally, more recently in the *Evolving Risks NPRM*, the Commission tentatively concluded that a 10-year timeframe is reasonable under the proposed renewal framework for structuring a formalized and systemic reassessment of carriers' international section 214 authority. The Commission specifically requests that commenters address the burdens that will be placed on the licensees based on the length of the license term and identify the costs/benefits overall and impact, if any, on small businesses.

261. The Commission also discussed the potential impact on small entities with regard to the Commission's consideration of who must become a submarine cable applicant and licensee. In the *NPRM*, the Commission seeks comment on whether it should retain the requirement that an entity that owns or controls a 5% or greater interest in the cable and uses the U.S. points of the cable system must become an applicant and licensee should be retained or changed. The Commission explained that the 5% ownership threshold was created in part to not unduly burden small carriers or investors that lacked the ability to significantly affect the operation of a cable system, among others. In this regard, the Commission asks whether the 5% threshold is reasonable in today's national security environment. The Commission further seeks comment on whether it should instead require any entity that owns any interest in the cable to become a licensee. The Commission also considers and seeks comment generally on whether to include any entity that has capacity on the submarine cable as an applicant/licensee, and how such a requirement would affect small entities. Relatedly, the Commission seeks comment on whether holding capacity on the cable system should be defined to include the leasing, purchasing, selling, buying, or swapping of a fiber (spectrum, capacity, partial fiber pair, or a full fiber pair, among others) for transmission of voice, data, and internet over the cable system to interconnect with a U.S. terrestrial network.

262. Consistent with the Commission's overarching goal to promote and protect the security of the submarine cable network and infrastructure, the Commission proposes to require all applicants for cable landing licenses and modification,

assignment, transfer of control, renewal, and licensees filing their three-year periodic reports to certify in the application or report that they have created, updated, and implemented cybersecurity risk management plans. Recognizing the importance of cybersecurity generally and the potential impact of cybersecurity related requirements on small entities, the Commission proposes that each applicant or licensee have flexibility to structure their cybersecurity risk management plan that is tailored to its organization, provided that the plan demonstrates that the applicant or licensee is taking affirmative steps to analyze security risks and improve its security posture. This flexibility should reduce costs for small entities. Further, the Commission states that while it believes there are many ways that an applicant or licensee may satisfy this requirement, the Commission proposes that they could successfully demonstrate compliance with this proposed requirement by following an established risk management framework, such as the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF).³⁰⁶ The NIST CSF is designed to be scalable and adaptable to the needs and capabilities of companies both large and small, is well understood by industry, and is flexible.

263. The Commission also proposes not to require small and other entities to submit or file their cybersecurity risk management plans at a designated time each year. Instead, the Commission proposes that applicants and licensees submit cybersecurity management plans to the Commission upon request. Additionally, the Commission proposes that applicants and licensees must preserve data and records related to their cybersecurity risk management plans, including any information that is necessary to show how the cybersecurity risk management plan is implemented, for two years from the submission of the related risk management plan certification to the Commission.

264. In addition, the Commission highlights the availability of many free and low-cost resources to help small entities identify and implement best practices and improve their security over time without requiring small entities to hire outside experts. NIST

publishes guidance that could assist organizations with measuring their safeguards, including how to address ransomware, malware, malicious code, spyware, distributed denial of service (DDoS) attacks, phishing, securing networks, and threats to mobile phones. CISA offers vulnerability scanning at no cost for critical infrastructure, which includes communications providers, and also provides CPG Assessment Training with regional cybersecurity experts that will help communications providers better understand CPGs and the cybersecurity risk assessment process. The Commission assumes that these resources, along with any number of other publicly available resources that the Commission has not specifically identified or that may arise in the future, will assist applicants' and licensees' employees and their existing technical contractors in identifying and implementing appropriate security controls without needing specialized cybersecurity expertise. Thus, the Commission believes its proposals to the submarine cable rules to protect national security and law enforcement interests as well as the Commission's streamlining proposals can be implemented by small entities without being overly burdensome.

265. To assist in the Commission's evaluation of the economic impact on small entities, as a result of actions that have been proposed in the *NPRM*, and to better explore options and alternatives, the Commission has sought comment from all interested parties. In particular, the Commission seeks comment on whether, and how, any of the burdens associated the filing, recordkeeping and reporting requirements described above and in the *NPRM* can be minimized for small entities. Additionally, the Commission seeks comment on whether the costs associated with the Commission's proposed requirements can be alleviated for small entities. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments filed in response to the *NPRM*.

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

266. None.

THREE-YEAR PERIODIC REPORTING PRIORITIZATION SCHEDULE

Category	Submarine cable name	Current license No.
1	Americas-1 Cable System	SCL-LIC-20190326-00009
1	Asia America Gateway (AAG)	SCL-LIC-20070824-00015

THREE-YEAR PERIODIC REPORTING PRIORITIZATION SCHEDULE—Continued

Category	Submarine cable name	Current license No.
1	FASTER Cable System	SCL-LIC-20150626-00015
1	Japan-U.S. Cable Network	SCL-MOD-20130227-00002
1	JUPITER	SCL-LIC-20180517-00012
1	New Cross-Pacific (NCP)	SCL-LIC-20151104-00029
1	PPC-1	SCL-MOD-20180803-00030
1	Trans-Pacific Express (TPE) Cable Network	SCL-MOD-20080714-00012
2	AmeriCan-1	SCL-MOD-19990901-00016
2	Apollo Cable	SCL-MOD-20020412-00031
2	Atisa	SCL-LIC-20160314-00008
2	Australia-Japan Cable	SCL-MOD-20020415-00050
2	Bahamas Internet Cable System (BICS)	SCL-MOD-20020925-00094
2	CFX-1 Cable System (CFX-1)	SCL-LIC-20070516-00008
2	Crosslake Fibre	SCL-LIC-20180216-00002
2	Gemini Bermuda System	SCL-LIC-20070925-00017
2	Global Caribbean Network (GCN)	SCL-MOD-20140923-00009
2	Japan-Guam-Australia (JGA) North System (JGA North)	SCL-LIC-20181106-00035
2	Japan-Guam-Australia (JGA) South System (JGA South)	SCL-LIC-20190502-00016
2	Honotua Cable System	SCL-MOD-20180410-00007
2	Monet Cable System	SCL-LIC-20150408-00008
2	Samoa American Samoa Cable System	SCL-LIC-20080814-00016
2	Seabras-1	SCL-LIC-20160115-00002
2	SMPR-1	SCL-LIC-20031209-00033
2	Southern Cross NEXT	SCL-LIC-20190809-00026
2	Telstra Endeavour	SCL-LIC-20070621-00009
2	TGN Atlantic	SCL-MOD-20060111-00001
2	TGN Pacific	SCL-MOD-20060111-00002
2	Unity Cable System	SCL-LIC-20080516-00010
3	AEConnect-1 Cable System	SCL-MOD-20210105-00001
3	América Móvil Submarine Cable System (AMX1)	SCL-LIC-20120330-00002
3	Americas II	SCL-MOD-20191202-00038
3	Amitié	SCL-LIC-20200807-00036
3	Antilles Crossing	SCL-LIC-20031125-00032
3	ARCOS-1	SCL-MOD-20020701-00056
3	Atlantic Crossing 1 (AC-1)	SCL-LIC-20230222-00005
3	BAHAMAS II	SCL-LIC-20220422-00016
3	BRUSA	SCL-LIC-20160330-00011
3	Columbus II	SCL-MOD-20210702-00030
3	Carnival Submarine Networks-1 (CSN-1)	SCL-LIC-20230921-00026
3	FLAG Atlantic-1	SCL-MOD-20040211-00006
3	GlobeNet	SCL-MOD-20121003-00012
3	GTT Atlantic Cable System	SCL-MOD-20020412-00023
3	Gulf of Mexico	SCL-LIC-20061115-00010
3	Havfrue	SCL-LIC-20180511-00010
3	Hawaii Interisland Cable System (HICS)	SCL-LIC-20240320-00009
3	Hawaii Island Fiber Network (HIFN)	SCL-LIC-20220111-00003
3	Hawaiki Cable System	SCL-LIC-20160906-00019
3	JUNO	SCL-LIC-20221208-00037
3	MAREA	SCL-LIC-20160525-00012
3	Maya-1	SCL-MOD-20110928-00028
3	Mid-Atlantic Crossing (MAC)	SCL-MOD-20020415-00035
3	MTC Interisland (MICS)	SCL-LIC-20211013-00048
3	Neutral Networks Laredo Cable	SCL-LIC-20210930-00042
3	Pacific Caribbean Cable System (PCCS)	SCL-LIC-20130122-00001
3	Pacific Crossing-1 (PC-1)	SCL-MOD-20020807-00086
3	Pan American Crossing (PAC)	SCL-MOD-20110524-00020
3	Paniolo Cable System	SCL-LIC-20070223-00003
3	Quintillion	SCL-LIC-20160325-00009
3	South America-1 (SAM-1)	SCL-MOD-20190826-00028
3	South American Crossing (SAC)	SCL-MOD-20150129-00002
3	Southeast Asia-US (SEA-US)	SCL-LIC-20150626-00016
3	Southern Cross 1&2	SCL-LIC-20231117-00038
3	Taino-Carib Cable System	SCL-LIC-20180702-00019
3	Yellow	SCL-MOD-20020415-00026
4	AKORN	SCL-LIC-20071025-00018
4	Airraq	SCL-MOD-20240515-00013
4	Alaska United Southeast (AU-SE)	SCL-MOD-20200708-00025
4	Alaska United West	SCL-LIC-20020522-00047
4	AU-Aleutian	SCL-MOD-20230803-00022
4	Cook Inlet Segment of TERRA-SW	SCL-LIC-20100914-00021
4	Curie	SCL-MOD-20191223-00039
4	Dunant	SCL-LIC-20190410-00015
4	Echo	SCL-LIC-20210329-00020

THREE-YEAR PERIODIC REPORTING PRIORITIZATION SCHEDULE—Continued

Category	Submarine cable name	Current license No.
4	Firmina	SCL-LIC-20220422-00015
4	GOKI Cable Network	SCL-LIC-20110329-00009
4	Grace Hopper	SCL-LIC-20210225-00014
4	HANTRU1	SCL-LIC-20090302-00005
4	KetchCan1 Submarine Fiber Cable System	SCL-LIC-20190718-00020
4	Kodiak-Kenai Fiber Link	SCL-LIC-20060413-00004
4	Pacific Light Cable Network (PLCN)	SCL-LIC-20200827-00038
4	St. Thomas-St. Croix	SCL-LIC-20220114-00004
4	St. Thomas-St. Croix Submarine Cable System	SCL-LIC-20121221-00015
4	VILink Cable	SCL-LIC-20180417-00008

List of Subjects**47 CFR Part 0**

Authority delegations (Government agencies), Communications, Communications common carriers, Freedom of information, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Communications, Communications common carriers, Communications equipment, internet, Organization and function (Government agencies), Penalties, Reporting and recordkeeping requirements, Security measures, Telecommunications.

47 CFR Part 43

Administrative practice and procedure, Authority delegations (Government agencies), Communications common carriers, Penalties, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 0, 1, and 43 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation of part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 409, and 1754, unless otherwise noted.

■ 2. Amend § 0.457 by adding paragraph (c)(1)(iv) to read as follows:

§ 0.457 Records not routinely available for public inspection.

* * * * *

(c) * * *

(1) * * *

(iv) The exact addresses and the specific geographic coordinates of cable landing stations, beach manholes, and other location information associated with submarine cables.

* * * * *

PART 1—PRACTICE AND PROCEDURE

■ 3. The authority citation of part 1 continues to read as follows:

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note; 47 U.S.C. 1754, unless otherwise noted.

§§ 1.767 and 1.768 [Removed]

■ 4. Remove §§ 1.767 and 1.768.

■ 5. Add subpart FF, consisting of §§ 1.70000 through 1.70019, to read as follows:

Subpart FF—Submarine Cable Landing Licenses

Sec.

1.70000 Purpose.

1.70001 Definitions.

1.70002 General requirements.

1.70003 Applicant/licensee requirements.

1.70004 Presumption of entities not qualified to become a new submarine cable landing licensee.

1.70005 Initial application for a submarine cable landing license.

1.70006 Certifications.

1.70007 Routine conditions.

1.70008 Requests for special temporary authority.

1.70009 Notification by and prior approval for submarine cable landing licensees that are or propose to become affiliated with a foreign carrier.

1.70010 Amendment of applications.

1.70011 Modification applications.

1.70012 Substantial assignment or transfer of control applications.

1.70013 Pro forma assignment and transfer of control notifications.

1.70014 Processing of applications and requests for streamlining.

1.70015 Quarterly reports.

1.70016 Three-year periodic reporting.

1.70017 Renewal applications.

1.70018 Electronic filing.

1.70019 Denial, revocation, and termination.

§ 1.70000 Purpose.

The provisions contained in this subpart implement the Cable Landing License Act of 1921, codified at 47 U.S.C. 34–39, as amended, and section 5(a) of Executive Order 10530, dated May 10, 1954, and provide requirements for initial applications for a submarine cable landing license; certifications; routine conditions; requests for special temporary authority; foreign carrier affiliation notifications; amendment of applications; modification applications; substantial assignment and transfer of control of a submarine cable landing license; *pro forma* assignment and transfer of control notifications; requests for streamlining of applications; quarterly reports; three-year periodic reports; renewal applications; public viewing of applications; electronic filing; and denial, revocation, and termination of submarine cable landing license applications or licenses.

§ 1.70001 Definitions.

(a) *Affiliated*. The term *affiliated* as used in this subpart is defined as in § 63.09 of this chapter.

(b) *Country*. The term *country* as used in this subpart refers to the foreign points identified in the U.S. Department of State's list of Independent States of the World and its list of Dependencies and Areas of Special Sovereignty. See <https://www.state.gov>.

(c) *Foreign carrier*. The term *foreign carrier* as used in this subpart is defined as in § 63.09 of this chapter except that the term *foreign carrier* shall also include any entity that owns or controls a cable landing station in a foreign market.

(d) *Managed network service provider*. For purposes of this subpart, a *managed network service provider* (MNSP) is defined as any entity other than the applicant(s) or licensee(s) (*i.e.*, third party entity) with whom the applicant(s) or licensee(s) contracts to provide, supplement, or replace certain functions

for the U.S. portion of the submarine cable system (including any cable landing station and submarine line terminal equipment (SLTE) located in the United States) that require or may require access to the network, systems, or records of the applicant(s) or licensee(s).

§ 1.70002 General requirements.

(a) *Submarine cable landing license requirements.* A submarine cable landing license must be obtained prior to landing a submarine cable that connects:

- (1) The continental United States with any foreign country;
- (2) Alaska, Hawaii, or the U.S. Territories or possessions with a:
 - (i) Foreign country;
 - (ii) The continental United States; or
 - (iii) With each other; or
- (3) Points within the continental United States, Alaska, Hawaii, or a Territory or possession in which the cable is laid in international waters.

(b) *Public interest standard.* An applicant seeking a submarine cable landing license or modification, assignment, transfer of control, or renewal or extension of a submarine cable landing license shall include in the application information demonstrating how the grant of the application will serve the public interest, convenience, and necessity.

(c) *Character qualifications.* An applicant seeking a submarine cable landing license or modification, assignment, transfer of control, or renewal or extension of a submarine cable landing license shall certify in the application that the applicant has the requisite character qualifications, including whether the applicant has violated the Cable Landing License Act of 1921, the Communications Act of 1934, or rules in this chapter, including making false statements or misrepresentations to the Commission; whether the applicant has been convicted of a felony; and whether there is an adjudicated determination that the applicant has violated U.S. antitrust or other competition laws, has been found to have engaged in fraudulent conduct before another government agency, or has engaged in other non-FCC misconduct the Commission has found to be relevant in assessing the character qualifications of a licensee or authorization holder.

(d) *State Department coordination.* Submarine cable licenses shall be granted or revoked by the Commission after obtaining the approval of the Secretary of State and such assistance from any executive department or establishment of the Government as the

Commission may deem necessary. See section 5(a) of Executive Order 10530, dated May 10, 1954.

§ 1.70003 Applicant/licensee requirements.

Except as otherwise required by the Commission, the following entities, at a minimum, shall be applicants for, and licensees on, a cable landing license:

- (a) Any entity that owns or controls a cable landing station in the United States; and
- (b) All other entities owning or controlling a five percent (5%) or greater interest in the cable system and using the U.S. points of the cable system.

§ 1.70004 Presumption of entities not qualified to become a new submarine cable landing licensee.

The following entities shall be presumed to be unqualified to become a new submarine cable landing licensee.

(a) Any entity whose application for international authority pursuant to section 214 of the Communications Act of 1934, as amended (international section 214 authority), was previously denied or whose domestic or international section 214 authority was previously revoked, as identified in the Report and Order in IB Docket No. 23–119 [Federal Register publication date TBD], shall be presumed to be unqualified to become a new cable landing licensee.

(b) Any entity whose application (including an application for any authorization or license) is or was previously denied or whose authorization or license is or was previously revoked and/or terminated on national security and/or law enforcement grounds shall be presumed to be unqualified to become a new cable landing licensee.

(c) Current and future affiliates and subsidiaries, as defined in § 2.903(c) of this chapter, of identified entities pursuant to paragraphs (a) and (b) of this section.

§ 1.70005 Initial application for a submarine cable landing license.

An applicant must demonstrate in the initial application for a submarine cable landing license that they meet the requirements under § 1.70002(b) through (c), and the initial application must contain:

- (a) The name, address, email address(es), and telephone number(s) of each applicant.
- (b) The Government, State, or Territory under the laws of which each corporate or partnership applicant is organized.
- (c) The name, title, address, email address(es), and telephone number of

the officer and any other contact point, such as legal counsel, of each applicant to whom correspondence concerning the application is to be addressed.

(d) The name of the submarine cable system.

(e) A description of the submarine cable, including:

(1) The States, Territories, or possessions in the United States and the foreign countries where the cable will land;

(2) The number of segments in the submarine cable system and the designation of each (e.g., Segment A, Main Trunk, A–B segment);

(3) The length of the submarine cable by segment and in total;

(4) The location, by segment, of any branching units;

(5) The address and county or county equivalent of each U.S. and non-U.S. cable landing station;

(6) The number of optical fiber pairs, by segment, of the submarine cable;

(7) The design capacity, by segment, of the submarine cable; and

(8) Anticipated time frame when the applicant(s) intends to place the submarine cable system into service).

(f)(1) A specific description of the submarine cable system, including a map and geographic data in generally accepted Geographic Information Systems (GIS) formats or other formats. The Office of International Affairs (OIA), in coordination with the Office of Economics and Analytics (OEA), shall determine the file formats and specific data fields in which data will ultimately be collected.

(2) The applicant initially may file a general geographic description of the landing points; however, grant of the application will be conditioned on the Commission's final approval of a more specific description of the landing points, including all information required by this paragraph, to be filed by the applicant no later than ninety (90) days prior to construction. The Commission will give public notice of the filing of this description, and grant of the license will be considered final if the Commission does not notify the applicant otherwise in writing no later than sixty (60) days after receipt of the specific description of the landing points, unless the Commission designates a different time period.

(g) A statement disclosing whether the applicant uses and/or will use foreign-owned MNSPs in the cable system. Such functions may include, but are not limited to: operations and management support; network operations and service monitoring, including intrusion testing; network performance, optimization, and reporting; installation and testing;

network audits, provisioning and development; and the implementation of changes and upgrades.

(h) A statement as to whether the cable will be operated on a common carrier or non-common carrier basis. Applicants for common carrier cable landing licenses shall also separately file an application for an international authorization pursuant to section 214 of the Communications Act of 1934, as amended, for overseas cable construction under § 63.18 of this chapter.

(i) A list of all of the proposed owners of the cable system including those owners that are not applicants, their respective equity and/or voting interests in the cable system as a whole, their respective equity and/or voting interests in each U.S. cable landing station including submarine line terminal equipment, and their respective equity and/or voting interests by segment of the cable.

(j) For each applicant:

(1) The information and certifications required in § 63.18(h), (o), and (q) of this chapter.

(2) A certification as to whether or not the applicant is, or is affiliated with, a foreign carrier, including an entity that owns or controls a cable landing station, in any foreign country. The certification shall state with specificity each such country.

(3) A certification as to whether or not the applicant seeks to land and operate a submarine cable connecting the United States to any country for which any of the following is true. The certification shall state with specificity the foreign carriers and each country:

(i) The applicant is a foreign carrier in that country; or

(ii) The applicant controls a foreign carrier in that country; or

(iii) There exists any entity that owns more than 25 percent of the applicant, or controls the applicant, or controls a foreign carrier in that country.

(iv) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of the applicant and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of arrangements for the terms of acquisition, sale, lease, transfer and use of capacity on the cable in the United States.

(4) For any country that the applicant has listed in response to paragraph (j)(3) of this section that is not a member of the World Trade Organization, a demonstration as to whether the foreign carrier lacks market power with

reference to the criteria in § 63.10(a) of this chapter.

(5) Under § 63.10(a) of this chapter, the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

(k) The certifications in § 1.70006, including a certification that the applicant accepts and will abide by the routine conditions specified in § 1.70007(a);

(l) Each applicant shall provide the following information with respect to services it expects to provide through the submarine cable system:

(1) Identify and describe the capacity services and capacity management services, including the amount of fiber, spectrum, or capacity, by selling, leasing, or swapping;

(2) Identify the types of customers that will be served, including those with whom the applicant will lease, sell, share, or swap fiber, spectrum, or capacity;

(3) Identify whether the applicant will own or control the U.S. portion of the submarine cable system, including the cable landing station(s), through an Indefeasible Right of Use (IRU) or leasehold interest;

(4) Identify where the applicant expects to market, offer, and/or provide services; and

(5) Identify the general terms and conditions that will apply to the services, such as contact duration, minimum capacity/bandwidth requirements, IRU requirements, termination clauses, security requirements, delivery or Service Level Agreements (SLA) requirements, dispute resolution, and other applicable provisions.

(m) Each applicant shall demonstrate that it has successfully implemented an established set of cybersecurity best practices consistent with § 1.70006(c). The information provided under this paragraph (m) shall be treated as presumptively confidential. Applicants and licensees shall submit cybersecurity risk management plans to the Commission upon request. OIA, in coordination with the Public Safety and Homeland Security Bureau, may request, at its discretion, submission of such cybersecurity risk management plans and to evaluate them for compliance with the Commission's rules in this subpart.

(n) Any other information that may be necessary to enable the Commission to act on the application.

(o) Applicants for cable landing licenses may be subject to the consistency certification requirements of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1456, if they propose to conduct activities, in or outside of a coastal zone of a state with a federally-approved management plan, affecting any land or water use or natural resource of that state's coastal zone.

(1) Before filing their applications for a license to construct and operate a submarine cable system or to modify the construction of a previously approved submarine cable system, applicants must determine whether they are required to certify that their proposed activities will comply with the enforceable policies of a coastal state's approved management program. In order to make this determination, applicants should consult National Oceanic Atmospheric Administration (NOAA) regulations, 15 CFR part 930, subpart D, and review the approved management programs of coastal states in the vicinity of the proposed landing station to verify that this type of application is not a listed Federal license activity requiring review.

(2) After the application is filed, applicants should follow the procedures specified in 15 CFR 930.54 to determine whether any potentially affected state has sought or received NOAA approval to review the application as an unlisted activity. If it is determined that any certification is required, applicants shall consult the affected coastal state(s) (or designated state agency(ies)) in determining the contents of any required consistency certification(s). Applicants may also consult the Office of Ocean and Coastal Management (OCRM) within NOAA for guidance.

(3) The cable landing license application filed with the Commission shall include any consistency certification required by 16 U.S.C. 1456(c)(3)(A) for any affected coastal state(s) that lists this type of application in its NOAA-approved coastal management program and shall be updated pursuant to § 1.65, to include any subsequently required consistency certification with respect to any state that has received NOAA approval to review the application as an unlisted Federal license activity. Upon documentation from the applicant—or notification from each coastal state entitled to review the license application for consistency with a federally approved coastal management program—that the state has either concurred, or by its inaction, is

conclusively presumed to have concurred with the applicant's consistency certification, the Commission may take action on the application.

§ 1.70006 Certifications.

All applicants for a submarine cable landing license, all licensees seeking modification of their license under § 1.70011, all licensees seeking renewal or extension of their license under § 1.70017, all assignees or transferees in transactions under § 1.70012 or § 1.70013, and all licensees providing periodic reporting under § 1.70016 must certify to the following:

(a) That the applicant/licensee accepts and will abide by the routine conditions specified in § 1.70007.

(b) That the applicant/licensee has the requisite character qualifications, including whether or not the applicant/licensee has violated the Cable Landing License Act of 1921, the Communications Act of 1934, or the rules in this chapter, including making false statements or misrepresentations to the Commission; whether the applicant/licensee has been convicted of a felony; and whether there is an adjudicated determination that the applicant/licensee has violated U.S. antitrust or other competition laws, has been found to have engaged in fraudulent conduct before another Government agency, or has engaged in other non-FCC misconduct the Commission has found to be relevant in assessing the character qualifications of a licensee or authorization holder.

(c) That the applicant/licensee has created, updated, and implemented cybersecurity risk management plans, and:

(1) That these plans identify the cybersecurity risks they face, the controls they use or plan to use to mitigate those risks, and how to ensure these controls are applied effectively to their organizations;

(2) That they will take reasonable measures to protect the confidentiality, integrity, and availability of their systems and services that could affect the provision of communications services, describing in the cybersecurity risk management plan how they will employ their organizational resources and processes to ensure this;

(3) That the cybersecurity risk management plan has been signed by the entity's Chief Executive Officer, Chief Financial Officer, Chief Technology Officer, or similarly situated senior officer responsible for governance of the organization's security practices;

(4) That they will submit cybersecurity risk management plans to the Commission upon request; and

(5) That they will preserve data and records related to their cybersecurity risk management plans for two years from submission of the risk management plan certification.

(d) That the applicant/licensee will not use covered equipment or services identified on the Commission's "Covered List" that the Commission maintains pursuant to the Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. 1601–1609.

§ 1.70007 Routine conditions.

Except as otherwise ordered by the Commission, the following rules apply to each licensee of a cable landing license.

(a) Grant of the cable landing license is subject to:

(1) All rules and regulations of the Federal Communications Commission in this chapter;

(2) Any treaties or conventions relating to communications to which the United States is or may hereafter become a party; and

(3) Any action by the Commission or the Congress of the United States rescinding, changing, modifying or amending any rights accruing to any person by grant of the license.

(b) The location of the cable system within the territorial waters of the United States of America, its Territories and possessions, and upon its shores shall be in conformity with plans approved by the Secretary of the Army. The cable shall be moved or shifted by the licensee at its expense upon request of the Secretary of the Army, whenever he or she considers such course necessary in the public interest, for reasons of national defense, or for the maintenance and improvement of harbors for navigational purposes.

(c) The licensee shall at all times comply with any requirements of United States Government authorities regarding the location and concealment of the cable facilities, buildings, and apparatus for the purpose of protecting and safeguarding the cables from injury or destruction by enemies of the United States of America.

(d) The licensee, or any person or company controlling it, controlled by it, or under direct or indirect common control with it, does not enjoy and shall not acquire any right to handle traffic to or from the United States, its Territories or its possessions unless such service is authorized by the Commission pursuant to section 214 of the Communications Act, as amended.

(e)(1) The licensee shall be prohibited from agreeing to accept special concessions directly or indirectly from any foreign carrier, including any entity that owns or controls a foreign cable landing station, where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market, and from agreeing to accept special concessions in the future.

(2) For purposes of this section, a special concession is defined as an exclusive arrangement involving services, facilities, or functions on the foreign end of a U.S. international route that are necessary to land, connect, or operate submarine cables, where the arrangement is not offered to similarly situated U.S. submarine cable owners, infeasible-right-of-user holders, or lessors, and includes arrangements for the terms for acquisition, resale, lease, transfer and use of capacity on the cable; access to collocation space; the opportunity to provide or obtain backhaul capacity; access to technical network information; and interconnection to the public switched telecommunications network.

(f) The cable landing license and rights granted in the license shall not be transferred, assigned, or disposed of, or disposed of indirectly by transfer of control of the licensee, except in compliance with the requirements set out in §§ 1.70012 and 1.70013.

(g) Entities that are parties to a pro forma assignment or transfer of control notification must notify the Commission no later than thirty (30) days after the assignment or transfer of control is consummated, and the notification must include information and certifications required under § 1.70013.

(h) Unless the licensee has notified the Commission in the application of the precise locations at which the cable will land, as required by § 1.70005(f), the licensee shall notify the Commission no later than ninety (90) days prior to commencing construction at that landing location. The Commission will give public notice of the filing of each description, and grant of the cable landing license will be considered final with respect to that landing location unless the Commission issues a notice to the contrary no later than sixty (60) days after receipt of the specific description. See § 1.70005(f).

(i) The Commission reserves the right to require the licensee to file an environmental assessment should it determine that the landing of the cable at the specific locations and construction of necessary cable landing stations may significantly affect the environment within the meaning of

§ 1.1307, implementing the National Environmental Policy Act of 1969. See § 1.1307(a) and (b). The cable landing license is subject to modification by the Commission under its review of any environmental assessment or environmental impact statement that it may require pursuant to its rules. See also note 1 to § 1.1306 and § 1.1307(c) and (d).

(j) The Commission reserves the right, pursuant to section 2 of the Cable Landing License Act, 47 U.S.C. 35, Executive Order 10530 as amended, and section 214 of the Communications Act of 1934, as amended, 47 U.S.C. 214, to impose common carrier regulation or other regulation consistent with the Cable Landing License Act on the operations of the cable system if it finds that the public interest so requires.

(k) The licensee, or in the case of multiple licensees, the licensees collectively, shall maintain de jure and de facto control of the U.S. portion of the cable system, including the cable landing stations in the United States, sufficient to comply with the requirements of the Commission's rules and any specific conditions of the license.

(l) The licensee shall comply with the requirements of § 1.70009.

(m) The licensee shall file annual international circuit capacity reports as required by § 43.82 of this chapter.

(n) The cable landing license is revocable or subject to termination by the Commission after due notice and opportunity for hearing for reasons set forth in section 2 of the Cable Landing License Act, 47 U.S.C. 35, or for failure to comply with the terms of the license or with this chapter.

(o) The cable landing license shall expire twenty-five (25) years from the in-service date, unless renewed or extended upon proper application. Upon expiration, all rights granted under the license shall be terminated.

(p) The licensee(s) must commence service provided under its license within three years following the grant of its license.

(1) The licensee must notify the Commission within thirty (30) days of the date the cable is placed into service.

(2) Failure to notify the Commission of commencement of service within three years following the grant of the license shall result in automatic cancellation of the license, unless the licensee can show good cause why it is unable to commence commercial service on the cable.

(q) Licensees shall file submarine cable outage reports as required in part 4 of this chapter.

(r) Each licensee shall notify the Commission of any changes to the following within thirty (30) days:

(1) The contact information of the licensee provided under § 1.70005(a) and (c); and,

(2) The name of the licensee (including the name under which the licensee is doing business) (a change in the form of the business, e.g., from a corporation to limited liability company, is a *pro forma* assignment and the Commission should be notified of such change pursuant to § 1.70013).

(s) The licensee(s) shall notify the Commission of any changes to the following within thirty (30) days the name of the licensed submarine cable system. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (s).

(t) The licensee(s) will not use covered equipment or services identified on the Commission's "Covered List" that the Commission maintains pursuant to the Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. 1601–1609.

(u) The licensee(s) shall submit periodic reports every three years consistent with the requirements under § 1.70016. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (u).

§ 1.70008 Requests for special temporary authority.

(a) Special temporary authority may be used for construction, testing, or operation of a submarine cable service for a term up to and including 180 days.

(b) Applicants seeking special temporary authority must file all requisite applications related to the request for special temporary authority. Applicants must identify the file number(s) of any pending application(s) associated with the request for special temporary authority.

(c) An application for special temporary authority must include:

(1) A narrative describing the request for a special temporary authority including the type of request (e.g., new request, extension or renewal of previous request, or other), purpose for the special temporary authority (construction, testing, operating, or other), and the justification for such request;

(2) Information required by § 1.70005(a) through (c), (d), (g);

(3) Whether or not the request for special temporary authority is associated with an application(s) pending with the Commission, and if so, identification of the related file number(s);

(4) The date by which applicants seek grant of the request for special temporary authority; and

(5) Any other information that may be necessary to enable the Commission to act on the application.

§ 1.70009 Notification by and prior approval for submarine cable landing licensees that are or propose to become affiliated with a foreign carrier.

Any entity that is licensed by the Commission ("licensee") to land or operate a submarine cable landing in a particular foreign destination market that becomes, or seeks to become, affiliated with a foreign carrier that is authorized to operate in that market, including an entity that owns or controls a cable landing station in that market, shall notify the Commission of that affiliation.

(a) *Affiliations requiring prior notification.* Except as provided in paragraph (b) of this section, the licensee must notify the Commission, pursuant to this section, forty-five (45) days before consummation of either of the following types of transactions:

(1) Acquisition by the licensee, or by any entity that controls the licensee, or by any entity that directly or indirectly owns more than twenty-five percent (25%) of the capital stock of the licensee, of a controlling interest in a foreign carrier that is authorized to operate in a market where the cable lands; or

(2) Acquisition of a direct or indirect interest greater than twenty-five percent (25%), or of a controlling interest, in the capital stock of the licensee by a foreign carrier that is authorized to operate in a market where the cable lands, or by an entity that controls such a foreign carrier.

(b) *Exceptions.* (1) Notwithstanding paragraph (a) of this section, the notification required by this section need not be filed before consummation, and may instead be filed pursuant to paragraph (c) of this section, if either of the following is true with respect to the named foreign carrier, regardless of whether the destination market where the cable lands is a World Trade Organization (WTO) or non-WTO Member:

(i) The Commission has previously determined in an adjudication that the foreign carrier lacks market power in that destination market (for example, in an application for international authority pursuant to section 214 of the Communications Act of 1934 or a declaratory ruling proceeding); or

(ii) The foreign carrier owns no facilities in that destination market. For this purpose, a carrier is said to own

facilities if it holds an ownership, indefeasible-right-of-user, or leasehold interest in a cable landing station or in bare capacity in international or domestic telecommunications facilities (excluding switches).

(2) In the event paragraph (b)(1) of this section cannot be satisfied, notwithstanding paragraph (a) of this section, the notification required by this section need not be filed before consummation, and may instead be filed pursuant to paragraph (c) of this section, if the licensee certifies that the destination market where the cable lands is a WTO Member and provides certification to satisfy either of the following:

(i) The licensee demonstrates that its foreign carrier affiliate lacks market power in the cable's destination market pursuant to § 63.10(a)(3) of this chapter (see § 63.10(a)(3) of this chapter); or

(ii) The licensee agrees to comply with the reporting requirements contained in § 1.70015 effective upon the acquisition of the affiliation. See § 1.70015.

(c) *Notification after consummation.* Any licensee that becomes affiliated with a foreign carrier and has not previously notified the Commission pursuant to the requirements of this section shall notify the Commission within thirty (30) days after consummation of the acquisition.

Example 1 to paragraph (c). Acquisition by a licensee (or by any entity that directly or indirectly controls, is controlled by, or is under direct or indirect common control with the licensee) of a direct or indirect interest in a foreign carrier that is greater than twenty-five percent (25%) but not controlling is subject to paragraph (c) of this section but not to paragraph (a) of this section.

Example 2 to paragraph (c). Notification of an acquisition by a licensee of a hundred percent (100%) interest in a foreign carrier may be made after consummation, pursuant to paragraph (c) of this section, if the foreign carrier operates only as a resale carrier.

Example 3 to paragraph (c). Notification of an acquisition by a foreign carrier from a WTO Member of a greater than twenty-five percent (25%) interest in the capital stock of the licensee may be made after consummation, pursuant to paragraph (c) of this section, if the licensee demonstrates in the post-notification that the foreign carrier lacks market power in the cable's destination market or the licensee agrees to comply with the reporting requirements contained in

§ 1.767(l) effective upon the acquisition of the affiliation.

(d) *Cross-reference.* In the event a transaction requiring a foreign carrier notification pursuant to this section also requires a transfer of control or assignment application pursuant to the requirements of the license granted under § 1.70007(f) through (g), § 1.70012, or § 1.70013, the foreign carrier notification shall reference in the notification the transfer of control or assignment application and the date of its filing. See § 1.70007.

(e) *Contents of notification.* The notification shall certify the following information:

(1) The name of the newly affiliated foreign carrier and the country or countries at the foreign end of the cable in which it is authorized to provide telecommunications services to the public or where it owns or controls a cable landing station.

(2) Which, if any, of those countries is a Member of the World Trade Organization.

(3) The name of the cable system that is the subject of the notification, and the FCC file number(s) under which the license was granted.

(4) The name, address, citizenship, and principal business of any person or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the licensee, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent). Where no individual or entity directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the licensee, a statement to that effect.

(i) *Calculation of equity interests held indirectly in the licensee.* Equity interests that are held by an individual or entity indirectly through one or more intervening entities shall be calculated by successive multiplication of the equity percentages for each link in the vertical ownership chain, regardless of whether any particular link in the chain represents a controlling interest in the company positioned in the next lower tier. Example: An entity holds a non-controlling 30 percent equity and voting interest in Corporation A which, in turn, holds a non-controlling 40 percent equity and voting interest in the licensee. The entity's equity interest in the licensee would be calculated by multiplying the individual's equity interest in Corporation A by that entity's equity interest in the licensee. The entity's equity interest in the licensee would be calculated as 12 percent ($30\% \times 40\% = 12\%$). The result would be the

same even if Corporation A held a de facto controlling interest in the licensee.

(ii) *Calculation of voting interests held indirectly in the licensee.* Voting interests that are held through one or more intervening entities shall be calculated by successive multiplication of the voting percentages for each link in the vertical ownership chain, except that wherever the voting interest for any link in the chain is equal to or exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest. A general partner shall be deemed to hold the same voting interest as the partnership holds in the company situated in the next lower tier of the vertical ownership chain. A partner of a limited partnership (other than a general partner) shall be deemed to hold a voting interest in the partnership that is equal to the partner's equity interest. Example: An entity holds a non-controlling 30 percent equity and voting interest in Corporation A which, in turn, holds a controlling 70 percent equity and voting interest in the licensee. Because Corporation A's 70 percent voting interest in the licensee constitutes a controlling interest, it is treated as a 100 percent interest. The entity's 30 percent voting interest in Corporation A would flow through in its entirety to the licensee and thus be calculated as 30 percent ($30\% \times 100\% = 30\%$).

(5) An ownership diagram that illustrates the licensee's vertical ownership structure, including the direct and indirect ownership (equity and voting) interests held by the individuals and entities named in response to paragraph (e)(4) of this section. Every individual or entity with ownership shall be depicted and all controlling interests must be identified.

(6) The name of any interlocking directorates, as defined in § 63.09(g) of this chapter, with each foreign carrier named in the notification. See § 63.09(g) of this chapter.

(7) With respect to each foreign carrier named in the notification, a statement as to whether the notification is subject to paragraph (a) or (c) of this section. In the case of a notification subject to paragraph (a) of this section, the licensee shall include the projected date of closing. In the case of a notification subject to paragraph (c) of this section, the licensee shall include the actual date of closing.

(8) If a licensee relies on an exception in paragraph (b) of this section, then a certification as to which exception the foreign carrier satisfies and a citation to any adjudication upon which the licensee is relying. Licensees relying upon the exceptions in paragraph (b)(2)

of this section must make the required certified demonstration in paragraph (b)(2)(i) of this section or the certified commitment to comply with the reporting requirements in paragraph (b)(2)(ii) of this section in the notification required by paragraph (c) of this section.

(f) *Exemptions.* If the licensee seeks exemption from the reporting requirements contained in § 1.70015, the licensee should demonstrate that each foreign carrier affiliate named in the notification lacks market power pursuant to § 63.10(a)(3) of this chapter. See § 63.10(a)(3) of this chapter.

(g) *Procedure.* After the Commission issues a public notice of the submissions made under this section, interested parties may file comments within fourteen (14) days of the public notice.

(1) If the Commission deems it necessary at any time before or after the deadline for submission of public comments, the Commission may impose reporting requirements on the licensee based on the provisions of § 1.70015. See § 1.70015.

(2) In the case of a prior notification filed pursuant to paragraph (a) of this section, the authorized U.S. licensee must demonstrate that it continues to serve the public interest for it to retain its interest in the cable landing license for that segment of the cable that lands in the non-WTO destination market. Such a showing shall include a demonstration as to whether the foreign carrier lacks market power in the non-WTO destination market with reference to the criteria in § 63.10(a) of this chapter. In addition, upon request of the Commission, the licensee shall provide the information specified in § 1.70005(j). If the licensee is unable to make the required showing or is notified by the Commission that the affiliation may otherwise harm the public interest pursuant to the Commission's policies and rules under 47 U.S.C. 34 through 39 and Executive Order 10530, dated May 10, 1954, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing.

(3) Under § 63.10(a) of this chapter, the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

(h) *Continuing accuracy.* All licensees are responsible for the continuing accuracy of information provided pursuant to this section for a period of forty-five (45) days after filing. During this period if the information furnished is no longer accurate, the licensee shall as promptly as possible, and in any event within ten (10) days, unless good cause is shown, file with the Commission a corrected notification referencing the FCC file numbers under which the original notification was provided.

(i) *Confidential treatment.* A licensee that files a prior notification pursuant to paragraph (a) of this section may request confidential treatment of its filing, pursuant to § 0.459 of this chapter, for the first twenty (20) days after filing.

(j) *Electronic filing.* Subject to the availability of electronic forms, all notifications described in this section must be filed electronically through the International Communications Filing System (ICFS). A list of forms that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see §§ 1.1000 through 1.10018 and the ICFS homepage at <https://www.fcc.gov/icfs>. See also §§ 63.20 and 63.53 of this chapter.

§ 1.70010 Amendment of applications.

Any application may be amended as a matter of right prior to the date of any final action taken by the Commission or designation for hearing. Amendments to applications shall be signed and submitted in the same manner as was the original application. If a petition to deny or other formal objection has been filed in response to the application, the amendment shall be served on the parties.

§ 1.70011 Modification applications.

A separate application shall be filed with respect to each individual cable system for which a licensee(s) seeks to modify the cable landing license. Each modification application shall include a narrative description of the proposed modification including relevant facts and circumstances leading to the request. Each modification application must contain a demonstration that the applicant meets the requirements under § 1.70002(b) through (c). Requirements for specific types of modification requests are set out in paragraphs (a) through (e) of this section. For other situations, the licensee(s) should contact Commission staff regarding the required information for the modification application.

(a) A modification application to add a landing station(s), segment(s), or other

like material changes to a submarine cable system must also include the following:

(1) Information as required by § 1.70005(a) through (i), (k), and (m), as it relates to the modified portion of the cable system.

(2) Each applicant shall provide the following information with respect to services it currently provides and/or expects to provide through the submarine cable system:

(i) Identify and describe the capacity services and capacity management services, including the amount of fiber, spectrum, or capacity by selling, leasing, or swapping;

(ii) Identify the types of customers that currently are and/or will be served, including those with whom the applicant leases, sells, shares, or swaps fiber, spectrum, or capacity and/or plans to lease, sell, share, or swap fiber, spectrum, or capacity;

(iii) Identify whether the applicant currently owns or controls and/or will own or control the U.S. portion of the submarine cable system, including the cable landing station(s), through an Indefeasible Right of Use (IRU) or leasehold interest;

(iv) Identify where the applicant currently markets, offers, and provides services and/or expects to market, offer, and provide services; and

(v) Identify the general terms and conditions that currently apply and/or will apply to the services, such as contact duration, minimum capacity/bandwidth requirements, IRU requirements, termination clauses, security requirements, delivery or Service Level Agreement (SLA) requirements, dispute resolution, and other applicable provisions.

(3) Certifications set forth under § 1.70006.

(4) Any other information that may be necessary to enable the Commission to act on the application.

(5) Signatures by each licensee. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (a)(5).

(b) A modification application to remove a landing station(s), segment(s), or other like material changes to a submarine cable system must also include the following:

(1) A description of which elements will be removed from the cable system and the timing for the removal or that element(s).

(2) Information as required by § 1.70005(a) through (i), (k), and (m).

(3) Each applicant shall provide the following information with respect to services it currently provides and/or

expects to provide through the submarine cable system:

(i) Identify and describe the capacity services and capacity management services, including the amount of fiber, spectrum, or capacity by selling, leasing, or swapping;

(ii) Identify the types of customers that currently are and/or will be served, including those with whom the applicant leases, sells, shares, or swaps fiber, spectrum, or capacity and/or plans to lease, sell, share, or swap fiber, spectrum, or capacity;

(iii) Identify whether the applicant currently owns or controls and/or will own or control the U.S. portion of the submarine cable system, including the cable landing station(s), through an IRU or leasehold interest;

(iv) Identify where the applicant currently markets, offers, and provides services and/or expects to market, offer, and provide services; and

(v) Identify the general terms and conditions that currently apply and/or will apply to the services, such as contact duration, minimum capacity/bandwidth requirements, IRU requirements, termination clauses, security requirements, delivery or SLA requirements, dispute resolution, and other applicable provisions.

(4) Certifications set forth under § 1.70006.

(5) Any other information that may be necessary to enable the Commission to act on the application.

(6) Signatures by each licensee. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (b)(6).

(c) A modification application to add an applicant as a licensee for an existing cable landing license must also include the following:

(1) Information required by § 1.70005(a) through (c), (g), (j), (k), and (m) for the proposed new licensee.

(2) Information required by § 1.70005(d) through (f).

(3) The proposed new licensee shall provide the following information with respect to services it currently provides and/or expects to provide through the submarine cable system:

(i) Identify and describe the capacity services and capacity management services, including the amount of fiber, spectrum, or capacity by selling, leasing, or swapping;

(ii) Identify the types of customers that currently are and/or will be served, including those with whom the applicant leases, sells, shares, or swaps fiber, spectrum, or capacity and/or plans to lease, sell, share, or swap fiber, spectrum, or capacity;

(iii) Identify whether the applicant currently owns or controls and/or will own or control the U.S. portion of the submarine cable system, including the cable landing station(s), through an IRU or leasehold interest;

(iv) Identify where the applicant currently markets, offers, and provides services and/or expects to market, offer, and provide services; and

(v) Identify the general terms and conditions that currently apply and/or will apply to the services, such as contact duration, minimum capacity/bandwidth requirements, IRU requirements, termination clauses, security requirements, delivery or SLA requirements, dispute resolution, and other applicable provisions.

(2) Certifications set forth under § 1.70006 for the proposed new licensee.

(3) Any other information that may be necessary to enable the Commission to act on the application.

(4) Signatures by the proposed licensee and each current licensee. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (c)(4).

(d) A modification application for a licensee that seeks to relinquish its interest in a cable landing license must also include:

(1) Information required by § 1.70005(a) through (c) for the licensee that seeks to relinquish its interest;

(2) A demonstration that the entity is not required to be a licensee under § 1.70003 and that the remaining licensee(s) will retain collectively *de jure* and *de facto* control of the U.S. portion of the cable system sufficient to comply with the requirements of the Commission's rules and any specific conditions of the license;

(3) A signature from the licensee that seeks to relinquish its interest;

(4) Any other information that may be necessary to enable the Commission to act on the application; and

(5) Such application must be served on each other licensee of the cable system.

(e) A modification application to add, remove, or change a condition on an existing cable landing license must also include the following:

(1) Information required by § 1.70005(a) through (c), (g), (j), (k), and (m) for the licensee(s) that seeks to add, remove, or change a condition.

(2) Information required by § 1.70005(d) through (f).

(3) Each applicant shall provide the following information with respect to services it currently provides and/or expects to provide through the submarine cable system:

(i) Identify and describe the capacity services and capacity management

services, including the amount of fiber, spectrum, or capacity by selling, leasing, or swapping;

(ii) Identify the types of customers that currently are and/or will be served, including those with whom the applicant leases, sells, shares, or swaps fiber, spectrum, or capacity and/or plans to lease, sell, share, or swap fiber, spectrum, or capacity;

(iii) Identify whether the applicant currently owns or controls and/or will own or control the U.S. portion of the submarine cable system, including the cable landing station(s), through an IRU or leasehold interest;

(iv) Identify where the applicant currently markets, offers, and provides services and/or expects to market, offer, and provide services; and

(v) Identify the general terms and conditions that currently apply and/or will apply to the services, such as contact duration, minimum capacity/bandwidth requirements, IRU requirements, termination clauses, security requirements, delivery or SLA requirements, dispute resolution, and other applicable provisions.

(4) Certifications set forth under § 1.70006.

(5) A signature from the licensee that seeks to add, remove, or change a condition.

(6) Any other information that may be necessary to enable the Commission to act on the application.

§ 1.70012 Substantial assignment or transfer of control applications.

(a) Each application for authority to assign or transfer control of an interest in a cable system shall contain a demonstration that the requirements under § 1.70002(b) through (c) are met.

(b) An application for authority to assign or transfer control of an interest in a cable system shall contain a narrative description of the proposed transaction, including relevant facts and circumstances, and that the applicant meets the requirements of § 1.70002(b) through (c). The application shall also include the following information:

(1) The information requested in § 1.70005(a) through (c) for both the assignor/transferor and the assignee/transferee.

(2) The information requested in § 1.70005(j) and (k) for the assignee/transferee.

(3) The pre-transaction and post-transaction ownership diagram of the licensee as required under § 1.70005(j)(1).

(4) A narrative describing the means by which the assignment or transfer of control will take place.

(5) The information required in § 1.70005(e) through (f).

(6) The application shall also specify, on a segment specific basis, the percentage of voting and ownership interests being assigned or transferred in the cable system, including in the U.S. portion of the cable system (which includes all U.S. cable landing station(s)).

(7) Each assignee or licensee that is the subject of a transfer of control shall provide the following information with respect to services it currently provides and/or expects to provide through the submarine cable system:

(i) Identify and describe the capacity services and capacity management services, including the amount of fiber, spectrum, or capacity by selling, leasing, or swapping;

(ii) Identify the types of customers that currently are and/or will be served, including those with whom the applicant leases, sells, shares, or swaps fiber, spectrum, or capacity and/or plans to lease, sell, share, or swap fiber, spectrum, or capacity;

(iii) Identify whether the applicant currently owns or controls and/or will own or control the U.S. portion of the submarine cable system, including the cable landing station(s), through an Indefeasible Right of Use (IRU) or leasehold interest;

(iv) Identify where the applicant currently markets, offers, and provides services and/or expects to market, offer, and provide services; and

(v) Identify the general terms and conditions that currently apply and/or will apply to the services, such as contact duration, minimum capacity/bandwidth requirements, IRU requirements, termination clauses, security requirements, delivery or Service Level Agreement (SLA) requirements, dispute resolution, and other applicable provisions.

(8) Information as required by § 1.70005(g) and (m) for each assignee or licensee that is the subject of a transfer of control.

(9) In the event the transaction requiring an assignment or transfer of control application also requires the filing of a foreign carrier affiliation notification pursuant to § 1.70009, the application shall reference the foreign carrier affiliation notification and the date of its filing. See § 1.70009.

(10) The Commission reserves the right to request additional information concerning the transaction to aid it in making its public interest determination.

(11) An assignee or transferee must notify the Commission no later than thirty (30) days after either consummation of the assignment or transfer or a decision not to

consummate the assignment or transfer. The notification shall identify the file numbers under which the initial license and the authorization of the assignment or transfer were granted.

(12) Certifications set forth under § 1.70006.

§ 1.70013 Pro forma assignment and transfer of control notifications.

(a) A *pro forma* assignee or a licensee that is the subject of a *pro forma* transfer of control of a cable landing license is not required to seek prior approval for the *pro forma* transaction. A *pro forma* assignee or licensee that is the subject of a *pro forma* transfer of control must notify the Commission no later than thirty (30) days after the assignment or transfer of control is consummated.

(b) Assignments or transfers of control that do not result in a change in the actual controlling party are considered non-substantial or *pro forma*. Whether there has been a change in the actual controlling party must be determined on a case-by-case basis with reference to the factors listed in note 1 to § 63.24(d) of this chapter. The types of transactions listed in note 2 to § 63.24(d) of this chapter shall be considered presumptively *pro forma* and prior approval from the Commission need not be sought. A notification of a *pro forma* assignment or transfer of control shall include the following information:

(1) The information requested in § 1.70005(a) through (c) for both the assignor/transferrer and the assignee/transferee.

(2) The information requested in § 1.70005(j) and (k) for the assignee/transferee.

(3) The pre-transaction and post-transaction ownership diagram of the licensee as required under § 1.70005(j).

(4) A narrative describing the means by which the assignment or transfer of control occurred.

(5) The information required in § 1.70005(e) through (f).

(6) The application shall also specify, on a segment specific basis, the percentage of voting and ownership interests being assigned or transferred in the cable system, including in the U.S. portion of the cable system (which includes all U.S. cable landing station(s)).

(7) The notification must certify that the assignment or transfer of control was *pro forma*, as defined in paragraph (a) of this section, and, together with all previous *pro forma* transactions, does not result in a change of the licensee's ultimate control.

(8) Each assignee or licensee that is the subject of a transfer of control shall provide the following information with

respect to services it currently provides and/or expects to provide through the submarine cable system:

(i) Identify and describe the capacity services and capacity management services, including the amount of fiber, spectrum, or capacity by selling, leasing, or swapping;

(ii) Identify the types of customers that currently are and/or will be served, including those with whom the applicant leases, sells, shares, or swaps fiber, spectrum, or capacity and/or plans to lease, sell, share, or swap fiber, spectrum, or capacity;

(iii) Identify whether the applicant currently owns or controls and/or will own or control the U.S. portion of the submarine cable system, including the cable landing station(s), through an Indefeasible Right of Use (IRU) or leasehold interest;

(iv) Identify where the applicant currently markets, offers, and provides services and/or expects to market, offer, and provide services; and

(v) Identify the general terms and conditions that currently apply and/or will apply to the services, such as contact duration, minimum capacity/bandwidth requirements, IRU requirements, termination clauses, security requirements, delivery or Service Level Agreement (SLA) requirements, dispute resolution, and other applicable provisions.

(9) Information as required by § 1.70005(g) and (m) for each assignee or licensee that is the subject of a transfer of control.

(10) The licensee may file a single notification for an assignment or transfer of control of multiple licenses issued in the name of the licensee if each license is identified by the file number under which it was granted.

(11) The Commission reserves the right to request additional information concerning the transaction to aid it in making its public interest determination.

(12) Certifications set forth under § 1.70006.

§ 1.70014 Processing of applications and requests for streamlining.

(a) *Processing of submarine cable applications.* The Commission will take action upon an application eligible for streamlined processing, as specified in paragraph (c) of this section, within forty-five (45) days after release of the public notice announcing the application as acceptable for filing and eligible for streamlined processing. If the Commission deems an application seeking streamlined processing acceptable for filing but ineligible for streamlined processing, or if an

applicant does not seek streamlined processing, the Commission will issue public notice indicating that the application is ineligible for streamlined processing. Within ninety (90) days of the public notice, the Commission will take action upon the application or provide public notice that, because the application raises questions of extraordinary complexity, an additional 90-day period for review is needed. Each successive 90-day period may be so extended.

(b) *Submission of application to executive branch agencies.* On the date of filing with the Commission, the applicant shall also send a complete copy of the application, or any major amendments or other material filings regarding the application, to: U.S. Coordinator, EB/CIP, U.S. Department of State, 2201 C Street NW, Washington, DC 20520–5818; Office of Chief Counsel/NTIA, U.S. Department of Commerce, 14th St. and Constitution Ave. NW, Washington, DC 20230; and Defense Information Systems Agency, ATTN: GC/DO1, 6910 Cooper Avenue, Fort Meade, MD 20755–7088, and shall certify such service on a service list attached to the application or other filing.

(c) *Eligibility for streamlining.* Each applicant must demonstrate eligibility for streamlining by:

(1) Certifying that it is not a foreign carrier and it is not affiliated with a foreign carrier in any of the cable's destination markets;

(2) Demonstrating pursuant to § 63.12(c)(1)(i) through (iii) of this chapter that any such foreign carrier or affiliated foreign carrier lacks market power; or

(3) Certifying that the destination market where the applicant is, or has an affiliation with, a foreign carrier is a World Trade Organization (WTO) Member and the applicant agrees to accept and abide by the reporting requirements set out in § 1.70015. An application that includes an applicant that is, or is affiliated with, a carrier with market power in a cable's non-WTO Member destination country is not eligible for streamlining.

(4) Certifying that for applications for a license to construct and operate a submarine cable system or to modify the construction of a previously approved submarine cable system the applicant is not required to submit a consistency certification to any state pursuant to section 1456(c)(3)(A) of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1456.

(5) Certifying that all individuals or entities that hold a five percent or greater direct or indirect equity and/or

voting interests, or a controlling interest, in the applicant are U.S. citizens or entities organized in the United States.

(d) *Applicability.* Streamlining of cable landing license applications will be limited to those applications where all potentially affected states, having constructive notice that the application was filed with the Commission, have waived, or are deemed to have waived, any right under section 1456(c)(3)(A) of the CZMA to review the application within the thirty-day period prescribed by 15 CFR 930.54.

§ 1.70015 Quarterly reports.

Reporting requirements applicable to licensees affiliated with a carrier with market power in a cable's destination market. Any licensee that is, or is affiliated with, a carrier with market power in any of the cable's destination countries must comply with the following requirements:

(a) File quarterly reports summarizing the provisioning and maintenance of all network facilities and services procured from the licensee's affiliate in that destination market, within ninety (90) days from the end of each calendar quarter. These reports shall contain the following:

(1) The types of facilities and services provided (for example, a lease of wet link capacity in the cable, collocation of licensee's equipment in the cable station with the ability to provide backhaul, or cable station and backhaul services provided to the licensee);

(2) For provisioned facilities and services, the volume or quantity provisioned, and the time interval between order and delivery; and

(3) The number of outages and intervals between fault report and facility or service restoration; and

(b) File quarterly, within 90 days from the end of each calendar quarter, a report of its active and idle 64 kbps or equivalent circuits by facility (terrestrial, satellite and submarine cable).

§ 1.70016 Three-year periodic reporting.

(a) *Periodic reporting.* Licensees shall file every three years a periodic report in the relevant File Number in the Commission's International Communications Filing System (ICFS), or any successor system. Joint licensees of a particular submarine cable system must submit one joint periodic reporting filing per submarine cable system.

(b) *Contents.* The periodic report shall include all information that has changed since an application for the cable landing license or any modification, assignment, transfer of control, or renewal or extension of the license or

the last periodic report, whichever is most recent, filed with the Commission. Licensees shall include information that is current as of thirty (30) days prior to the filing deadline, as follows:

(1) The information as required by in § 1.70005(a) through (g) and (m).

(2) Each licensee shall provide the following information with respect to services it currently provides and/or expects to provide through the submarine cable system:

(i) Identify and describe the capacity services and capacity management services, including the amount of fiber, spectrum, or capacity by selling, leasing, or swapping;

(ii) Identify the types of customers that currently are and/or will be served, including those with whom the licensee leases, sells, shares, or swaps fiber, spectrum, or capacity and/or plans to lease, sell, share, or swap fiber, spectrum, or capacity;

(iii) Identify whether the licensee currently owns or controls and/or will own or control the U.S. portion of the submarine cable system, including the cable landing station(s), through an Indefeasible Right of Use (IRU) or leasehold interest;

(iv) Identify where the licensee currently markets, offers, and provides services and/or expects to market, offer, and provide services; and

(v) Identify the general terms and conditions that currently apply and/or will apply to the services, such as contact duration, minimum capacity/bandwidth requirements, IRU requirements, termination clauses, security requirements, delivery or Service Level Agreement (SLA) requirements, dispute resolution, and other applicable provisions.

(3) Certifications as set forth under § 1.70006.

(c) *Filing schedule.* Authority is delegated to the Office of International Affairs (OIA) to establish and modify, as appropriate, the filing categories and associated deadlines for the periodic reports. OIA may, if needed, consult with the relevant executive branch agencies concerning the filing categories and associated deadlines for the periodic reports. Licensees shall file the periodic reports pursuant to the deadlines.

(d) *Filing with the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee).* Licensees that have reportable foreign ownership as defined in § 1.40001(d) as of thirty (30) days prior to the date of the submission or that have a mitigation agreement with the Committee or other executive branch agencies shall also file

a copy of the report directly with the Committee.

§ 1.70017 Renewal applications.

(a) Licensees seeking to renew or extend a cable landing license shall file an application six months prior to the expiration of the license. The application must include the information and certifications required in §§ 1.70002(b) through (c), 1.70005, and 1.70006.

(b) Licensees that timely file an application to renew or extend a cable landing license may continue operating the submarine cable system while the application is pending before the Commission.

§ 1.70018 Electronic filing.

(a) With the exception of submarine cable outage reports, and subject to the availability of electronic forms, all applications and notifications described in this subpart must be filed electronically through the International Communications Filing System (ICFS). A list of forms that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see subpart Y of this part, and the ICFS homepage at <https://www.fcc.gov/icfs>.

(b) Submarine cable outage reports must be filed as set forth in part 4 of this title.

§ 1.70019 Denial, revocation, and termination.

The Office of International Affairs shall implement procedures for denial

of an application or revocation and/or termination of a cable landing license in light of the relevant facts and circumstances.

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS, PROVIDERS OF INTERNATIONAL SERVICES AND CERTAIN AFFILIATES

■ 6. The authority citation of part 43 continues to read as follows:

Authority: 47 U.S.C. 35–39, 154, 211, 219, 220; sec. 402(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 129.

■ 7. Revise § 43.82 to read as follows:

§ 43.82 Circuit capacity reports.

(a) *International submarine cable capacity.* Not later than March 31 of each year:

(1) *Cable Operator Report.* The licensee(s) of a submarine cable between the United States and any foreign point shall file a report showing the capacity of the submarine cable as of December 31 of the preceding calendar year. The licensee(s) shall also file a report showing the planned capacity of the submarine cable (the intended capacity of the submarine cable two years from December 31 of the preceding calendar year).

(2) *Capacity Holder Report.* Each cable landing licensee and common carrier shall file a report showing its capacity on submarine cables between the United States and any foreign point as of December 31 of the preceding calendar year.

(3) *United States.* United States is defined in section 3 of the Communications Act of 1934, as amended, 47 U.S.C. 153.

(b) *Registration Form.* A Registration Form, containing information about the filer, such as address, phone number, email address, etc., shall be filed with each report. The Registration Form shall include a certification enabling the filer to check a box to indicate that the filer requests that its circuit capacity data be treated as confidential consistent with § 0.459(a)(4) of this chapter.

(c) *Filing Manual.* Authority is delegated to the Chief of the Office of International Affairs to prepare instructions and reporting requirements for the filing of these reports prepared and published as a Filing Manual. The information required under this section shall be filed electronically in conformance with the instructions and reporting requirements in the Filing Manual.

(d) *Compliance.* Submission of false or inaccurate certifications or failure to file timely and complete annual circuit capacity reports in accordance with the Commission's rules in this chapter and the Filing Manual shall constitute grounds for enforcement action, including but not limited to a forfeiture or cancellation of the cable landing license or international authorization pursuant to section 214 of the Communications Act of 1934, as amended, and any other applicable law.

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